

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 12 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 - 26 February 20193
- 4.2 Minutes of the Bayside Local Planning Panel Meeting - 5 March 2019 .17

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

- 6.1 DA-2013/167/B - 2 Frederick Street, Rockdale28
- 6.2 DA-18/1199 - 1/25 Dalley Avenue, Pagewood102
- 6.3 SF18/2444 - DA-2015/88/04 - 141 O'Riordan Street, Mascot.....135
- 6.4 SF19/386 - DA-2016/165/02 - 19-25 Robey Street, Mascot237
- 6.5 SF19/299 - DA-2018/1192 - 10 Garden Street, Eastlakes.....316

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

12/03/2019

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 26 February 2019
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/2993

Recommendation

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 26 February 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

Present

Jan Murrell, Chairperson
Robert Furolo, Independent Expert Member
Lindsey Dey, Independent Expert Member
Christopher Middlemiss, Community Representative

Also Present

Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Marta Gonzalez-Valdes, Coordinator Development Assessment
Pascal Van De Walle, Coordinator Development Assessment
Ben Latta, Coordinator Development Assessment
Patrick Nash, Senior Development Assessment Planner
Petra Blumkaitis, Development Assessment Planner
Kimberley Bautista, Student Development Assessment Planner
Ben Tesoriero, Consultant from CPS Planning
Lauren Thomas, Governance Officer
Ian Vong, IT Officer

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

Robert Furolo declared a Less than Significant Non-Pecuniary Interest in Item 6.2 on the basis that he knows the architect but is not a friend. The Chair decided this would not exclude him from Panel discussions or the determination.

Robert Furolo also declared a Less than Significant Non-Pecuniary Interest in Item 6.4 on the basis that he knows the planning consultant but is not a friend. The chair decided that this would not prevent him from taking part in the consideration of this item.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 12 February 2019

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 12 February 2019 are confirmed as a true record of proceedings.

5 Reports – Planning Proposals

Nil.

6 Reports – Development Applications

6.1 DA-2018/268 - 331 West Botany Road, Rockdale (Ador Reserve)

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

The following person spoke:

- Stuart McDougall, Project Manager, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. The Development Application (DA-2018/268) is APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to conditions attached to this report with the following amendments:
 - Condition 7 is to have the additional words added: "in the event the report fails to demonstrate and certify that the lights fail to comply with the Australian Standard a modification to the installation of the lighting is to be made and

accompanied by a report from an illuminologist to the Council demonstrating that the modified lighting complies with the Australian Standard. The lighting shall not be used until such time that compliance with the AS is met.

- Condition 23 is to be deleted and the heading for this condition is to be "Prior to the Commencement of Use" and the words in condition 24 shall be commencement of the use to replace issue of the occupation certificate.

2. That the objectors be advised of the Panel's determination.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberto Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel is satisfied that the development to allow lighting for the sports field is in the public interest and the conditions will ensure compliance with the Australian Standard.

6.2 DA-2017/340/A - 413-425 Princes Highway, Rockdale

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

The following person attended the meeting:

- Ziad Chanine, architect, for the officer's recommendation.

Determination

The Modification Application No DA-2017/340/A, to extend the period from 12 to 24 months to satisfy the Deferred Commencement period is approved. This is a Section 4.55(1A) application to amend Development Consent Number 2017/340, for the construction of a seven (7) storey mixed use development comprising two (2) commercial tenancies at ground level, a hotel containing eighty-eight (88) guest rooms and basement car-park at 413-425 Princes Highway, Rockdale. As such the deferred Commencement consent is modified in the following manner:

By amending the deferred commencement condition to read as follows:

1. An amended energy performance report prepared by an accredited energy auditor or certifying consultant is required to be submitted for Council's records. The report should contain the following information: -
 - 1.1 The total anticipated energy consumption of the hotel before occupation.

- 1.2 Details of all passive and active energy efficient design measures incorporated into the development.
2. The Architectural Plans are to be amended so as to demonstrate the following:-
 - 2.1 Solar screens are to be provided to the four (4) facades of the building in accordance with the recommendations of the amended energy performance report. Screens are to be designed and positioned to respond to their specific orientations so as to improve the building's environmental performance and contribute to its architectural aesthetics of the building.
 - 2.2 Without exceeding the maximum permissible height of 22 metres from the natural ground level (as stipulated under the Rockdale Local Environmental Plan 2011), servicing strategy drawings are to be prepared by a registered mechanical engineer / hydraulic engineer demonstrating the incorporation and coordination of building services including air-conditioning, elevators, etc. The architectural drawings are to specify the extent and location of reduced ceiling heights as documented in drawing No. DA 3003 - Revision 'A' to accommodate the proposed services, whilst complying with the requirements of the Building Code of Australia (BCA).
 - 2.3 Location of the electricity kiosk and the emergency exits are to be clearly identified in the architectural plans and they must be located behind the building line. It is noted that the structures should be located at appropriate distances from the boundaries and ideally screened by plantings.
 - 2.4 The amended plans should incorporate articulation to the glass wall facades concurrent with the evaluation of energy performance of the building.
3. Amended Landscape Plans are to be provided so as to demonstrate the following:-
 - 3.1 For the 3rd level roof slab landscape.-
 - a. In collaboration with the landscape architect and engineers, design details are required to ensure set-downs (seating areas) and appropriate soil depths, widths and volumes are incorporated in locations that are beneficial to the growth of the proposed landscape spaces,
 - b. Specify waterproofing methods, irrigation system and adequate drainage provided.
 - c. Specify the type of lightweight soil mixes on slab (soils should be free draining), porous and suitable for the selected plants species.
 - d. Details of the technical irrigation system. Please note that the irrigation system has to be connected to stormwater drainage as part of the Water Design Urban Design Principle (WDUDP).

- e. A centrally located pedestrian corridor (with an east-west orientation) from the Third Floor Level so as to provide an equitable access to the landscaped area for maintenance and customer amenity purposes.
 - f. A copy of the Maintenance Management Plan demonstrating the cycle plant replacement, de-weeding and automatic irrigation system maintenance.
- 3.2 For the Ground Floor nature strip (Princes Highway interface).-
- a. Callistemon "Great Balls of Fire" proposed along frontage shall be replaced with low growing shrubs and ground covers under, to reach maximum 700 millimetre height to address Crime Prevention and the Assessment of Development Applications.
 - b. Street tree refereed as TFH in landscape plans, Ficus Hilli Standard shall be replaced with Platanus species (London Plane) as per Rockdale Street tree Master Plan and Council's specifications. All telecommunication and utility services are to be placed underground along Princes Highway frontages.
4. Based on the findings of the Stage 1 of the Site Contamination Report, a Stage 2 "Detail Site Investigation" is required to be provided in response to the provisions of the State Environmental Planning Policy No. 55- Remediation of the Land.
5. The site is subject to "minimum flood level" restrictions. Amended Stormwater Drainage Design Plans for the management of stormwater. Design certification(s) as specified in the Rockdale Technical Specification Stormwater Management and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management. The drainage plans must show how groundwater is managed within basement including shoring walls, temporary and permanent. Subsoil drainage shall be provided and designed to allow the free movement of groundwater around any proposed structure but is not to be connected to the internal drainage system. The design shall take into consideration any geotechnical recommendations.

Please note:

- a) The subsoil drainage for groundwater management for the proposed development shall be in accordance with the requirements of the Rockdale Development Control Plan 2011 and its Clauses 4.1.3 and 4.1.4 together with the Rockdale Technical Specification — Stormwater Management.
- b) The basement pump-well size shall be in accordance with Clause 4.2.4 of the Rockdale Development Control Plan 2011 Technical Specification for Stormwater Management. Implement all

recommendations contained in the preliminary geotechnical investigation report prepared by Douglas Partners Pty Ltd, Report Ref: Project No. 84654, dated 30 January 2015.

- c) Since the site is subject to a minimum flood level, the design of the basement car-park access ramp crest level is to be 500 millimetres above the 1 in 100 year flow level.
 - d) Provide stormwater control details to the driveway area draining to basement.
6. Confirmation from Sydney Trains of approval/certification of the following final version items:-
- 6.1 Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
 - 6.2 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.
 - 6.3 Cross sectional drawings showing the rail corridor, 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.
 - 6.4 Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.
 - 6.5 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.

The period of the Deferred Commencement is **twenty-four (24)** months from the date of Determination. Upon receiving written notification from Council that the above requirements have been satisfied, your consent will become operable and will be subject to the following Conditions.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberto Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel is satisfied that, given the size and nature of the development as approved, the period in which to satisfy the deferred commencement conditions should be extended.

6.3 DA-2017/323 - 19 Barnsbury Grove, Bexley North

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

The following person spoke:

- Mr Tim O'Keefe, architect, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

Determination

1. The Development Application No. DA-2017/323 for the construction of a single storey childcare centre with capacity for 54 children operating from 7:00am to 7:00pm Monday to Friday and 9:00am to 5:00pm for four (4) Saturdays throughout the year with basement parking and demolition of existing structures, is REFUSED for the following reasons:
 - a. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal satisfy the requirement to demonstrate that the site can be made suitable for the proposed development as required by cl. 7 of State Environmental Planning Policy No. 55 – Remediation of Land. The proposal is noted as having the potential to contain contamination from uncontrolled imported fill which has not been further investigated as recommended in the submitted Preliminary Site Investigation.
 - b. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the nondiscretionary minimum outdoor play space development standards of Schedule 5 of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017. The proposal has insufficient outdoor play area for 54 children, requiring 378m² of unencumbered outdoor play space.
 - c. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the requirements of Clause 1(2) of Schedule 5 of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 as it is inconsistent with the provisions of Part 4 of the Child Care Planning Guideline (Education and Care Services National Regulations), specifically in relation to the provision of natural light and ventilation to indoor areas used by children, administrative space for staff, soil assessment requirements and emergency evacuation procedures.
 - d. 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 the proposed development does not satisfy the requirements of Clause 4.4.2 Solar Access of the Rockdale DCP 2011. The proposal will result in significant reductions in the solar access to private open space of adjacent dwellings located to the west of the site.

- e. The proposed development is unsatisfactory, pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development does not respond or appropriately relate to the natural topography of the subject site, resulting in adverse privacy, acoustic and visual amenity impacts upon surrounding properties. The proposal is inconsistent with the provisions and objectives of Clause 4.1.6 Development on Sloping Sites and 4.4.5 Visual Privacy, as per Rockdale DCP 2011.
- f. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not provide satisfactory ceiling height to provide adequate natural light within indoor play rooms or opportunity for natural ventilation. The proposal is inconsistent with the provisions and objectives of Clause 4.4.3 Natural Lighting and Ventilation, as per Rockdale DCP 2011.
- g. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not provide a safe basement car-parking area with adequate separation of pedestrians from vehicle movements and as such does not comply with the equitable access requirements of Clause 4.6 Car Parking, Access and Movement of Rockdale DCP 2011.
- h. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal does not satisfy the requirements of Clause 6.1 of Rockdale DCP 2011. Specifically, the requirements for the provision of Child Care Places, Location, Visual and Acoustic Impact, Indoor and Outdoor Space, Parking and Pedestrian Safety, and Hours of Operation are not satisfied.
- i. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the constraints of the site necessitate excessively high acoustic fencing in order to mitigate acoustic impacts to adjoining residential neighbours.
- j. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
- k. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is not suitable for the proposed development.
- l. Pursuant to the provisions of Section 4.15(1)(d) & 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, having regard to the reasons noted above and the number of submissions received by Council against the proposed development, approval of the development application is not in the public interest.

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

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberto Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- While the architect, on behalf of the applicant, expressed concern about requests for meetings to Council to discuss a number of issues, the Panel is not satisfied that the significant issues such as contamination, together with the other matters in the report, can necessarily be addressed and resolved. The panel noted the applicant has the opportunity to submit amended plans and accompanying documentation through the process of a Section 8.2 Review.

6.4 SF18/1613 - 7 Kurnell Street, Botany

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

The following people spoke:

- David Furlong, Planner at Plan Urban, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Simon Hanson, Architect and Director of Bureau SRH, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Eugene Kirkwood, Architect at Bureau SRH, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

Determination

That the Bayside Planning Panel has decided that this matter be deferred to allow the applicant the opportunity to submit amended plans to address issues that have been raised, in particular:

- A reduction in the bulk and scale at the rear to improve solar access for the adjoining property at number 9 (this includes a material improvement to the open space and a demonstration of solar access for existing or replaced solar panels). This would also include a reduction in the upper floor and balcony for the south west to reduce impacts on the adjoining neighbour.
- The streetscape presentation of the development needs to be further considered to improve soft landscaping and provide the opportunity for canopy trees. In this regard, the applicant may also wish to consider a central driveway and the

replacement planting of street-trees or alternatively, redesign the paving entries and driveways to provide more soft permeable areas for trees and landscaping.

- The applicant is to submit amended plans and documentation, including overshadowing diagrams and a landscaping plan within 4 weeks to allow an assessment by Council officers and a timely report to be made back to the Panel for determination.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberto Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel is not satisfied that the current proposal is appropriate in terms of impacts on the adjoining neighbour and the streetscape. However, the applicant should be given the opportunity to amend the plans to minimize these impacts prior to a determination by the panel.

6.5 DA-18/1109 - 2 Swinbourne Street, Botany

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

The following person spoke:

- Gamze Erkoru, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. The Panel, exercising the functions of the Council as the consent authority pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, approves a variation to the Floor Space Ratio development standard prescribed by Clause 4.4 of Botany Local Environmental Plan 2013.
2. The Panel has determined that a DEFERRED COMMENCEMENT CONSENT be granted, pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, to Development Application No.2018/1109 for alterations and a first floor addition to an existing attached dwelling at 2 Swinbourne Street, Botany.

The Deferred Commencement Conditions are as follows:

- a. The ensuite on the first floor plan must be deleted and the length of the first floor reduced accordingly. There shall be no changes to the dimensions of any other areas within the first floor plan.

- b. The floor-to-ceiling height of the rear addition must be reduced from 2.7 metres to 2.4 metres to reduce the bulk of the development when viewed from Kurnell Street and in relation to the existing roof to be retained.
3. The conditions, as recommended in the Council Officer's report, with the exception of condition 6, become the operational conditions after the deferred commencement conditions have been satisfied by the Manager of Development Assessment.

The deferred commencement conditions must be satisfied within six months of the date of this approval.

4. That objectors be advised of the panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberto Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel considers the development is worthy of approval subject to amended plans to address the visual presentation of the extension from the public domain. As such the panel has determined a deferred commencement consent is appropriate in the circumstances.

6.6 DA-18/1110 - 4 Swinbourne Street, Botany

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

The following people spoke:

- Ms Helen Smith, affected neighbour, spoke about the officer's report.
- Gamze Erkoru, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- That the Panel, exercising the functions of the Council as the consent authority pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979, approves a variation to the floor space ratio development standard prescribed by clause 4.4 of Botany Local Environmental Plan 2013.
- That Development Application No.2018/1110 for alterations and first floor addition to an existing attached dwelling at 4 Swinbourne Street, Botany is

granted a DEFERRED COMMENCEMENT CONSENT pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979.

The deferred Commencement conditions are as follows:

- a. The ensuite on the first floor plan must be deleted and the length of the first floor reduced accordingly. There shall be no changes to the dimensions of any other areas within the first floor plan.
 - b. The floor-to-ceiling height of the rear addition must be reduced from 2.7 metres to 2.4 metres to reduce the bulk of the development when viewed from Kurnell Street and in relation to the existing roof to be retained.
3. The conditions, as recommended in the Council Officer's report, with the exception of condition 7, become the operational conditions after the deferred commencement conditions have been satisfied by the Manager of Development Assessment.

The deferred commencement conditions must be satisfied within six months of the date of this approval

4. That objectors be advised of the panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberto Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel considers the development is worthy of approval subject to amended plans to address the visual presentation of the extension from the public domain. As such the panel has determined a deferred commencement consent is appropriate in the circumstances.
- The panel is satisfied the conditions address the adjoining owners concerns by ensuring the chimney remains in situ and a dilapidation report is required prior to construction.

6.7 S82-2018/4 - 61 Iliffe Street, Bexley

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

The following person spoke:

- Mr Ali Hammoud, applicant, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

Determination

1. That Division 8.2 Review Application No.S82-2018/4 for demolition of existing structures; Torrens Title subdivision to create two lots; construction of an attached dual occupancy on the rear lot; construction of a detached dual occupancy on the front lot and Torrens Title subdivision of all lots containing the dual occupancies to achieve a total of four (4) dwellings within the site at 61 Iliffe Street, Bexley be REFUSED pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - a. Insufficient and conflicting information has been provided by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
 - b. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not achieve the minimum subdivision lot size in Clause 4.1(3B) of Rockdale Local Environmental Plan 2011.
 - c. Pursuant to the provisions of Section 4.15(1)(a)(i), the extent of gross floor area proposed for Lot 4 does not comply with the Floor Space Ratio development standard within Clause 4.4 of Rockdale Local Environmental Plan 2011.
 - d. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the controls and objectives of Rockdale Development Control Plan 2011 in respect of:
 - Part 4.1.7 - Tree Preservation
 - Part 4.1.9 - Lot Size and Site Consolidation - Dual Occupancy
 - Part 4.2 - Streetscape and Site Context
 - Part 4.3.1 - Open Space & Landscape Design
 - Part 4.4.5 - Visual Privacy
 - Part 5.1 - Residential Subdivision
 - e. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is likely to result in the following adverse environmental impacts:

- i. Natural Environment – Further tree removal.
 - ii. b) Built Environment - Excessive bulk of dwelling 4, privacy/overlooking and insufficient soft landscaping and inadequate attention to good design principles.
 - f. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in view of its density, subdivision pattern, poor presentation of the access corridor the street, non-conformity to the minimum subdivision lot size, tree removal and insufficient soft landscaping.
 - g. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
2. That the objectors be advised of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Roberto Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel considers the site is not suitable for the proposed subdivision and development because of the constraint of the width of the frontage to Iliffe Street.

The Chairperson closed the meeting at 8:40 pm.

Jan Murrell
Chairperson

Bayside Local Planning Panel

12/03/2019

Item No	4.2
Subject	Minutes of the Bayside Local Planning Panel Meeting - 5 March 2019
Report by	Fausto Sut, Manager Governance & Risk
File	SF19/958

Recommendation

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 5 March 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

Present

Robert Montgomery, Chairperson and Independent Expert Member
Helen Deegan, Independent Expert Member
Greg Wright, Independent Expert Member
Thomass Wong, Community Representative

Also present

Fausto Sut, Manager Governance & Risk
Michael McCabe, Director City Futures
Marta Gonzalez-Valdes, Coordinator Development Assessment
Christopher Mackay, Coordinator Development Assessment
Pascal Van De Walle, Coordinator Development Assessment
Andrew Ison, Senior Development Assessment Planner
Sumeet Badhesha, Development Assessment Planner
Eric Alessi, Development Assessment Planner
Kim Johnston, Consultant Town Planner, KJ Planning
James Arnold, Principal Town Planner, Arnold Urban
Anne Suann, Governance Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.00 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

Robert Montgomery advised he has no conflict of interest to declare in Item 6.1, however, pursuant to Paragraph 2.1 of Schedule 1 of the Local Planning Panel's Direction – Operational Procedures issued by the Minister for Planning on 23 February 2018, he is unable to take part in any discussion, deliberation or decision in relation to this item. The reason for this is that he sat on the Panel as an expert on 11 September 2018 when the development application was refused.

4 Minutes of Previous Meetings

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

Decision

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.

5 Reports – Planning Proposals

Nil

6 Reports – Development Applications

6.1 S82-2018/5 - 24 Oswell Street, Rockdale

The Chairperson, Robert Montgomery, vacated the Chair and left the meeting due to his previous explanation of why he could not be present. Helen Deegan assumed the Chair.

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

The following people spoke:

- Mr James Manwaring, affected neighbour, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr John Tseneke, affected neighbour, spoke for the officer's recommendation.
- Mrs Phoebe Scali, interested resident, spoke for the officer's recommendation.
- Mr Gerard Turrisi, Town Planner, GAT & Associates, spoke against the officer's recommendation and responded to the Panel's questions.

Determination

- 1 Following 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, the Panel confirms the refusal of the development application with modified reasons for refusal;
- 2 Pursuant to Section 8.4 of the *Environmental Planning and Assessment Act 1979* the determination of DA-2017/558 is **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 c controls.
 - h. Part 4.4.2 – The proposal does not achieve adequate solar access to the private opens 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.

Name	For	Against
Robert Montgomery	<input type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- For the reasons clearly set out in the independent consultant's recommendation in the report we feel very confident in making this recommendation of refusal.
- Our recommendation is based upon the combination of a number of inconsistencies and non-compliances with both LEP and DCP provisions.
- We note the lack of response to issues raised to the previous determination and while we acknowledge the attempt to show some amendments to plans this should have been done well before this meeting and we, as a Panel, are required to consider what is before us in the independent consultant's report.
- It needs to be noted that the Clause 4.6 for the FSR variation has not been provided and while we have learnt this evening there was an intention to comply the application did not comply and therefore the application should have been supported by Clause 4.6 request.
- Secondly, the independent consultant's report does not support the Clause 4.6 request for exception from the minimum lot size standard and therefore we are unable to determine anything other than a refusal in the circumstances.

Helen Deegan vacated the Chair at the conclusion of this item and the Chairperson, Robert Montgomery, resumed the Chair.

6.2 DA-2016/205/B - 78 & 80 Ramsgate Road, Ramsgate

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

Determination

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, is 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>.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

Approval of the modification brings the development into line with current requirements for accessibility and fire safety.

6.3 DA-18/1098 - 57 Banksia Street, Botany

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

Determination

- 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 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, and the following additional condition:
 - First floor bedroom windows facing the side boundaries are to comprise obscured glazing within a minimum sill height of 1.6 m for both dwellings.
- 3 That the objector be advised of the Bayside Local Planning Panel's determination.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- The minor exception to the floor space ratio control does not cause any additional impacts compared to a compliant development.
- The development compiles with all other provisions of the Local Environmental Plan.
- The development satisfies all provisions of the Development Control Plan.

6.4 DA-2016/66/B - 4 Magdalene Terrace, Wolli Creek

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

Determination

- 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 is 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.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is of the view that the proposal to extend the permissible hours for internal operations is reasonable and is unlikely to give rise to any additional impacts.

6.5 SF18/2947 - 40-54 Baxter Road, Mascot

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

The following person spoke:

- Mr Chris Patfield, Senior Urbanist Planning, Ethos Urban, spoke for the officer's recommendation.

Determination

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:

- modify Condition 1 relating to approved plans;
- modify Condition 4 to change the lot description; and
- insert Condition 36A in relation to the proposed new canopy.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Thomass Wong

**Reason for the Panel's Determination**

- The modifications result in a reduction of the number of hotel rooms which effectively reduces impacts. It is noted that one of the modifications relating to the front awning / canopy arises as a result of intrusion of the awning into the road reserve.
- The Panel agrees that the proposed development as modified is substantially the same development as originally approved.

6.6 DA-2018/223/A - 29-31 Campbell Street, Ramsgate

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

The following people spoke:

- Mr Shane Youssef, Managing Director, FC Building, spoke for the officer's recommendation.

Determination

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. 40 to read:

40. 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.

Name**For****Against**

Robert Montgomery



Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Greg Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The contribution has been amended to correct a calculation error made in the original development consent, and the correct contributions are now applied.

The Chairperson closed the meeting at 7.09 pm.

Certified as true and correct.

Robert Montgomery
Chairperson

Bayside Local Planning Panel

12/03/2019

Item No	6.1
Application Type	Development Application
Application No	DA-2013/167/B
Lodgement Date	14/06/2017
Property	2 Frederick Street, Rockdale
Ward	Rockdale
Owner	Sydney-South Welfare Centre Incorporated
Applicant	Architecture Design Studio Pty Ltd
Proposal	Section 4.55(2) Modification Application seeking to extend hours of operation to existing place of public worship and community facility to 11pm Monday to Sunday, new front fence, internal alterations and changes to facades
No. of Submissions	13, including 1 petition
Cost of Development	0
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Section 4.55(2) Modification Application seeking to extend hours of operation to existing place of public worship and community facility to 11pm Monday to Sunday, new front fence, internal alterations and changes to facades at 2 Frederick Street, Rockdale is APPROVED subject to the following modified and additional conditions, except that the proposed fencing is recommended to be modified by way of conditions.
 1. Condition 2 to be amended in relation to the approved plans, with the exception of the front fence, which will be subject to further detailed design.
 2. Condition 2B to be added with relation to the requirement for a Building Certificate for unauthorised works.
 3. Condition 10 to be amended to permit the hours of operation for the place of worship until 11:00pm, subject to a 12 month trial period.
 4. Conditions 10A, 10B, 10C, 10D, 10E, and 10F to be added in relation to the operation of the premises.
 5. Condition 16 to be amended to make reference to the current acoustic report.
 6. Condition 18 to be deleted as it is a duplicate of Condition 10B.
 - 2 That the objectors be notified of the Bayside Local Planning Panel decision.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Basement level [↓](#)
- 3 Ground Level Plan [↓](#)
- 4 Site Roof Plan [↓](#)
- 5 Elevations 01 [↓](#)
- 6 Elevations 02 [↓](#)
- 7 Plan of Management [↓](#)
- 8 Acoustic report [↓](#)
- 9 Comments from the NSW Police [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-167/2013/B
Date of Receipt:	14 June 2017
Property:	2 Frederick Street, Rockdale
Lot & DP/SP No:	Lot 118 in DP 627216
Owner:	Sydney-South Welfare Centre Incorporated
Applicant:	Architecture Design Studio Pty Ltd
Proposal:	Section 4.55(2) Modification Application seeking to extend hours of operation to existing place of public worship and community facility to 11pm Monday to Sunday, new front fence, internal alterations and changes to facades
Property Location:	On the southern side of Frederick Street at the Railway Street intersection
Value:	Nil
Zoning:	B2 Local Centre under the Rockdale Local Environmental Plan 2011
Author:	Andrew Ison, Senior Development Assessment Planner
No. of submissions:	13, including 1 petition
Date of Report:	12 March 2019

Key Issues

The application is referred to the Bayside Local Planning Panel as ten or more unresolved submissions have been received.

The application was placed on public exhibition from 28 June to 12 July 2017. A total of 13 submissions, including a petition with 55 signatures was received.

Key issues with this application relate to the following:

- Various amendments both externally and internally;
- Extension of the approved hours from 9:30pm to 11pm.

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

That the Section 4.55(2) Modification Application seeking to extend hours of operation to existing place of public worship and community facility to 11pm Monday to Sunday, new front fence, internal alterations and changes to facades at 2 Frederick Street, Rockdale is **APPROVED** subject to the following modified and additional conditions, except that the proposed fencing is recommended to be modified by way of conditions.

- **Condition 2 to be amended to now read:**

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:

Drawing No.	Author	Date Received
A-010 / Basement Level	Architecture Design Studio	14 June 2017
A-011 / Ground Level Plan	Architecture Design Studio	28 August 2018
A-012 / Site Roof Plan	Architecture Design Studio	14 June 2017
A-020 / Elevations 01	Architecture Design Studio	28 August 2018
A-021 / Elevations 02	Architecture Design Studio	14 June 2017
L-001 / Landscape Plan	Design Spots	27 May 2013

- (a) The front fence is to be designed in a way that has sufficient openings at ground level to comply with flow through requirements. This flow through fencing is to be extended for the full width of 1% flow and to a minimum height of 1% AEP flood level. Details of this fencing is to be lodged to Council for review and approval prior to the commencement of works.

- **Condition 2B to be added and read:**

A Building Certificate is to be lodged with Council no later than 12 August 2019 of this consent for unauthorised external and internal building works that have occurred since 19 June 2013.

- **Condition 10 to be amended to now read:**

The hours of operation for the place of worship shall be restricted to between 5:30am and 11:00pm Monday to Sunday.

This is subject to a trial period of 12 months ending on 12 March 2020. No less than 3 months prior to the expiry date of the trial period for the extended hours above, a new application shall be submitted to Bayside Council for any continuation of the extended hours. Such an application shall include details of any incidents and complaints received during the trial period. Council's consideration of the proposed continuation of the extended hours permitted by the trial period will be based on, amongst other things, the performance of the operator in relation to compliance with the development consent conditions any substantiated complaints received.

- **Condition 10A to be added and read:**

All windows and doors to be closed during all prayers and service.

- **Condition 10B to be added and read:**

No noise from the interior of the Mosque shall be heard outside the Mosque at any time during the day, evening or night.

- **Condition 10C to be added and read:**

The Plan of Management (POM) titled '2 Frederick Street, Rockdale' prepared by Willana Associates dated August 2018 shall be adhered to.

- **Condition 10D to be added and read:**

Congregating outside of the premises must not exceed beyond 30 minutes after an approved prayer service and must take place within the approved hours of operation.

- **Condition 10E to be added and read:**

A counter must be stationed at the main entry to the prayer hall to count the number of worshippers entering the prayer hall.

- **Condition 10F to be added and read:**

The installation of any toilet exhaust fans and/or air conditioning units, shall adhere to the following:

- Roof, window and wall mounted exhaust fans are not permitted;
- All exhaust fans shall be contained within the roof space or ceiling and shall be ducted to the exterior;
- The air conditioning unit is to be located at the eastern side of the site facing Railway Street.

- **Condition 16 to be amended and now read:**

Adopt and implement all recommendations contained in the acoustic report prepared by Acoustic Noise and Vibration Solutions dated 17 January 2019.

- **Condition 18 to be deleted**

Reason: now included in Condition 10B and the acoustic report has been superseded as per Condition 16.

Site Description

The subject site is located at 2 Frederick Street, Rockdale (Lot 118 in DP 627216). It is located on the corner of Frederick Street and the Railway Street / The Seven Ways intersection within the Rockdale town centre. The subject site is located on the western side of the Rockdale town centre and to the south west of the railway station.



Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)



Figure 2: Site photo (taken 1 March 2019)

Description of approved development and proposed modifications

Approved Development DA-167/2013

DA-167/2013 was approved by resolution of the former Rockdale City Council on 19 June 2013 for alterations and the change of use of the existing single storey building on site to a place of public worship and community facility, involving the following:

- Internal and external building alterations, including rendering the existing building, provision of decorative screening on existing window openings to the northern and eastern elevations which

provide visual interest to the building and maximise internal privacy, an external front entry feature and basement fire exit stairs;

- Daily prayer services as well as community assistance including counselling services, a small library, Qur'an classes and migrant work assistance; and
- The hours of operation being from 5:30am to 9:30pm Monday to Sunday.

Refused Modification DA-167/2013/A

On 2 May 2016, the former Rockdale City Council refused a modification under the former Section 96(2) provisions (now Section 4.55(2)) under delegated authority to modify the approved use to increase the number of patrons from 110 to 241, increase the hours of operation to 24 hours for a single prayer room within the facility, changes to windows and doors and new fence.

Proposed Modification DA-167/2013/B

The applicant seeks the following by way of Section 4.55(2) application:

- Internal reconfiguration of the ground level plan, relating to the relocation of the toilets, the library, the meeting room and female area, removal of the counselling rooms and lounge reading area, and inclusion of a prayer area;
- A new door (existing) to southern facade to allow female entry;
- A new fire exit door from the basement on the western elevation;
- New windows on the western facade (two in the prayer room, one in the meeting room) 1.5m width and 0.8m in height;
- A new fence and gate in the existing position as to condition 5 of the condition of consent (proposed fence and gate is aluminium horizontal slates with possible brick or concrete pillars);
- Retrospective approval for the waste room on the northern elevation; and
- Amendments to condition 10, extending the operating hours from 9:30pm to 11pm.

There are no proposed amendments to the approved maximum number of people allowed on site nor to the car parking layout.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.4.55(2) – Other Modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to an in accordance with the regulations, modify the consent if:

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

Comment: The application is for minor additions to the existing building (as approved) as well as an increase in the approved hours of operation. The proposed modifications will result in a development that is substantially the same development as approved.

b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and

Comment: Division 5 of the Act does not apply to this application.

c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require,

(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 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 the period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: A total of 13 submissions were 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 has been considered and is satisfied that the proposal as modified is appropriate in regards to the provisions of this clause.

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

The following Environmental Planning Instruments are relevant to this application:

Rockdale Local Environmental Plan 2011 (LEP)

Rockdale Local Environmental Plan 2011 has been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of RLEP 2011	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the B2 Local Centre zone.
Is the proposed use/works permitted with development consent?	Yes	This is a lawfully approved place of worship, which is permissible in the B2 Local Centre zone.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the relevant objectives of the B2 Local Centre zone, namely by providing a range of community uses that serve the needs of people who live in, work in and visit the local area.
What is the proposed FSR? Does the FSR of the building comply the maximum FSR?		A maximum FSR of 1:1 applies. With the addition on the northern elevation, the total gross floor area is 230 square metres, which equates to a FSR of 0.31:1.
The following provisions in Part 6 of RLEP 2011 apply: 6.6 – Flood planning	Yes	The site is identified as a flood affected lot in the LEP map.

The objectives and provisions of the Rockdale LEP 2011 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the Rockdale LEP 2013.

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

There are no current Draft EPIs applicable to this development.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The development proposal has been assessed against the controls contained in the Rockdale Local Environmental Plan 2011 as follows:

4.1.3 Water Management

Whilst the clear intention is to replace like for like, the proposed fencing is not supported as there are no openings at ground level and therefore could adversely increase the potential flood affectation on the subject site as well as neighbouring properties. An additional condition will be imposed in the attached draft conditions relating to a design of a new fence that allows compliance with Condition 83 of the DA consent.

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**Extension of hours**

Part of this application relates to a modification of the approved hours of operation (as prescribed in Condition 10 of the consent from 9:30pm to 11pm Monday to Sunday).

Based on the Plan of Management, which was prepared in accordance with Condition 84 of the development consent, the approved Qur'an classes will still finish at 9:30pm as per the development approval.

The proposed extension of time is related to the evening prayer session, which is aligned with the time of the setting sun, with a starting time of between 60 to 90 minutes after sunset. On the longest day of the year (21 December), the sun sets at 8:05pm. Factoring in the maximum 90 minute period after sunset, the latest time that an evening prayer session will start is approximately 9:30pm.

The Plan of Management states that the evening prayer session will generally not exceed 30 minutes. Given that up to 110 people may attend this session, particularly during Ramadan, additional time would be required as a contingency at the end of each session, to allow for activities such as packing up as well as allowing these people to vacate the premises.

Given the nature of it being a non-residential use with a number of residential properties in close proximity, the sensitive nature of the proposed extension of hours later into the evening required the preparation of an acoustic report by the applicant.

The report concluded that the noise readings from the operation of the place of worship will comply with the acceptable noise levels at the nearest sensitive receptor at 9-15 King Edward Street (to the immediate south of the subject site). Furthermore, it has recommended that all windows and doors are to be closed once the prayer session commences, which will further minimise the noise levels being transmitted to neighbouring properties. This report has been reviewed by Council's Environment and Health Officer, and the recommendations of the report are agreed with, subject to the imposition of additional conditions relating to the recommendations of the report.

On this basis, a revised closing time of 11pm is supported by Council, on the basis of a 12 month trial period. This recommendation is consistent with that of the NSW Police, whom have also provided their support subject to a trial period.

An additional condition will be imposed with relation to the trial period, with an application to be lodged no less than 3 months before the end of the trial period, in which Council will re-assess the trial period.

Considering the above, Council is supportive of the proposed extension of hours, subject to a 12 month trial period.

Unauthorised development

A series of unauthorised works have taken place when compared against the DA approved plans, including the construction of a waste storage structure on the northern elevation.

An additional condition will be imposed in the attached schedule of consent conditions relating to a Building Certificate to be lodged to obtain retrospective approval for these works.

Plan of Management

In accordance with Condition 84 of the development consent, a Plan of Management has been prepared. This plan has a number of sections, outlining an induction program for new staff, a review mechanism, a broad outline of all activities on site including hours of operation and worshipper numbers, noise management and complaints handling.

This Plan of Management has been amended to in particular reflect the proposed modified hours of operation.

This Plan has been reviewed by council and it is satisfied that it meets the requirements as outlined in Condition 84.

As demonstrated in the above assessment, the proposed development is unlikely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality.

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

The subject site contains an approved use as a place of worship and community facility, with the site suitability assessed as part of the DA. The further extension of operating hours by 90 minutes of an evening has been assessed earlier in this report and is considered worthy of support, subject to amended and additional conditions to ensure that the proposed modifications comply with the relevant planning considerations and also minimises impacts on the neighbouring locality.

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

In accordance with Part 8 of the Rockdale Development Control Plan 2011 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period. A total of thirteen (13) submissions were received - 5 have objected to the application, 6 have raised concerns and 2 have written in support. Out of those 2 submissions in support, one was a petition with 55 signatures.

The submissions in support of the application stated that it would be beneficial to the neighbouring businesses.

The other issues raised in the remainder of the submissions are addressed below:

Loud and continuous conversations that occur after close of prayers and subsequent vehicle departures from car park directly opposite the building

Comment: A Plan of Management was conditioned as part of the DA. This has been prepared and has been lodged as part of the modification application. It states the car park is to not be accessible after 11pm. Furthermore, the Plan of Management states that it is the responsibility of the site manager to maintain activities on the site at all times. There is also a complaints register that will allow neighbouring residents and other members of the community to inform the facility of any activities in and around the site occurring beyond the closing time.

Any extension of time would further worsen an already unacceptable level of amenity

Comment: It is recommended that this application, if approved, is subject to a 12 month trial period starting from the date of the decision of this application, to allow Council an opportunity to review any impacts that have arisen, such as residential amenity, during that period. If deemed unacceptable, then Council make a decision to revert back to the DA approved hours of operation.

Existing issues with parking in the area

Comment: It is to be noted that this application is not seeking an increase in the number of patrons. The DA consent issued on 19 June 2013 made reference to the design and provision of off street parking and drop off zones, as well as the management of traffic on Friday afternoons during peak periods, restricting the use of the ground level car park on site prior, during and following 1pm Friday prayer services, in order to prevent queuing onto The Seven Ways and Frederick Street.

Questioning the legitimacy of the report with the forecasts

Comment: For the purposes of addressing this objection, it is assumed that this relates to the acoustic report. An amended acoustic report has been provided. It has been assessed by Council's Environment and Health Officer and is considered acceptable, subject to conditions to be imposed.

Most neighbouring businesses are not open of a late evening

Comment: This is not considered to be a valid planning consideration in the assessment of this application.

Objection to the segregation of men and women

Comment: This is not considered to be a valid planning consideration in the assessment of this application.

Doubts about numbers as quoted within the acoustic report

Comment: Condition 23 of the development consent for the approved use states that a maximum of 110 persons may be accommodated on the subject site at any one time. The subject application does not propose an increase to this number. The acoustic report has been amended to have modelling based on this maximum as well as the activities on site.

The acoustic report states that larger numbers will appear of an evening, which is unacceptable

Comment: As stated above, condition 23 of the development consent for the approved use states that a maximum of 110 persons may be accommodated on the subject site at any one time. The subject application does not propose an increase to this number.

Concerns about the time taken to receive the letter and the time left to comment on the application

Comment: Council has no control as to the time taken for a posted letter to be delivered to its intended recipient. However, the deadline date as per the letter is deemed to be a "soft" date, with Council permitting extensions of time beyond that date to lodge a submission if that request is put forward.

Sliding gates will make it more likely that drivers will not see pedestrians walking across footpaths

Comment: As stated earlier in this report, the widening of the vehicular exit gate is not supported given that the non-standard location of the driveway and the impact on sight distances.

Large groups late at night will increase criminal activity

Comment: This application was referred to the Police for comment. Their concern relates to the number of traffic complaints and noise disturbances that will escalate in particular when leaving the premises. Accordingly, it has recommended the imposition of a 12 month trial period if the recommendation of this report is supported.

The mosque has become prominent and as such many businesses have failed

Comment: There is no evidence that supports this assertion.

The area needs to be revitalised

Comment: The Rockdale Town Centre Master Plan was adopted by the former Rockdale City Council in 2012 and is considered to a separate consideration, as there were no public domain works approved as part of this DA.

Council needs to encourage non-Muslim men and women to feel comfortable in the area and not be judged by how they dress

Comment: This is not considered to be a valid planning consideration in the assessment of this application.

Increase in rubbish

Comment: The Plan of Management refers to the surrounding street area being monitored for rubbish following each weekly service and during Ramadan.

Reduction or rearrangement of parking on site may well add to the continuing problem with parking

Comment: There is no proposed reduction or rearrangement with the relation to the approved car parking layout and operation.

Does a colorbond fence really improve aspect over an iron railing?

Comment: Colorbond fencing is not proposed.

Legality of a separate door for women

Comment: This is not considered to be a valid planning consideration in the assessment of this application.

The mosque is in the wrong place

Comment: The subject land use is a lawfully approved activity, with alterations to the existing building and change of use to place of public worship and community facility approved by Council on 19 June 2013.

Approved as an Islamic Community Centre to then only change into a prayer hall

Comment: It was lawfully approved as a place of worship (mosque) and community facility.

Area has become a ghetto since it has opened

Comment: There is no evidence that supports this assertion.

The applicant states that the current operating hours restricts their freedom of worship but does not provide justification, evidence of an impact or detail and reasons for their application

Comment: As stated earlier in the report, the Plan of Management makes reference to a schedule of daily prayer services, with the latest one being conducted at a time that commences up to one and a half hours after sunset, for a period of up to half an hour. In the summer months, with the later sunset time because of daylight savings, and factoring in finishing times and the dispersal of patrons from the premises, the proposed 11pm closing time is reasonable. However, as stated previously in the report, this will be subject to a 12 month trial period.

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

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

Conclusion

Development Application No. 167/2013/B for the Section 4.55(2) Modification seeking to extend the hours of operation of the existing place of worship and community facility to 11pm Monday to Sunday, new front fence, internal alterations and changes to facades at 2 Frederick Street, Rockdale has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 2 Frederick Street, Rockdale

DA No: 167/2013/B

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

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

Drawing No.	Author	Date Received
A-010 / Basement Level	Architecture Design Studio	14 June 2017
A-011 / Ground Level Plan	Architecture Design Studio	28 August 2018
A-012 / Site Roof Plan	Architecture Design Studio	14 June 2017
A-020 / Elevations 01	Architecture Design Studio	28 August 2018
A-021 / Elevations 02	Architecture Design Studio	14 June 2017
L-001 / Landscape Plan	Design Spots	27 May 2013

- a) *The front fence is to be designed in a way that has sufficient openings at ground level to comply with flow through requirements. This flow through fencing is to be extended for the full width of 1% flow and to a minimum height of 1% AEP flood level. Details of this fencing is to be lodged to Council for review and approval prior to the commencement of works.*

[Amendment B – S4.55(2) amended on 12 March 2019]

- 2B *A Building Certificate is to be lodged with Council no later than 12 August 2019 of this consent for unauthorised external and internal building works that have occurred since 19 June 2013.*

[Amendment B – S4.55(2) inserted on 12 March 2019]

Reason for additional Condition 2B:

- To ensure that any unauthorised additions are lawfully approved.

[Amendment B – S4.55(2) inserted on 12 March 2019]

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Your attention is drawn to the means of egress from the basement level. The proposed stairwell on the western side from the basement relies on egress via the adjoining property. A redesign may require a Section 96 application with Council.
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. Further alterations and/or additions to the existing fence including vehicular and pedestrian gates or vehicular crossings shall not be undertaken without first obtaining approval. The access driveway location should be in accordance with AS 2890.1-2004 Section 3.
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. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
8. A sign is to be displayed in a prominent position in the building that specifies the following:
 - (a) the maximum number of persons, as specified in the development consent, that are permitted in any part of the building,
 - (b) the name, address and telephone number of the council of the area in which the building is located,
 - (c) the name and business telephone number of an owner or manager of the building.

DEVELOPMENT SPECIFIC CONDITIONS

The following conditions are specific to the Development Application proposal:

9. The hours of operation of the Community Centre on site, shall be restricted to between 5.30am and 9.30pm Mondays to Sunday.
10. *The hours of operation for the place of worship shall be restricted to between 5:30am and 11:00pm Monday to Sunday.*
This is subject to a trial period of 12 months ending on 12 March 2020. No less than 3 months prior to the expiry date of the trial period for the extended hours above, a new application shall be submitted to Bayside Council for any continuation of the extended hours. Such an application shall include details of any incidents and complaints received during the trial period. Council's consideration of the proposed continuation of the extended hours permitted by the trial period will be based on, amongst other things, the performance of the operator in relation to compliance with the development consent conditions any substantiated complaints received.

[Amendment B – S4.55(2) amended on 12 March 2019]

- 10A All windows and doors to be closed during all prayers and service.

[Amendment B – S4.55(2) inserted on 12 March 2019]

Reason for additional Condition 10A is:

- *To ensure that the amenity of the neighbouring residential properties is maintained.*

- 10B *No noise from the interior of the Mosque shall be heard outside the Mosque at any time during the day, evening or night.*

[Amendment B – S4.55(2) inserted on 12 March 2019]

Reason for addition condition 10B is:

- *To ensure that the amenity of the neighbouring residential properties is maintained.*

- 10C *The Plan of Management (POM) titled '2 Frederick Street, Rockdale' prepared by Willana Associates dated August 2018 shall be adhered to.*

[Amendment B – S4.55(2) inserted on 12 March 2019]

Reason for addition condition 10B is:

- *To ensure that the premises operates in an orderly manner.*

- 10D *Congregating outside of the premises must not exceed beyond 30 minutes after an approved prayer service and must take place within the approved hours of operation.*

[Amendment B – S4.55(2) inserted on 12 March 2019]

- *To ensure that the amenity of the neighbouring residential properties is maintained.*

- 10E *A counter must be stationed at the main entry to the prayer hall to count the number of worshippers entering the prayer hall.*

[Amendment B – S4.55(2) inserted on 12 March 2019]

- *To ensure that that the maximum number of patrons as approved is not exceeded.*

- 10F *The installation of any toilet exhaust fans and/or air conditioning units, shall adhere to the following:*

- *Roof, window and wall mounted exhaust fans are not permitted;*
- *All exhaust fans shall be contained within the roof space or ceiling and shall be ducted to the exterior;*
- *The air conditioning unit is to be located at the eastern side of the site facing Railway Street.*

[Amendment B – S4.55(2) inserted on 12 March 2019]

- *To ensure that required plant is installed in a manner that minimises impact on the built environment.*

11. *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.*

12. Claims shall not be made against Council for disruption to business or damage to stock or machinery due to flooding of the premises.
13. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.
14. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy - 2000.
15. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
16. *Adopt and implement all recommendations contained in the acoustic report prepared by Acoustic Noise and Vibration Solutions dated 17 January 2019.*
[Amendment B – S4.55(2) amended on 12 March 2019]
17. Speakers or musical instrument or electrically amplified sound equipment are not permitted outdoors.
18. *[Amendment B – S4.55(2) deleted on 12 March 2019]*
Reason: now included in Condition 10B and the acoustic report has been superseded as per Condition 16.
19. No private vehicles other than the community mini bus / van shall be parked within the ground level car park prior to 7am on any day.
20. A Noise Management Plan prepared by a suitably qualified and experienced Acoustic Consultant, to mitigate the noise from the operation of the proposed development shall be submitted to the Principal Certifying Authority (PCA). If Council is not the PCA, a copy shall be submitted to Council concurrently. The plan is to include:
The noise management plan is to include:
 - Designate a staff member who is available at all times when the centre is at operation to monitor and control patrons behaviour to minimise noise disturbance in the neighbourhood;
 - Patrons are supervised at all times to minimise noise generated by patrons,
 - Install a contact phone number at the front of the building so that any complaints regarding centre operation can be made.
 - Implement a complaint handling procedure. If a noise complaint is received the complaint should be recorded on a Complaint Form.
The complaint form should list:
 - a. The name and address of the complainant (if provided),
 - b. The time and date the complaint was received,
 - c. The nature of the complaint and the time and date the noise was heard,
 - d. The name of the employee who received the complaint,
 - e. Actions taken to investigate the complaint, and a summary of the results of the investigation,
 - f. Indicate what was occurring at the time the noise was heard if possible,

- g. Required remedial action, if required,
 - h. Validation of the remedial action,
 - i. Summary of feedback to the complainant,
 - j. A permanent register of complaints should be held on the premises which shall be reviewed monthly by staff to ensure any complaints are responded to. All complaints received shall be reported to management with initial action/investigation commencing within 7 days. The complainant should also be notified of the results and actions arising from the investigation.
21. No private vehicles other than the community mini bus / van shall be parked within the ground level car park from 12pm to 3pm on any Friday.
 22. Qur'an classes on site are only to be held during the following times;
 Monday - Thursday
 5.30pm - 6.30pm and 7.30pm 9.00pm
 Fridays - Saturdays
 10.00am – 2.00pm
 With no classes on Sundays.
 23. A maximum of 110 persons may be accommodated on the subject site at any one time.
 24. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
 25. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1:2004.
 26. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1:2004.
 27. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
 28. External paths and ground surface adjoining the walls of the building shall be graded and drained away from the dwelling in such a manner as to not cause a nuisance to adjoining properties.
 29. The following conditions apply to the design and provision of off street parking and drop off zones.
 - 1) All passenger drop offs associated with the use of the development shall take place from designated drop off zones. The drop off zones shall not be used for storage or any other purpose that would restrict their use for the purposes of passenger drop off.
 - 2) A traffic management plan (TMP) shall be in place for the on site traffic management during Friday afternoon prayers. The plan shall be prepared by a suitably qualified person and be submitted prior to the issue of the relevant Construction Certificate 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) drop off and pick up passengers by a mini bus, including drop off zones;
- (c) predicted traffic volumes, types and routes; and
- (d) pedestrian and traffic management methods.

Copy of the TMP shall be submitted to Council

- 3) Off street parking associated with the proposed development should be designed and constructed in accordance with AS 2890.1 – 2004, AS 2890.2 – 2002 and AS 2890.6 - 2009.

The design shall address, but not be limited to, the following matters:

- (a) The swept path and headroom to have minimum clearance in accordance with AS 2890.1: 2004 within the basement.
- 30. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
- 31. The proposed kitchen located in the basement parking area shall not be used for the purposes of food for sale as defined in the Food Act 2003. A separate development application must be lodge with Council if any food is for sale.

PRIOR TO ISSUE OF THE CONSTRUCTION CERTIFICATE

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

- 32. A Footpath Reserve Restoration Deposit of \$2 209.00 shall be paid to Council prior to the issue of a construction certificate. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges. The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
- 33. A footpath inspection fee shall be paid to Council with lodgement of the Construction Certificate with Council, or by the PCA when submitting the copy to Council.
- 34. A fee is payable to Council for a Soil and Water Management Sign (811) of \$15.45. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- 35. An environmental enforcement fee of 0.25% of the cost of the works shall be paid to Council prior to the issue of a construction certificate in accordance with Rockdale Council's City Plan (adopted fees and charges).
- 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. a. Pursuant to section 94A of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A Development Contributions Plan 2008, a

report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:

- i. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or
- ii. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications.

This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

Note:

- 1. Council may review the costs contained in the report and may seek the services of an independent person to verify them. In such a case, all costs associated with obtaining this advice will be at the expense of the applicant and no Part 4A certificate is to be issued until such time as these costs have been paid.
- 2. The proposed cost of carrying out the development excludes any part of the proposed development that is exempt from the section 94A levy by reason of a Ministerial direction or an exemption specified in Rockdale Section 94A Development Contributions Plan 2008. Where the applicant considers that the proposed development, or any part of it, is or should be exempt from the levy they may submit to Council, prior to approval of the required certificate, an application for exemption giving reasons and providing any necessary evidence for the exemption.
- b. Where the proposed cost of carrying out the development, as specified in the cost summary report, the registered surveyor's detailed cost report or the independent review of costs obtained by Council (as the case may be), is more than \$100,000 a section 94A levy is to be paid to Council for the following amount:
 - i. Where the proposed cost of carrying out the development is greater than \$100,000 but not more than \$200,000 – 0.5% of that cost, or
 - ii. Where the proposed cost of carrying out the development is greater than \$200,000 – 1% of that cost.

This levy is to be paid prior to the issue of the first Part 4A certificate required for the development.

If the levy is not paid within the same financial year as the date on which Council accepted the cost summary report, the registered surveyor's detailed cost report or the independent review of costs (as the case may be), the amount of the levy is to be adjusted at the time of actual payment to reflect changes in construction costs, in accordance with the provisions of Rockdale Section 94A Development Contributions Plan 2008.

Note: This requirement to pay the section 94A levy does not apply if the proposed cost of carrying out the development is \$100,000 or less or Council has confirmed in writing that the proposed development is exempt from the levy.

38. A certificate from a practising Structural Engineer shall be submitted **prior** to the issue of the construction certificate confirming that the existing building elements are structurally adequate to support all proposed additional loads.
39. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please contact Sydney Water.

The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before issue of any Construction Certificate.
40. 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.
41. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.
42. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Council or an Accredited Certifier for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans.
43. A contamination report is to be submitted to Council, prior to the issue of the Construction Certificate.
44. Signage shall be erected on the subject site at entry and exit points of the building, advising visitors to avoid congregating in the car park on site and in the immediate vicinity of the site, prior to, during or following prayer services or other activities. Details to be provided to Council 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.

45. 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.

46. Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.
- The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Councils. Copies of the guidelines are available from Council.
47. A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.
- Sediment control devices shall not be located beneath the driplines of trees, which are to be retained.
48. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
49. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- i) stating that unauthorised entry to the work site is prohibited, and
 - ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- Any such sign is to be removed when the work has been completed.
- This condition does not apply to:
- iii) building work carried out inside an existing building or
 - iv) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
50. The site shall be secured by a 1500 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
51. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

DURING DEMOLITION / EXCAVATION / CONSTRUCTION

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

52. 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.

53. 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.
54. 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.
55. 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.
56. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
57. 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.
58. 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.
59. 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.

60. 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.
61. 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.
62. 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.
63. 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.
64. The new building work shall be protected in accordance with the provisions of AS 3660.1-2000 "Termite Management - Part 1: New Building Work", as required by Part 3.1.3 of the Building Code of Australia. Certification is required to be submitted to the Principal Certifying Authority (PCA), prior to the next stage of works to ensure that the selected method of treatment is in compliance with the relevant provisions of the standard. Such certification is to be prepared by a suitably qualified person.
65. 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.

66. 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.
67. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
68. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
69. 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.

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.

70. Owners/Applicants/Builders and demolishers are required to confine access to building and demolition sites to no more than two 3m driveways, and provide a footpath protection pad over Council's footpath at these points (see attached detail). Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

71. 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.

72. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
73. 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.
74. 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.
75. The approved recommendations from the Business Floodsafe Plan shall be implemented prior to occupation.
76. 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.
77. The vehicular entry from The Seven Ways is to be clearly marked and signposted "no exit" internally.
78. 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".
79. 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.
80. 13 off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
81. The noise control recommendations specified in the noise report prepared by Acoustic Solutions P/L – Report Ref No. 2012-203 Acoustic Report dated the 26 November 2012, shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
82. 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.

83. 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 12 July 2012.
84. A Plan of Management for the operation of the place of public worship / community facility shall be prepared prior to occupation. The Plan is to address but not be limited to the following:
1. Noise Management Plan as specified by this consent.
 2. On site traffic and parking management measures, to ensure staff and visitors have access to the existing car parking within the development site, excluding at the restricted times as specified by this consent.
 3. Details on the management of the site, with particular regard for traffic, parking, noise and maximum occupancy during special events throughout the year.
 4. Lighting maintenance policy.
 5. Safety and security measures on site.
 6. Management of loitering on site and in the immediate vicinity.
 7. Details on garbage collection and deliveries.
 8. Access of emergency services to the site.
 9. Any anticipated growth of the congregation and how these long term projections will be factored into the development and managed in the future.
 10. Pedestrian Management Plan, including details of safe crowd dispersal and assistance of group movement to Railway Street pedestrian crossing.

A copy of the Plan is to be submitted and approved by Council prior to the occupation of the premises.

ROADS ACT

85. Construction related activities must not take place on the roadway without Council approval.
- Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.
- Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RMS.
- Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.
86. 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.
87. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
88. 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 not start until the application has been approved by Council.
89. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (**not kikuyu**) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.
90. All works associated with the proposed development shall be at no cost to the RMS.

DEVELOPMENT CONSENT ADVICE

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand **their** requirements **before** commencement of any work.
- b. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass **all** matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- c. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]

- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

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

- d. 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.
- e. Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
 - choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- f. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.
- g. **Food Act 2003**

Meaning of “food business”

In this Act, **food business** means a business, enterprise or activity that involves:

- (a) the handling of food intended for sale, or
 - (b) the sale of food,
- regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature or whether it involves the handling or sale of food on one occasion only.

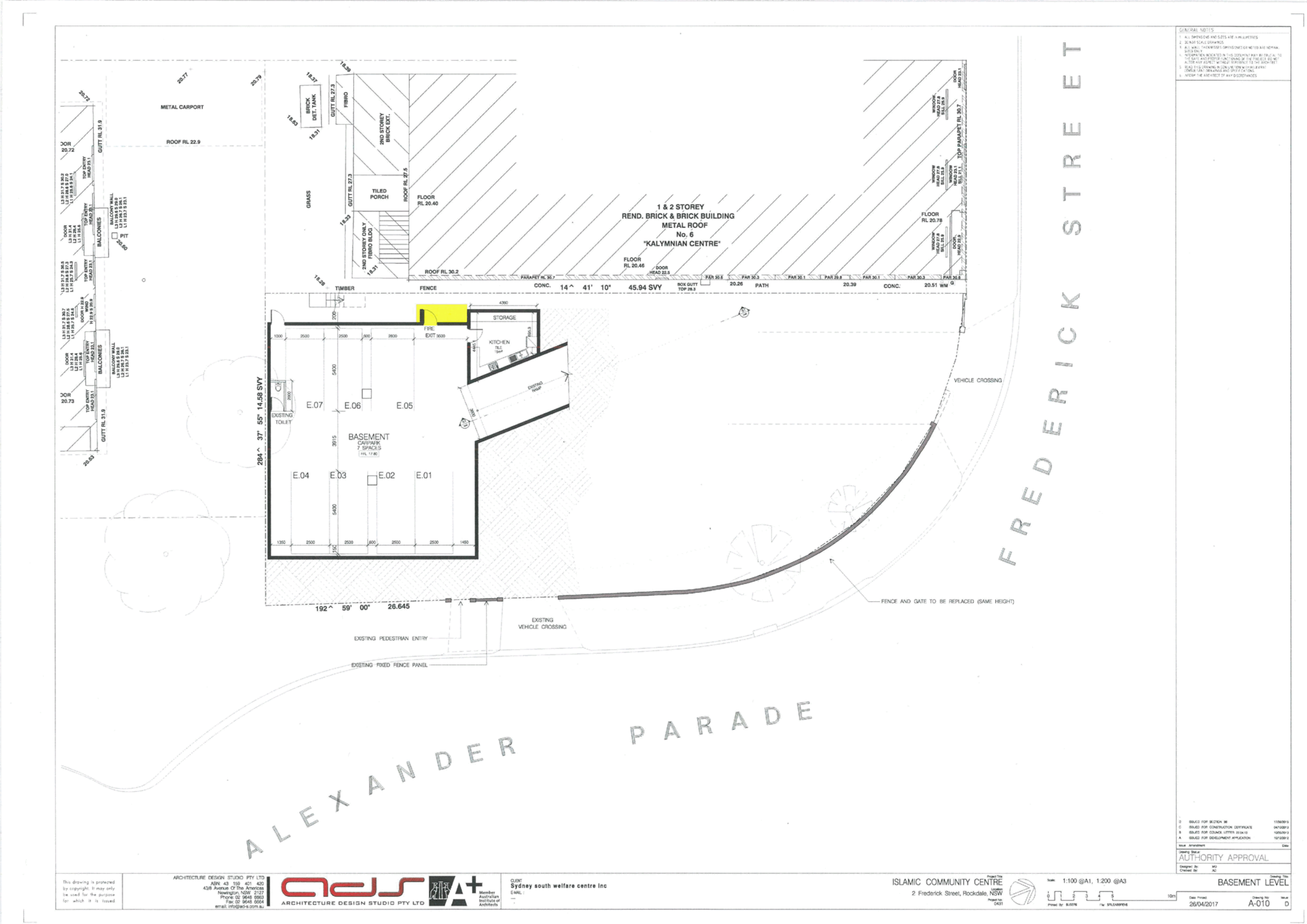
Sell includes:

- (a) barter, offer or attempt to sell, or
 - (b) receive for sale, or
 - (c) have in possession for sale, or
 - (d) display for sale, or
 - (e) cause or permit to be sold or offered for sale, or
 - (f) send, forward or deliver for sale, or
 - (g) dispose of by any method for valuable consideration, or
 - (h) dispose of to an agent for sale on consignment, or
 - (i) provide under a contract of service, or
 - (j) supply food as a meal or part of a meal to an employee, in accordance with a term of an award governing the employment of the employee or a term of the employee's contract of service, for consumption by the employee at the employee's place of work, or
 - (k) dispose of by way of raffle, lottery or other game of chance, or
 - (l) offer as a prize or reward, or
 - (m) give away for the purpose of advertisement or in furtherance of trade or business, or
 - (n) supply food under a contract (whether or not the contract is made with the consumer of the food), together with accommodation, service or entertainment, in consideration of an inclusive charge for the food supplied and the accommodation, service or entertainment, or
 - (o) supply food (whether or not for consideration) in the course of providing services to patients in public hospitals (within the meaning of the Health Services Act 1997) or inmates in correctional centres (within the meaning of the Crimes (Administration of Sentences) Act 1999), or
 - (p) sell for the purpose of resale.
- h. *A new Construction Certificate may be required to be submitted to and approved by your Principal Certifying Authority prior to carrying out works the subject of the proposed amendment/s.*
- [Amendment B – S4.55(2) inserted on 12 March 2019]*

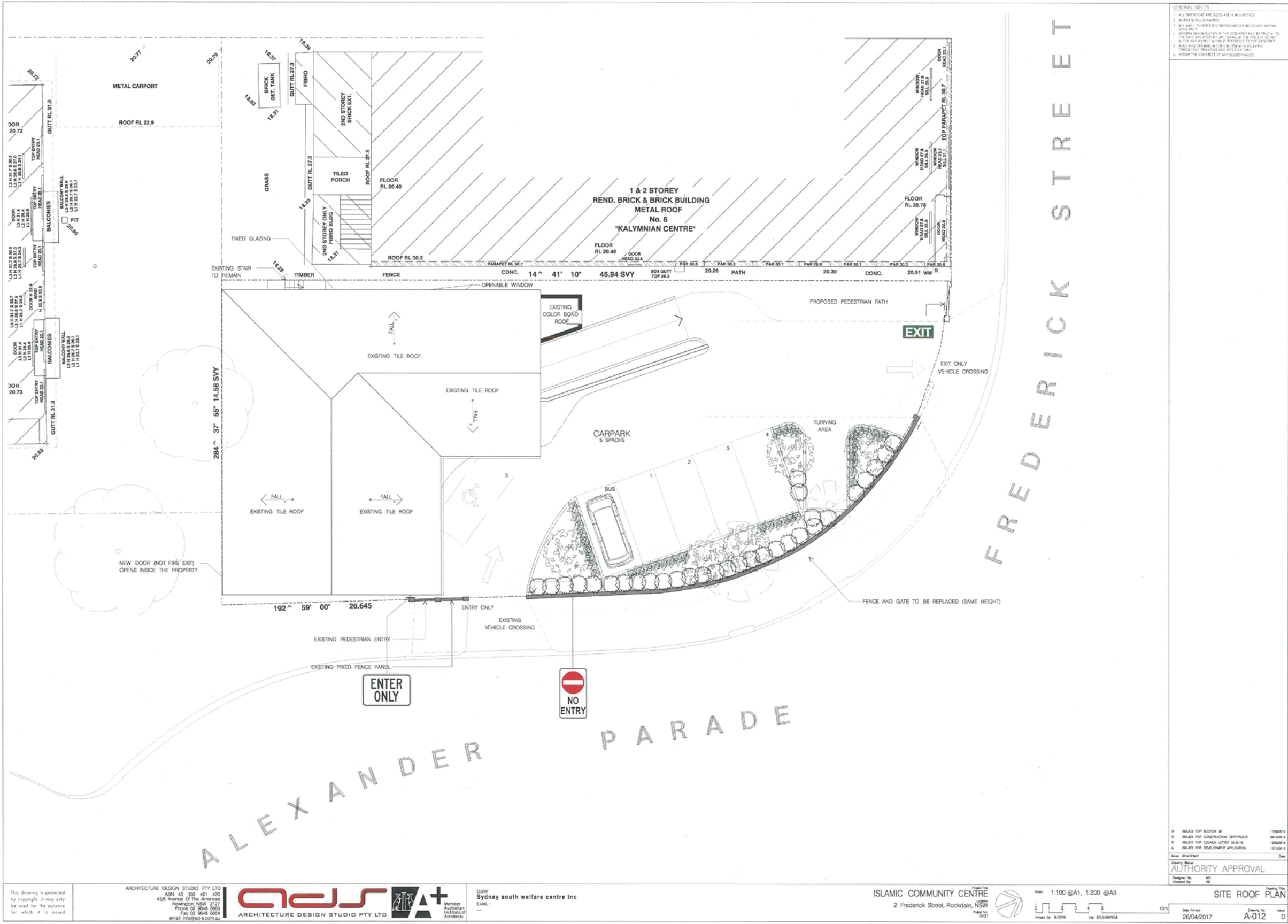
ADDITIONAL INFORMATION

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the Environmental Planning and Assessment Act, 1979. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.

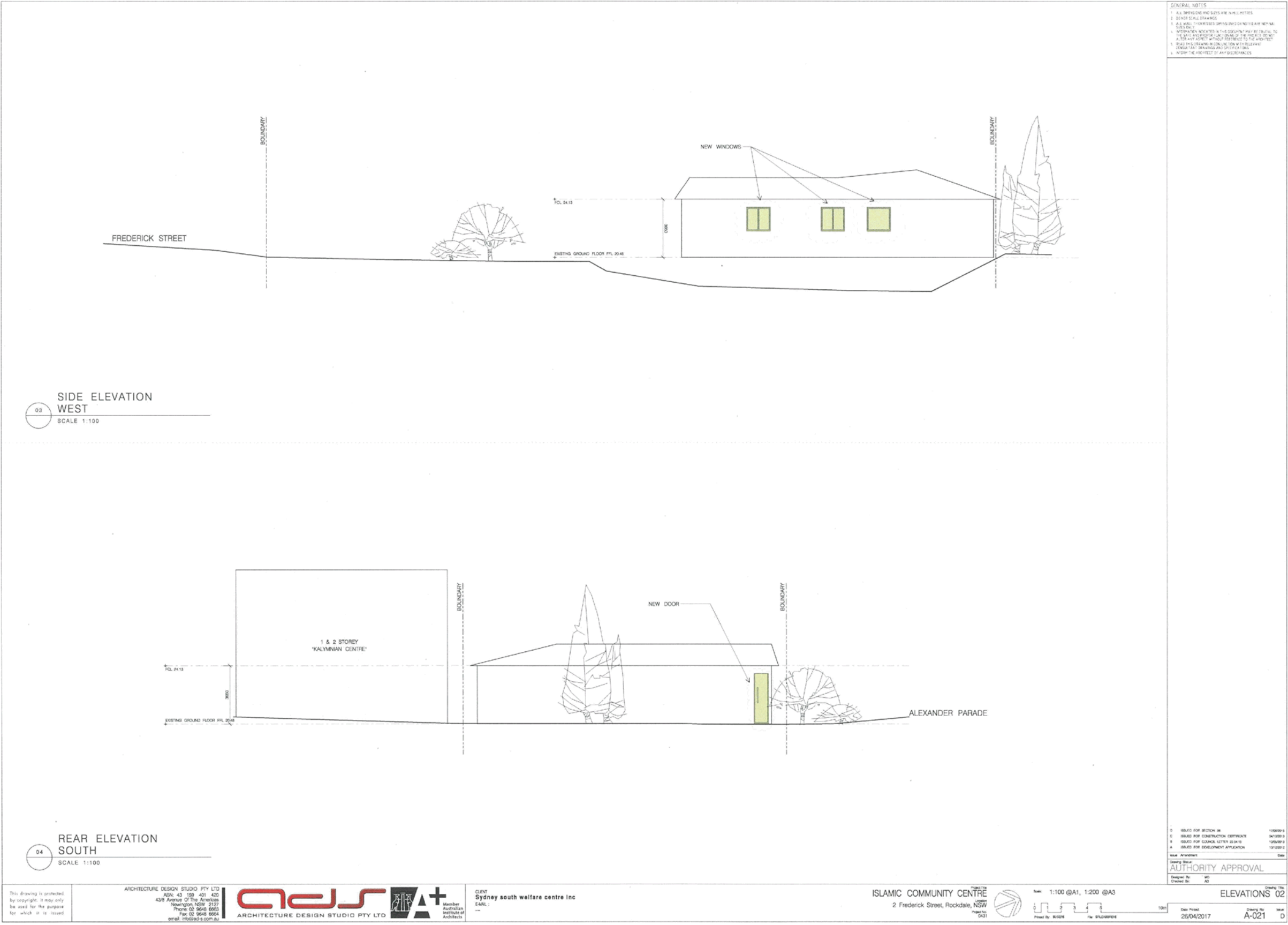
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.











willana
associates

urban planning
facilities management

plan of management



2 frederick street
rockdale

August 2018

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appendices

Appendix A | Site Plan

Appendix B | Staff Roles and Responsibilities

Appendix C | Complaint Documentation

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1 introduction

This Plan of Management (POM) relates to the operation of the Place of Public Worship at 2 Frederick Street, Rockdale.

1.1 Intent

The POM is a working document to provide:

- Management and personnel with clarity regarding roles and responsibilities, and the nature of tasks to be undertaken.
- Full details regarding permitted activities and operation of the premises.

The activities referenced in this POM are listed below:

- Prayer and religious services.
- Religious events associated with Islamic faith and the local community.
- Prior and post worship congregation.

1.2 Site Plan

- A Site Plan is located at Appendix A of the POM.

1.3 Copies of the POM

- Four (4) copies of the POM must be available for review on site at all times. These will be located at the following locations:
 - Two (2) in the male prayer hall, near the entrance.
 - One (1) in the female portion of the prayer hall, near the entrance.
 - One (1) in the class room.

The copies are available to staff, worshippers and the public.

1.4 Induction Program

- Prior to individuals undertaking any responsibilities outlined in the POM, they must undertake an induction program.
- Roles subject to an induction are:
 - General Administrators
 - Prayer Assistance
 - Counters
 - Traffic Control Officers
 - Community Liaison Officer

The roles and responsibilities are detailed in Appendix B.

- The induction program is to provide clear direction and understanding to management and personnel regarding the carrying out of tasks and responsibilities associated with the function of the Mosque. Those being inducted will have a clear understanding of what to do, when and how.
- The Site Manager is responsible for organising and carrying out the induction.
- The induction involves the Site Manager detailing the roles and responsibilities required for operation of the Mosque and stressing the importance of adhering to the POM.
- An induction will be provided on an as-required basis, when new people are required to undertake the outlined roles.
- All inductees will be logged in a register confirming they have undertaken the induction and detail which roles they will be undertaking. This register will be maintained and kept by the Site Manager. It will be available to Council on request.
- Each staff member or volunteer will receive their own copy of the POM for future reference.
- Where specialist training is required, the relevant individuals must attend and satisfy the requirements of a relevant accredited program before assisting with responsibilities. In particular, traffic wardens are to be qualified by the RMS Traffic Controller Course.
- The Site Manager will assist in organising any specialist training. Training will be noted within the induction register.
- In the event that rostered staff, with training, are unavailable for a particular service, they must inform the Site Manager as early as possible. The induction register will be used to find another suitably qualified member to undertake the task. The Site Manager will also be trained in order to fill in as necessary.

1.5 Review Mechanism

- This Plan of Management will be reviewed on an annual basis in March and updated to reflect any improvements or changes that have occurred in the operation of the Mosque.
- The review will be undertaken by the Management Association and the Site Manager. It will be informed by the Counters Register, Induction Register, Complaints Register and ongoing communication between staff, volunteers, worshippers and the community.
- Any amendments to the POM will be forwarded to Council for review.
- A review of the POM cannot amend the scope of the approved development under the consent without having obtained consent from Council.

2 activities

2.1 Objectives

- To identify the activities that take place at the Mosque.
- To detail the operation and responsibilities for each activity.

2.2 Activities

The Mosque is used for the following activities:

- Prayer services.
- Religious events associated with Islamic faith and the local community (i.e. Ramadan and Eid).
- Prior and post worship congregation.
- Community Services

2.3 Hours of Operation

- The operation of the Site is between 5.30am and 11pm. The premises, including the car park, will not be accessible or used between the hours of 11pm and 5.30am. These hours allow for the practice of religion as dictated by the natural rise and setting of the Sun. The daily prayer times, outlined below, illustrate the need for the operational hours. During summer, evening prayer may finish later, due to the later setting of the sun.
- In addition to allowing for sufficient time to undertake daily prayer, these hours of operation provide sufficient time to allow for community services to take place at the site, such as religious, social and educational services.
- Entering and exiting the site can take time as it is done so in an orderly and controlled fashion. As such, these hours provide the required time for maneuvering into and out of the site and entering and exiting the building.
- It is the responsibility of the Site Manager to ensure that the Site is not operating outside of these times and that the Site is secure.

2.4 Prayer and Religious Services

Daily Service

Daily prayer service takes place within the following time periods and, generally, do not exceed 30 minutes:

- 5.30am – 7am.
- 11.45am - 1.30pm.
- 2.45pm - 5.00pm.
- Sunset.

- Commencing 1 - 1.5 hours after sunset.

Weekly Service

- Weekly service is to occur only on Friday between 12.15pm – 2.30pm.

Qur'an Classes

- Monday - Thursday 5.30pm - 6.30pm and 7.30pm 9.00pm
- Saturday - Sunday 10.00am — 2.00pm

Ramadan

- Ramadan services are to commence 1 - 1.5 hours after sunset and are not to exceed 1 hour. Ramadan service is to occur daily for a maximum of 30 consecutive days during the Ramadan period.
- All prayer services are to be undertaken solely within the prayer halls as identified on the Site Map at Appendix C of the POM.

2.5 Designated Congregation Areas

- Attendees of the Mosque are required to congregate within the prayer hall only.
- Congregating must not extend beyond 30 minutes after an approved prayer service and must take place within the approved hours of operation outlined in 2.3 of the POM.

2.6 Worshipper Numbers

- The maximum worshipper attendance is 110 persons at any one time, as per Condition of Consent No. 23.
- A counter must be stationed at the main entry to the prayer hall to count the number of worshippers entering the prayer hall.
- The counter must be equipped with a counting device and radio communication device to allow communication with the traffic control officers and the Site Manager.
- Communication devices are provided to counters and traffic control officers by the Site Manager for the duration of the activity. The communication devices are to be returned to the Site Manager once the activity has been completed.
- When the counter counts 90 worshippers, they will be required to advise the traffic control officers who will then assist in counting the last 20 permissible on this Site and undertake their duties to begin restricting access to the Site, in accordance with Section 2.7 of the POM.
- Once capacity is reached, the counter and traffic control officers will communicate and inform the Site Manager. The counter will deploy a sign at the prayer hall entry that states "*prayer hall full*".

- Until prayer service starts, the counter will remain at the prayer hall entrance to inform any additional worshippers that capacity has been reached and they cannot enter the prayer hall and must leave the premises immediately.
- Communication between the counter and the Site Manager is required should an instance arise where a worshipper is unhappy about being denied access to the prayer hall.
- When the prayer service starts, the counter must close the doors.
- The Site Manager and traffic control officers will monitor the area to ensure no external areas are used for prayer.
- The counter must record the final count of attendee numbers by entering them into the attendance book kept within the prayer hall. The attendance book will be managed by the Site Manager and will be accessible to the designated counter and relevant council authorities on request to the Site Manager.
- The number of permitted attendees for all activities will be included on advertising and social media sources where relevant.

2.7 Traffic Management

- For weekly prayer service and Ramadan events, the Site Manager is to train (via an accredited training course) and deploy 2 traffic control officers to control traffic and parking.
- While active, the traffic control officers will be provided with adequate high visibility protection material, radio communication devices, and lighting devices when appropriate.
- Traffic control officers are to attend the premises 30 minutes prior to the service and remain undertaking traffic control duties until 30 minutes after the service.

Traffic control officer duties are to:

- Aid entry and exit of vehicles and ensure pedestrian safety.
- Observe and advise on the capacity of the car park.
- Close the vehicle entry once the car park becomes fully occupied.
- Communicate via radio device with other traffic control officers and counters to understand when the car park and/or prayer hall is nearing capacity.
- Encourage worshippers to enter and leave in a quiet and orderly fashion.

Traffic control officers will be deployed to the following locations:

- 1 traffic control officer at the vehicle entrance.
- 1 traffic control officer within the carpark at ground level near basement

- Traffic control officers will undertake their duties until after the prayer service has started and reattend their duties before prayer service ends.
- Traffic will be instructed to drive slowly by the traffic control officers, at no more than 10km per hour.

Car Park Capacity

- 1 traffic control officer located at the street entrance will be responsible for counting the number of vehicles entering the Site. If all on-site car spaces will soon be occupied, a traffic control officer is to deploy a sign stating "car park full". The vehicle access gate must be closed shortly after deployment of the sign.
- At least 1 traffic controller must remain at the entrance to direct traffic to on-street parking only, until prayer hall capacity has been reached.
- No private vehicles other than the community mini bus/ van shall be parked within the ground level car park from 12pm to 3pm on any Friday as per Condition of Consent No. 21.
- No private vehicles other than the community mini bus/ van shall be parked within the ground level car park prior to 7am on any day as per Condition of Consent No. 19.
- In the event of an emergency, access is to be provided via the Alexander Parade entrance point to emergency services as per Condition of Consent No. 84(8).

Prayer Hall Capacity

- When advised by the Counter that capacity will soon be reached (i.e. 90 worshippers already on-site), the traffic control officer stationed at the entrance will close both the vehicle access gate and pedestrian gates.
- A traffic control officer is to deploy a sign stating "prayer hall full".
- Signs will also be placed on the vehicle access gate and pedestrian gate at the main street entrance stating 'prayer hall full'.
- A traffic controller must remain at the entrance to direct additional traffic away from the Site and inform worshippers they cannot enter as the prayer hall is full.
- Communication between traffic control officers and the Site Manager is required should an instance arise where a worshipper is unhappy about being denied access to the prayer hall.

Deliveries

- Any deliveries required for the Site are to be scheduled outside of prayer service times but within the hours of operation.
- The Site Manager is responsible for any required deliveries.

2.8 Qur'an Classes

- Qur'an class activities will include religious and doctrine instruction, as well as general socialising associated with the formal activities of the class.
- Classes are provided on Monday to Thursday at 5:30pm-6:30pm and 7:30-9pm. Classes are also provided on Saturday and Sunday between 10am-2pm.
- Classes will be undertaken within the class room as identified on the Site Plan at Appendix A of the POM.
- Qur'an classes will not operate during prayer sessions. The expectation will be that all attendees will attend the relevant prayer session. Accordingly, the attendees will be included in the maximum worshippers for that prayer service. Counters will be required to include class attendees prior to access by others.

2.9 Signage

- A sign detailing the hours of operation will be located at the entrance to the Mosque. The sign will state the following information:

<i>Daily Service</i> <ul style="list-style-type: none"> ▪ 5.30am – 7am ▪ 11.45am - 1.30pm ▪ 2.45pm - 5.00pm ▪ Sunset ▪ Commencing 1 - 1.5 hours after sunset 	Maximum 110 people
<i>Weekly Service</i> <ul style="list-style-type: none"> ▪ Fridays between 12.15pm – 2.30pm 	Maximum 110 people
<i>Ramadan</i> <ul style="list-style-type: none"> ▪ 1 - 1.5 hours after sunset 	Maximum 110 people
<i>Mosque Name</i> <i>Site Manager</i>	Contact Details
<i>Community Liaison Officer</i>	Contact Details
<i>Bayside Council Local Government Area</i>	02 9562 1666 2 Bryant Street, Rockdale NSW 2216

2.10 Site Maintenance

- The Site will be well maintained with the Site Manager responsible to ensure that the property is kept safe and clean at all times.
- The Site will be regularly cleaned by employees on a weekly basis.
- Following weekly service and during Ramadan, an additional clean will take place to ensure that the premises remains in a safe and clean state.
- Following weekly service and during Ramadan, the surrounding street area will be monitored for rubbish.
- Garbage bins will be provided in appropriate locations to ensure all attendees and students have access to dispose of their waste, as well as to discard waste found during the abovementioned. Normal garbage collection times will be adhered to, as per Council's waste collection schedules.
- As part of the post worship notification, the prayer leader will remind worshippers to take any litter with them or place it in the bins provided on the Site.
- The Site Manager will be responsible for contracting gardeners to maintain landscaping on the Site.
- Maintenance and servicing of lighting will be coordinated by the Site Manager. Internal and external lighting will be turned off by the Site Manager 30 minutes after the last event for the day or at 11pm at the latest.

3 noise management

3.1 Objectives

- To identify measures and responsibilities to mitigate noise impacts.

3.2 Noise Management Measures

- All that enter and exit the Site are to do so in a silent or quiet fashion.
- Staff and volunteers will observe and manage noise and generally assist in the effective operation of prayer services. As well as the Site Manager and traffic control officers, staff will be assigned to ensure prayer services are quiet.
- In the event of a noise disturbance, designated noise management staff will instruct the offender to be quiet. If this is not achieved, the offender will be asked to leave. The Site Manager will be informed and assist as necessary. If the incident continues, the police will be called by the Site Manager.
- No 'call to prayer' shall take place outside the prayer hall.
- All prayers are wholly conducted within the prayer hall. This will be monitored by the Site manager and on-duty staff.
- All windows and doors will be closed for the duration of the prayer service or activity. The Site Manager will ensure doors and windows are closed or delegate the task to a member who has undertaken the induction.
- Before the cessation of prayer, worshippers will be reminded to avoid congregating outside of the designated area and be mindful of adjoining property owners.
- No speakers or musical instruments or electrically amplified sound equipment will be permitted outdoors as per Condition of Consent Number. 17.
- Where possible, regular emails will be sent to patrons reminding them of noise related requirements and general etiquette.
- Relevant signage is to be placed within the prayer hall and at various locations throughout the Site, as well as at the main site entrances. The signage will advise attendees to enter the prayer hall as soon as possible and minimise noise. The signs will generally be worded as follows:
 - *Please enter the prayer hall quietly and in an orderly fashion. Please avoid congregating in outdoor areas.*
 - *Please be mindful of adjoining properties and minimise noise.*
- Air conditioning units are only to be used during scheduled activities. They are to be operated by the Site Manager or a delegated authority who has undertaken the induction.

4 complaints handling

4.1 Objectives

- To identify responsibilities and process for managing any complaints.

4.2 Community Liaison Officer

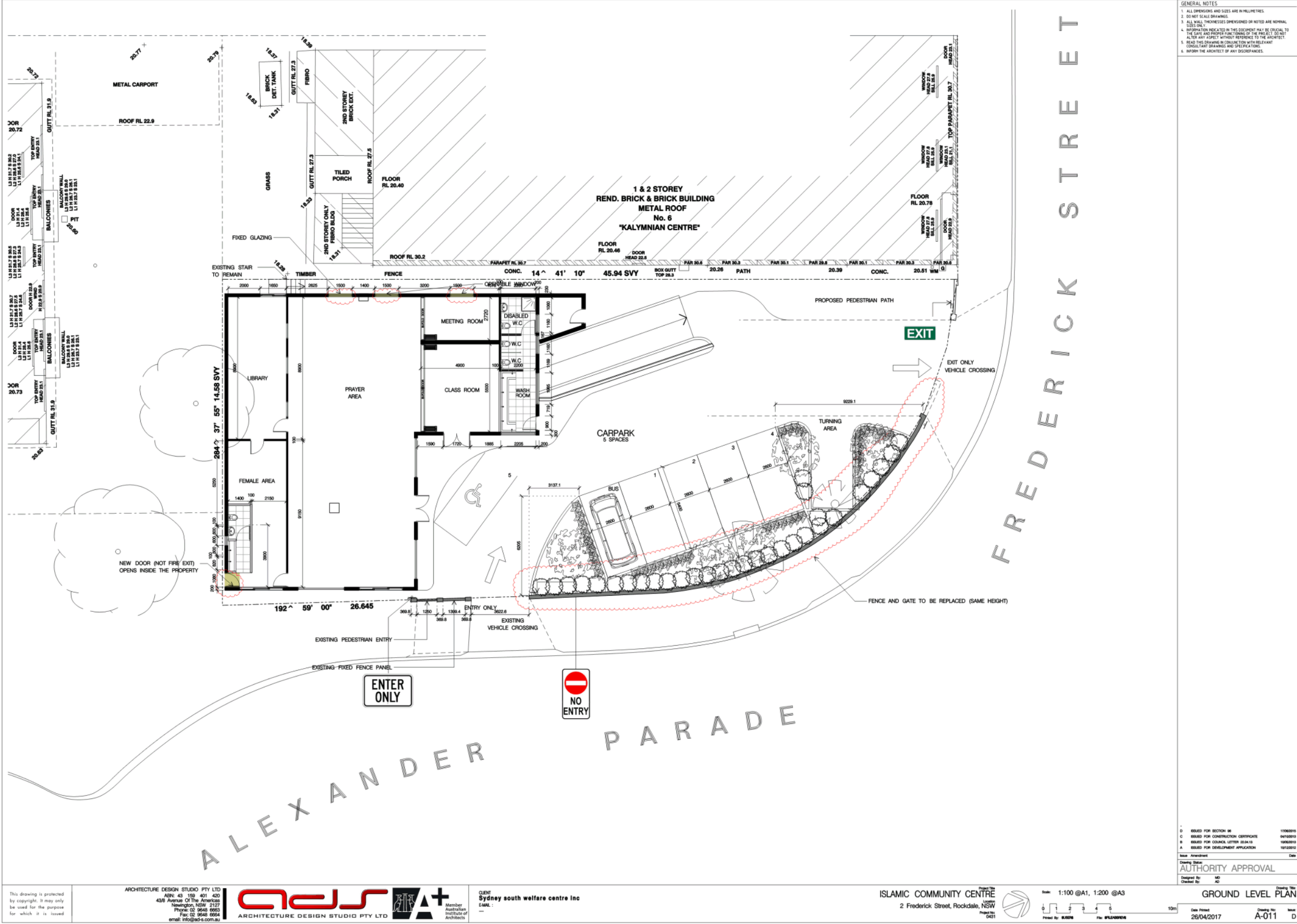
- A Community Liaison Officer will have the overall responsibility of the complaints handling system.
- Neighbours will be notified in writing of the name and contact details of the Community Liaison Officer. Contact details are also included on the sign at the front of the building.
- At all times, a Site Manager will be present during the operations of the Mosque. The contact details of the Site Manager will be displayed at both entrances to the Site and the prayer hall.
- All operations of the Site are the overall responsibility of the Site Manager.

4.3 Complaint Handling Procedure

The complaints handling process will be as follows:

- Once a complaint is raised, the Community Liaison Officer will request the complainant put it in writing using a template (Appendix C).
- Alternatively, the Community Liaison Officer will complete the forms for the person reporting complaint.
- The Community Liaison Officer will review and lodge their complaint on a register which will be circulated immediately via email to the Site Manager and staff (Appendix C).
- The Community Liaison Officer will further investigate the nature of the complaint and, with the Site Manager and staff, find a reasonable solution. Every effort will be made to respond to the complaint, particularly use based complaints, with urgency, within one week.
- The Complainant will be contacted via their preferred method (phone, email, face to face) to advise them of the outcome.
- Once complaints are resolved, all complaint action forms will be stored away in a register by the Community Liaison Officer.
- The complaint register will be provided to authorised Council Officers by the Community Liaison Officer if requested.
- All personal details will remain confidential.

Appendix A | Site Plan



Appendix B | Staff Roles and ResponsibilitiesSite Manager

- Ensure all staff are adequately trained and equipped to undertake their respective role.
- Understand and apply all relevant Council Approval Conditions and the requirements of this Plan of Management.
- Ensure staff are aware of relevant Council Approval Conditions and the requirements of this Plan of Management when undertaking their responsibilities.
- Provide a copy of this Plan of Management to each staff member and get them to sign a register confirming they have received their copy.
- Keep a record of qualifications for staff and volunteers who perform traffic duties on the site.
- Direct all personnel on site in accordance with Council Approval Conditions and the requirements of this Plan of Management.
- Assist with complaint resolution.

General Administration and Management

- Review their personal copy of the Plan of Management and sign the register confirming they have received their copy.
- Assist in general day-to-day running of the premises.
- Ensure rooms are being used for appropriate purposes within the permitted hours of operation.
- Ensure the centre is in a clean and safe state.
- General management of visitors to the centre, ensuring they are directed to the appropriate areas of the premises in a quiet and orderly fashion.
- Encourage carpooling.

Counters

- Review their personal copy of the Plan of Management and sign the register confirming they have received their copy.
- Count patrons on entry during the required weekly service, Ramadan and selected events.
- Communicate with traffic control officers and the Site Manager when nearing capacity.
- Communicate with traffic control officers and the Site Manager when capacity is reached.
- Inform additional worshippers that the premises is full and deploy appropriate signage.

- Close the door at the beginning of the prayer service.
- Keep a record of the number of worshippers in attendance in an attendance book within the prayer hall.

Traffic Control Officers

- Review their personal copy of the Plan of Management and sign the register confirming they have received their copy.
- Undertake the appropriate RMS accreditation for traffic management.
- Attend the premises in time to manage traffic flow 30 minutes prior to the weekly service and remain undertaking duties until 30 minutes after the service.
- Wear appropriate safety wear.
- Aid entry and exit of vehicles and ensure pedestrian safety.
- Observe and advise on the capacity of the car park.
- Communicate with other traffic control officers and counters to understand when the car park and/or prayer hall is nearing capacity.
- Deploy required signs at the site entry, when directed by the counter, to notify both drivers and pedestrians.
- Close the vehicle entry once car park is fully occupied.
- Close pedestrian entry when prayer hall is full and inform additional worshippers they cannot enter.
- Monitor on street parking behaviour.

Community Liaison Officer

- Review their personal copy of the Plan of Management and sign the register confirming they have received their copy.
- Provide contact details to neighbours.
- Review each complaint and lodge on a register.
- Investigate complaints and find a reasonable solution with the Site Manager and Staff.
- Contact complainant and advise of the outcome.
- File complaint action forms for future reference.
- Never release personal details.

Appendix C | Complaints Register, Action Form and Standard Complaint Form*Complaints Register*

	Name	Contact Details	Nature of Complaint	Date of complaint
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

Complaint Action Form

Complaint Number	Action Taken	Action taken by:	Complainer contacted to inform outcome (please circle)	Date of complaint actioned
			Y/N	
			Y/N	
			Y/N	
			Y/N	

willana associates –POM | 2 Frederick Street, Rockdale

Standard Complaint Form

Name	
Address	
Complaint	
Date of Complaint and/or Date which incident occurred	

willana associates –POM | 2 Frederick Street, Rockdale

**ACOUSTIC NOISE & VIBRATION SOLUTIONS P/L**

Suite 2B, Level 2, No. 34 Macmahon St, Hurstville NSW 2220. ABN: 37 169 392 456
Phone: 9793 1393 Fax: 9708 3113 Email: info@acousticsolutions.com.au

January 17, 2019

Dear Sir/Madam,

**RE: Acoustic Report For Extension of Hours of Operation of Community
Centre and Place of Worship (Mosque)
at No. 2 Frederick St, Rockdale**

1.0 Introduction

In 2013, Acoustic Noise & Vibration Solutions was initially commissioned to investigate the environmental noise impact of the proposed Community Centre and Place of Worship (Mosque) at No. 2 Frederick St, Rockdale, to recommend any necessary noise control measures and prepare an Environmental Noise and Impact Report to be issued to Rockdale City Council Acoustic Report No.2013-383-. This proposal was approved for a maximum of 110 persons to be accommodated for at the site at any one time as per DA Condition 23 (DA No.: DA-2013/167 dated June 19, 2013).

This report checks the compliance of existing Mosque operation through a one (1) month reading as required in original DA conditions.

As the applicant wishes to increase the hours of operation through a Section 96 application from 9:00 pm. till 11:00 pm Monday till Sunday, this report also provides a further acoustic assessment and determines whether noise produced as a result of the operating hours extension is within acceptable limits. This report is in accordance with the requirements of Rockdale City Council and the relevant Australian Standards.

This report is based on the latest Architectural Plans by Architectural Design Studio dated the 26th April, 2017 and the Statement of Environmental Effects (Revision A) by Architecture Design Studio dated March 2017.

2.0 Noise Measurements at Existing Mosque (Fully Operational).

While the Mosque is fully operational we carried out noise measurements at the busiest corner of the Mosque near the main entry door adjacent to the carpark gate (Point A, Figures 1 & 2). Noise levels were recorded for a full month of operation between May 25 & June 27, 2018. The noise measurements included twenty (20) days of noise levels recorded within the Mosque's busiest time of the year (Month of Ramadan May 25- June 15, 2018) and twelve (12) days after the month of Ramada has ended (June 15- June 27, 2018).

During the month of Ramadan, people of the Muslim faith convene more frequently to neighbouring mosques where they pray, listen to imams' speeches and recite Quran more than any other time of the year.

Measurements were carried out using our factory calibrated and certified (Figure 3) Svantek 957 Class 1, Noise measurement meter. Field calibration is also carried out before and after measurements using certified Svantek SV 33A S/N: 90200 class 1 Calibrator.

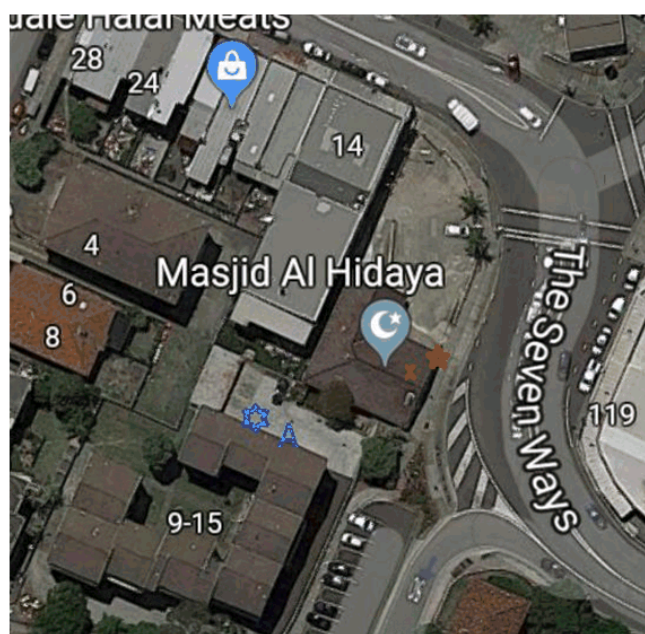


Figure 1. (Reading location Point X, 1st residential receiver Point A.)



Figure 2. (Picture of microphone at reading location)

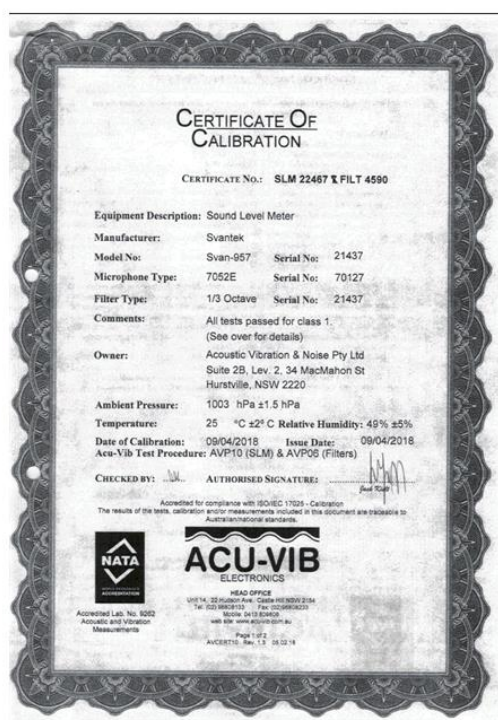


Figure 3- Calibration Certificate

The summary of the noise reading measurements is presented in the tables below. Full results and spreadsheets are attached to this report.

Table 1- Summary of Noise Readings May 25-June 01, 2018 -dB(A).

	Day LAeq, 15 mins 7 am.-6 pm.	Evening LAeq, 15 mins 6 pm.-10 pm.	Night LAeq, 15 min 10 pm.-7 am.	Day L90, 15 mins 7 am.-6 pm.	Evening L90, 15 mins 6 pm.-10 pm.	Night L90, 15 mins 10 pm.-7 am.
Friday (25/05/2018)	69.23	64.2	61.37	59.46	55.2	47.84
Saturday (26/05/2018)	63.55	64.42	66.36	54.74	54.8	47.81
Sunday (27/05/2018)	63.07	63.03	60.34	53.15	53.62	50.29
Monday (28/05/2018)	63.95	62.83	62.16	55.3	54.7	51.8
Tuesday (29/05/2018)	64.22	63	60	55.55	54.49	47.56
Wednesday (30/05/2018)	63.92	62.64	58.92	55.83	53.96	46.44
Thursday (31/05/2018)	63.84	63.38	59.53	55.67	53.96	47.73
Friday (01/06/2018)	62	-	-	53.86	-	-
Average -	64.2	63.4	61.2	55.4	54.4	48.5

Table 2- Summary of Noise Readings June 01-June 08, 2018- dB(A)-.

	Day LAeq, 15 mins 7 am.-6 pm.	Evening LAeq, 15 mins 6 pm.-10 pm.	Night LAeq, 15 min 10 pm.-7 am.	Day L90, 15 mins 7 am.-6 pm.	Evening L90, 15 mins 6 pm.-10 pm.	Night L90, 15 mins 10 pm.-7 am.
Friday (1/06/2018)	67.86	63.07	59.61	59.75	54.46	46.79
Saturday (2/06/2018)	63.5	62.84	59.26	54.95	54.35	46.72
Sunday (3/06/2018)	62.22	63.3	59.89	52.55	52.75	47.57
Monday (4/06/2018)	64.22	62.7	59.5	55.36	54.28	58.18
Tuesday (5/06/2018)	66.4	65.24	61.38	58.46	57	49.83

Wednesday (6/06/2018)	66.08	64.59	60.8	58.45	57.15	49.63
Thursday (7/06/2018)	64.79	63.41	59.52	56.35	54.68	48.06
Friday (8/06/2018)	64.41	-	-	55.74	-	-
Average -	64.9	63.6	60.0	56.5	55.0	49.5

Table 3- Summary of Noise Readings June 08-June 14, 2018- dB(A)-.

	Day LAeq, 15 mins	Evening LAeq, 15 mins	Night LAeq, 15 min	Day L90, 15 mins	Evening L90, 15 mins	Night L90, 15 mins
Friday (8/06/2018)	62.61	63.66	58.89	55.24	55.7	46.51
Saturday (9/06/2018)	62.59	60.69	58.11	53.52	51.97	45.05
Sunday (10/06/2018)	59.96	60.9	57.75	50.93	51.44	45.77
Monday (11/06/2018)	63.35	60.22	56.69	53.87	50.81	44.39
Tuesday (12/06/2018)	61.54	59.74	57.7	53.45	51.49	47.5
Wednesday (13/06/2018)	61.83	59.83	57.26	52.43	51.19	46.59
Thursday (14/06/2018)	61.42	59.94	56.55	52.61	51.58	45.18
Average-	61.9	60.7	57.6	53.2	52	45.9

Table 4- Summary of Noise Readings June 15-June 21, 2018- dB(A)-.

	Day LAeq, 15 mins 7 am.-6 pm.	Evening LAeq, 15 mins 6 pm.-10 pm.	Night LAeq, 15 min 10 pm.-7 am.	Day L90, 15 mins 7 am.-6 pm.	Evening L90, 15 mins 6 pm.-10 pm.	Night L90, 15 mins 10 pm.-7 am.
Friday (15/06/2018)	61.24	59.8	55.55	53.3	51.06	43.77
Saturday (16/06/2018)	60.59	60.27	56.43	51.67	56.43	42.36
Sunday (17/06/2018)	61.15	60.48	55.63	51.29	50.7	43.97
Monday (18/06/2018)	62.03	61.81	56.89	53.86	52.8	44.78
Tuesday (19/06/2018)	64.8	63.52	58.4	56.48	55.15	46.62

Wednesday (20/06/2018)	62.77	60.62	57.13	54.25	51.45	43.7
Thursday (21/06/2018)	62.22	60.7	57.09	53.08	52.47	44.8
Average-	62.1	61.0	56.7	53.4	52.9	44.3

Table 5- Summary of Noise Readings June 22-June27, 2018 - dB(A)-.

	Day LAeq, 15 mins 7 am.-6 pm.	Evening LAeq, 15 mins 6 pm.-10 pm.	Night LAeq, 15 min 10 pm.-7 am.	Day L90, 15 mins 7 am.-6 pm.	Evening L90, 15 mins 6 pm.-10 pm.	Night L90, 15 mins 10 pm.-7 am.
Friday (22/06/2018)	60.82	59.6	55.69	52.4	50.93	43.2
Saturday (23/06/2018)	60.82	59.6	55.69	52.4	50.93	43.2
Sunday (24/06/2018)	60.86	59.01	56.39	50.32	49.71	44.5
Monday (25/06/2018)	61.07	60.5	61.71	52.25	51.27	46.4
Tuesday (26/06/2018)	62.23	61.17	61.83	53.11	52	46.34
Wednesday (27/06/2018)	62.66	-	-	54.39	-	-
Average-	61.5	60.1	58.9	52.5	51.0	45.1

The summary of the estimated results is presented in the table below:

Table 6- Summary of Noise Readings May 25-June27, 2018- dB(A)-.

At Point x –	L _(Aeq, 15 minutes)	L _(A90, 15 minutes)
Day (7am-6pm)	62.95	54.2
Evening (6pm-10pm)	61.75	53.1
Night (10pm-7am)	58.9	46.67

3.0 Compliance of Existing Mosque Operation.

The noise levels at point X near the Mosque entrance in section 2 above, represents the maximum noise levels anticipated due to the mosque operation (People getting and exiting the mosque, carpark noise, people congregating in the car park, in addition to noise from inside the mosque).

The microphone at location X also captures traffic noise and other environmental noise near the Mosque. It is a conservative approach to assume the noise captured at location X is all from the Mosque operation.

Applying distance noise mitigation ($20 \log d_2/d_1 = 7.7 \text{ dB}$) and barrier noise mitigation (Mosque building acting a barrier = 15 dB), the predicted noise levels from the Mosque at location A (nearest residential receiver 9-15 King Edward St) is as below:

Table 7- Predicted Noise levels at 1st residential receiver

	Existing Noise levels at location X; $L_{(Aeq, 15 \text{ minutes})}$ dB(A)	Predicted Noise levels at location A (9-15 King Edward St.) $L_{(Aeq, 15 \text{ minutes})}$ dB(A)	L90 + 5 Prior to Mosque in operation at location A (9-15 King Edward St.) dB(A)	Compliance
Day (7am-6pm)	62.95	40.2	53	40.2 < 53.0 Yes
Evening (6pm-10pm)	61.75	39.0	53	39.0 < 53 Yes
Night (10pm-7am)	58.9	36.2	53	36.2 < 53 Yes

As per the table above, the existing noise levels produced by the Mosque's operation during approved operating hours as set up in the development's consent times of operation (5:00 am-9:00 pm Monday till Sunday) comply with the acceptable noise levels as stated in section 6 of Acoustic Noise & Vibration Solutions P/L report 2013-383.

4.0 Proposed Extension of Hours of Mosque Operation.

Section 96 supported in this report, proposes an extension of the Mosque operating hours to include 9:00pm. to 10:00pm. Monday till Sunday. This will give enough time for celebrants during summer time to finish their Alisha prayer which starts late in that season of the year.

The table below, shows recorded noise levels between 8:00 pm. and 9:00 pm. during the last hour of the Mosque's operation. The table as well shows the noise levels between 9:00 pm. and 10:00 pm. after the Mosque final hour of operation.

Table 8- Existing Noise levels

	LAeq, 15 mins 8:00 pm – 9:00 pm (Average) dB(A)	LAeq, 15 mins 9:00 pm – 10:00 pm (Average) dB(A)- Mosque closed	LAeq, 15 mins Increase/Decrease
25 May – 1 June	62.64	63.89	+ 1.25
1 June – 8 June	63.36	62.82	- 0.54
8 June – 16 June	60.34	60.23	- 0.11
16 June – 24 June	60.70	60.65	- 0.05
24 June – 27 June	59.44	59.64	+ 0.20
Average	61.30	61.45	+ 0.15

As per the table above, the noise levels from the Mosque during the last hour of operation between 8:00 pm. and 9:00 pm. are similar to the noise levels between 9:00 pm. & 10 pm. after the mosque ceases operation. Thus, the noise levels from the Mosque operation including the carpark during the above periods is governed by traffic and environmental noise adjacent to the Mosque. The extension of the Mosque operating hours from 9:00 pm. to 11:00pm. Monday till Sunday will not affect the noise levels at any residential receiver provided the number of persons accommodated by the Mosque does not exceed the approved 110 people at any one time, and the plan of Management of the Mosque is not altered. As per approved Acoustic DA report 2013-383, all windows and doors to be closed once praying and Imam starts his lecture/prayer. No Noise from the interior of the Mosque to be heard outside the Mosque at any time during the day evening or night.

5.0 Mechanical Plant Noise Emission

An air conditioning unit and toilet exhaust fans (if required) are proposed to be installed at the mosque. The mechanical ventilation system needs to achieve all required air changes in accordance with BCA and/or relevant AS1668 part 1 and 2.

More specifically, toilet exhaust fans (if required) and air conditioning unit are unlikely to pose a problem. In the unlikely event that the exhaust discharges through the roof do present some objectionable noise this can be easily overcome by the insertion of some additional acoustic flexible duct into the discharge line. Recommendations for the proposed exhaust systems are as follows:

- 1) Roof, window and wall mounted exhaust fans are not permitted;

- 2) All exhaust fans shall be contained within the roof space or ceiling and shall be ducted to the exterior.
- 1) The air conditioning unit is to be located at the eastern side of the site facing Princes Highway

6.0 Conclusion

Noise readings are carried out from May 25 till June 27, 2018 at the most critical location of the Mosque at No.2 Fredrick St, Rockdale. Twenty (20) days of those readings are carried out during the busiest time of the Mosque operating hours -Month of Ramadan-.

As section 2 of this report shows, the noise levels from the Mosque at No.2 Fredrick St, Rockdale during all approved operating hours (5:00 am. to 9:00 pm. Monday to Sunday) including the month of Ramadan, comply with the noise criteria set up in DA Acoustic Report 2013-383. Noise levels from the mosque operation, including praying, cars entering and exiting the carpark and people congregating will comply with the acceptable noise levels at the 1st residential receiver No. 5-19 Kings Edward Street, Rockdale.

In addition, the proposed extension of the Mosque operating hours from 9:00 pm. to 11:00pm. Monday till Sunday will not affect the noise levels at any residential receiver as shown in Table 8, Section 4 of this report.

All windows and doors to be closed once praying inside the mosque commences or Imam starts his speech. No noise from the interior of the Mosque to be heard outside the Mosque at any time during the day evening or night. Number of people in the mosque to be restricted to 110 at any one time as per the DA. Plan of Management of the Mosque is to be adhered to at all time.

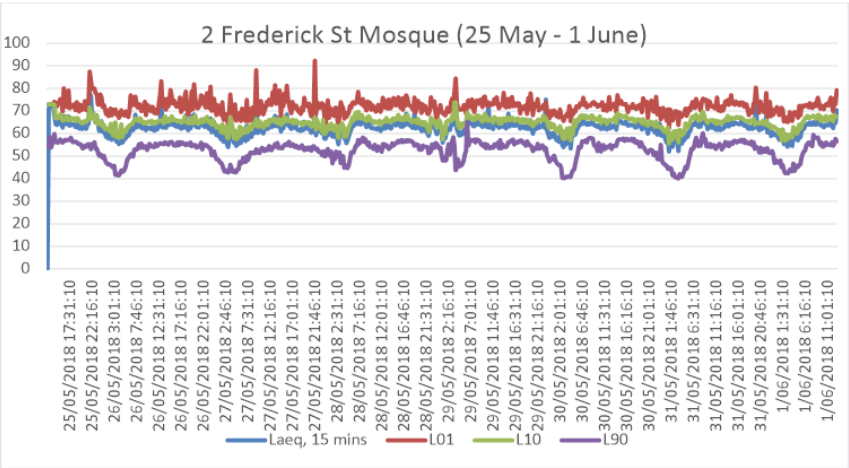
We hope this report meets your requirements, should you require further explanations, please do not hesitate to contact us.

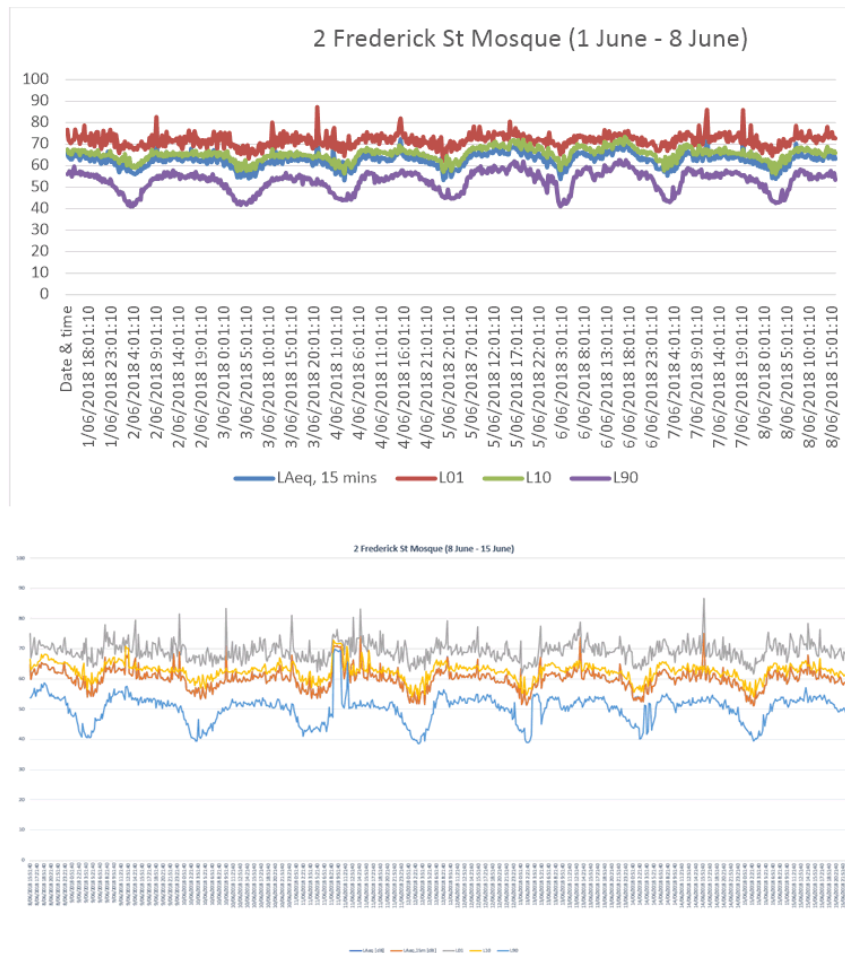
Yours sincerely,

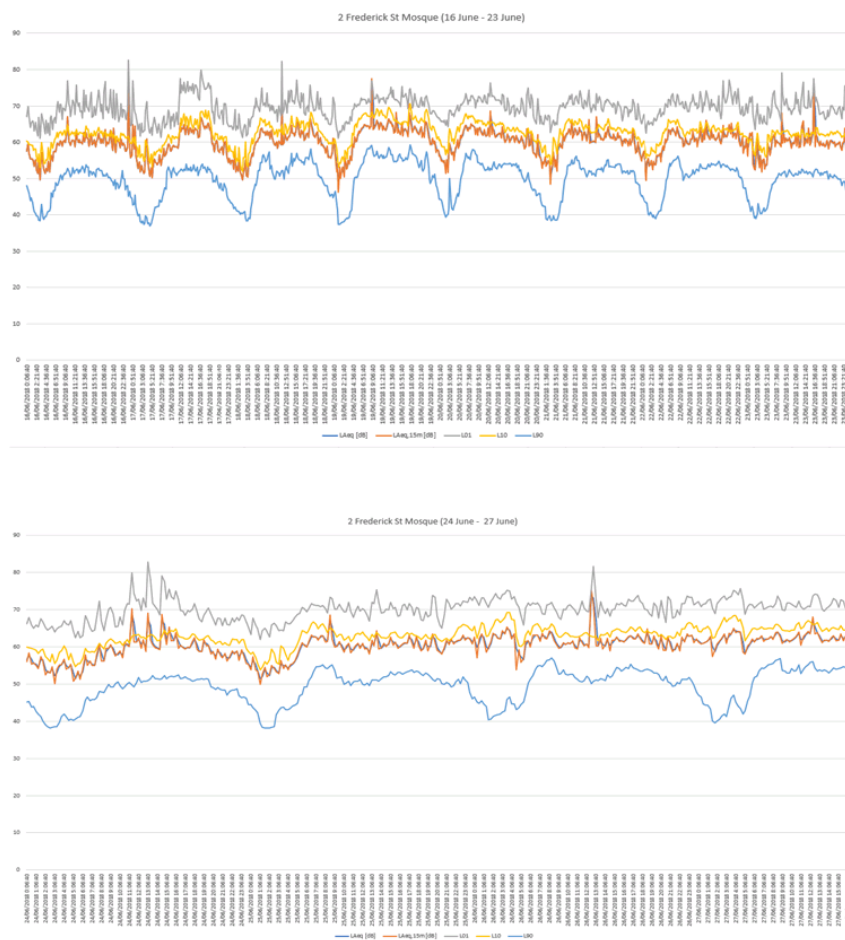


M. Zaioor
M.S. Eng'g Sci. (UNSW).
M.I.E.(Aust), CPEng.
Australian Acoustical Society (Member).

Appendix







For Official Use Only



NSW Police Force

Fiona Prodromou
Senior Assessment Planner
Bayside Council
444-446 Princes Highway
Rockdale NSW 2216

RE: Development Application DA-2013/167/b Extended hours of operation of the place of public worship and community facility

Dear Ms Prodromou,

On Tuesday 22nd August 2017, a Safer by Design Evaluation was completed for the above mentioned address by our Crime Prevention Officer. This assessment was conducted to identify the risks, hazards and suggested treatments which may assist in reducing opportunities for crime. It covers potential areas of vulnerability and provides suggestions for adapting your development to reduce the risk of crime. A copy of this assessment is attached.

The concern for Police is that the number of traffic complaints and noise disturbance will escalate in particular when leaving the premises.

The NSW Police has a vital interest in ensuring the safety of members of the community and their property. Recommendations contained in the attached report are based upon information provided to, and observations made by the NSW Police at the time the document was prepared. It is a confidential document for use by Bayside Council.

I trust that the Bayside Council considers the concerns of the NSW Police in the determination of this Development Application. If you have any further questions, please contact Senior Constable Kralovic, Crime Prevention Officer on 9375 8502.

Yours sincerely


Scott Bingham
A/Superintendent
Commander
22nd August 2017

SCANNED
06 SEP 2017



St George Local Area Command
13 Montgomery Street Kogarah NSW 2217

T 02 8566 7499 F 02 8566 7411 W www.police.nsw.gov.au
TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

TRIPLE ZERO (000)
Emergency only

POLICE ASSISTANCE LINE (131 444)
For non emergencies

CRIME STOPPERS (1800 333 000)
Report crime anonymously

For Official Use Only

For Official Use Only



NSW Police Force

St George Local Area Command

13 Montgomery Street
Kogarah NSW 2217
Telephone 02 8566 7499
Facsimile 02 8566 7411

22nd August 2017

Fiona Prodromou
Senior Assessment Planner
Bayside Council
444-446 Princes Highway
Rockdale, NSW, 2216

RE: DA-2013/167/b Extended hours of operation of the place of public worship and community facility

Dear Ms Prodromou,

I have perused the attached development application for extended hours of operation of the place of public worship and community facility, 2 Frederick Street, Rockdale NSW 2216.

The approved hours of worship are Monday to Sunday 5.30am to 9.30pm.
The proposal seeks to extend the evening hours of worship to: 5.30am – 11pm, Monday to Sunday.

The site is located on the southern side of Frederick Street, Rockdale between The Seven Ways and Rawson Street. At the rear of the site are block of units that front King Edward Street. There is 7 Eleven petrol Station located opposite the site, on the northern side of Frederick Street. Further to north-east and south-west are other commercial premises.

I have made the below listed recommendations:

St George Local Area Command

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NSW Police Force

Recommendations:

- It is recommended that management strictly adhere to the proposed hours. This will ensure that the 'good order' of the community is maintained and not affected by issues such as excessive noise when worshipers are leaving the premises.
- It is recommended that a good quality surveillance system be installed around the site to maximize surveillance opportunities and reduce any incidents of opportunistic crimes in and around your place of worship. This should be considered at the front outside area, main entry, the rear entry/exit area and the car park area located at the rear of the site. The system should be manufactured and installed by a qualified and reputable company and regularly tested.
- Effective warning signs/stickers are placed around the premises reflecting the security environment and directing worshipers appropriately. Signage is a good deterrent and may make your worshipers feel safe.
- Police recommend for an Intruder Alarm System to be installed in order to enhance the security of the development with a comprehensive duress facilities. The system should be designed and installed to the Australian Standard – Domestic and Commercial Alarm System and monitored by a Security Company.
- The entrance to the location is clearly identifiable for emergency services information and access.
- Quality locksets are placed on all doors and windows.

Public and outdoor areas:**It is recommended that:**

- Lighting around the complex be provided and maintained in accordance with the relevant Australian standards. Ensure that light levels are appropriate for the users, activities and tasks of the area. Higher lighting levels may be required for vulnerable areas. Preferred external lighting should be of a 'white light' source. Note that low or high pressure sodium orange lighting is not compatible with quality surveillance systems.
- The landscaping and gardens around the perimeter of the place of worship be regularly maintained to assist with good sight lines and natural surveillance.
- All entry and exit points should be clear of obstructions and that this should regularly be checked and maintained.
- It is recommended that sensor lighting be placed at the rear of the building and that the rear door is locked at all times to prevent intruders.

St George Local Area Command

13 Montgomery Street Kogarah NSW 2217

T 02 8566 7499 F 02 8566 7411 W www.police.nsw.gov.au

TTY 02 9211 3776 for the hearing and speech impaired ABN 49 408 613 180

TRIPLE ZERO (000)

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POLICE ASSISTANCE LINE (131 444)

For non emergencies

CRIME STOPPERS (1800 333 000)

Report crime anonymously

For Official Use Only

For Official Use Only



NSW Police Force

- Worshipers should be advised not to utilize any illegal parking opportunities that may be close by, such as bus stops.

It is further recommended if council approval is given the proposed times are enforced for a provisional period of 12 months and later reviewed by Council.

The New South Wales Police have a vital interest in ensuring the safety of members of the community and their property. By using the recommendations contained in this evaluation, any person who does so acknowledges that:

1. It is not possible to make areas evaluated by the NSW Police absolutely safe for members of the community or their property
2. It is based upon the information provided to the NSW Police at the time the evaluation was made,
3. The evaluation is a confidential document and is for use by the consent authority or organizations referred to on page 1 only,
4. The contents of this evaluation are not to be copied or circulated otherwise than for the purposes of the consent authority or organization referred to on page 1.

The NSW Police Force hopes that by using the treatments recommended in this assessment, opportunity for criminal activity will be reduced and the safety of members of the community and the security of their property increased. However it does not guarantee that all risks have been identified, or that the area assessed will be free from criminal activity if its treatments are followed.

We would like to thank you for the opportunity of inspecting the plans for this development and should you require further information on the subjects mentioned within this report feel free to contact Senior Constable Sonia Krcalovic, Crime Prevention Officer, St George Local Area Command, Phone 9375 8502.

Regards,

Sonia Krcalovic
Crime Prevention Officer,
St. George Local Area Command
22nd August 2017

St George Local Area Command

13 Montgomery Street Kogarah NSW 2217

T 02 8566 7499 F 02 8566 7411 W www.police.nsw.gov.au

TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

TRIPLE ZERO (000)

Emergency only

POLICE ASSISTANCE LINE (131 444)

For non emergencies

CRIME STOPPERS (1800 333 000)

Report crime anonymously

For Official Use Only

Bayside Local Planning Panel

12/03/2019

Item No	6.2
Application Type	Development Application
Application No	DA-18/1199
Lodgement Date	01/11/2018
Property	1/25 Dalley Avenue, Pagewood
Ward	Port Botany
Owner	Mrs K Vafeas, Mr J Vafeas
Applicant	G Xue
Proposal	Use of the ground floor level as a liquor retail premises operating 10:00am to 8:00pm seven days
No. of Submissions	Six
Cost of Development	\$10,000.00
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Development Application No. DA-2018/1199 for the proposed use of the premises as a liquor shop and associated internal fitout works at 1/25 Dalley Avenue, Pagewood be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 2 That the objector(s) be advised of the Bayside Planning Panel's decision.

Location Plan



Attachments

- 1 Bayside Planning Panel Report [↓](#)
- 2 Site Plan [↓](#)
- 3 Floor Plan [↓](#)
- 4 Statement of Environmental Effects [↓](#)
- 5 Police Referral response [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/1199
Date of Receipt:	1/11/18
Property:	Shop 1, 25 Dalley Avenue PAGEWOOD
Lot & DP/SP No:	Lot 9 DP: 26189
Owner:	Mrs K Vafeas, Mr J Vafeas
Applicant:	G Xue
Applicant Address:	Shop 8, 262 Box Road, SYLVANIA 2224
Proposal:	Use of the ground floor of the existing commercial building as a Liquor Shop operating 10am-8pm seven days, and associated internal shop fitout works.
Property Location:	Between Dalley Ave and Dalley Lane
Cost of work:	\$10,000.00
Recommendation:	Approval subject to conditions of consent
Author:	J Hunt
Date of Report:	26/2/19
No. of submissions:	6

Recommendation

- 1 That the Development Application No. DA-2018/1199 for the proposed use of the premises as a liquor shop and associated internal fitout works at 1/25 Dalley Avenue, Pagewood be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 2 That the objector(s) be advised of the Bayside Planning Panel's decision

Key Issues

- The proposal was referred to NSW Police regarding use of the premises as a liquor shop. NSW Police referral recommended there is nil reason to oppose the proposal and provided conditions for installation of CCTV cameras.
 - Pagewood Primary School objected to the proposal on behalf of the school community, as well as a number of residents.
-

Site Description

The subject site is located on the southern side of Dalley Avenue, Pagewood and the northern side of Dalley Lane at the rear. The site is regular in shape with a street frontage on Dalley Avenue and a rear boundary with vehicle and pedestrian access from Dalley Lane. A two storey building with commercial shop space on the ground level and residential unit above is located on the subject site, the building is attached and part of a row of five (5) commercial/residential units. A detached single garage is located in the rear setback. Shared street parking spaces are located in front of the subject site.

Detached residential dwellings are located to the north. Residential flat buildings are located to the east and west. Industrial buildings are located to the south and Pagewood Primary School is located to the northwest.

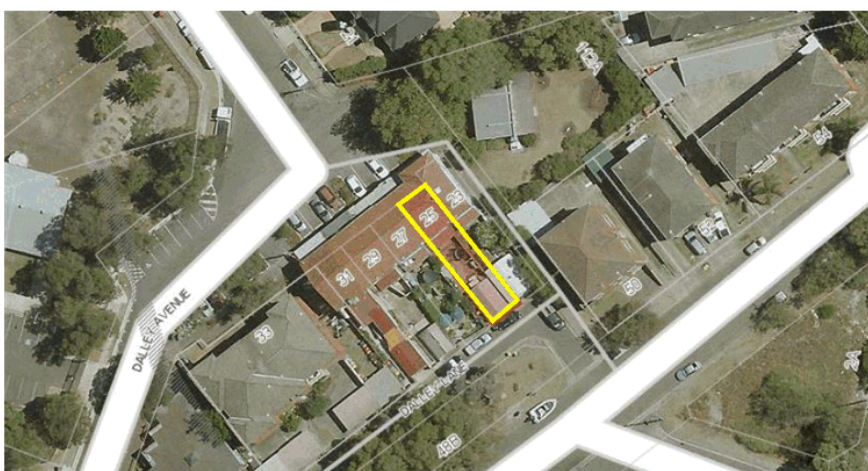


Figure 1. Aerial photo of site (source: Intramaps 2018)



Figure 2: Subject shop No.25 Dalley Street in context of surrounding shops

Site History

The most recently approved use of the subject site was a Complying Development Certificate CDC 17/0404/01 for fitout and use of the premises as a Pharmacy, issued by Private Certification company Steve Watson and Partners who notified Council with a Notice of Commencement on 22 February 2017.

Description of Development

The development application seeks Council consent for the following:

- Use of the ground level of the existing building as a liquor shop;
- Fitout of the ground level including self-serve cold room, counter, fridges and shelving;
- Proposed Hours of operation: 10am to 8pm seven days a week.
- 2 full time staff members and 1 part time staff member.

Note: This DA does not include signage. The applicant advises in their Statement of Environmental Effects that they will install exempt business signs in accordance with the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

Botany Bay Local Environmental Plan 2013

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is within the B1 Neighbourhood Centre under the BBLEP 2013. The proposed 'shop' use is permissible with consent in the B1 zone.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Does the height of the building exceed the maximum building height?	NA	The maximum height permissible on the site is 12m. There is no change proposed to the existing height of the building onsite.
What is the proposed FSR?	NA	Maximum FSR permissible = 1.5:1 There is no proposed increase in the existing floor area of the building.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	NA	The site is not a heritage item or located within a heritage conservation area

2.3 Zone B1 Neighbourhood Centre

The subject site is zoned B1 Neighbourhood Centre under the provisions of Botany Bay Local Environmental Plan 2013 (BBLEP 2013). The proposal is defined as a "shop" which is a permissible use within the B1 Zone with development consent. The objectives of the zone are:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.*

The proposed liquor shop is located within an existing building within a strip of commercial premises on Dalley Avenue. The shop proposes to sell packaged liquor, which will not be consumed at the premises, and is consistent with the objectives of the zone by providing small scale retail to serve the needs of people who live or work in the surrounding neighbourhood. Notably a liquor shop does not fall under the definition of a 'restricted premises' under BBLEP. The proposed hours of operation being 10am to 8pm are reasonable for a shop in a B1 Zone and the operation of a small liquor shop use itself does not generate noise or emissions and is consistent with Zone objectives to not adversely impact residents.

6.9 Development in areas subject to aircraft noise

This clause applies to development in an ANEF contour of 20 or greater, and the consent authority considers is likely to be adversely affected by aircraft noise. The subject site is not affected by ANEF contour of 20 or greater, and the proposal is for use of an existing building therefore noise attenuation measures are not required and the assessment of this clause is satisfied.

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

There are no current Draft EPIs applicable to this development

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

The following Development Control Plan is relevant to this application;

Botany Bay Development Control Plan 2013

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

Part 3A - Car Parking:

Under Part 3A.1 of BBDCP 2013 the 'shop' landuse requires 1 car space/25sqm of gross floor area. The proposed shop use is within an existing premises and there is no increase in gross floor area. The subject shop has a GFA of 40sqm, and therefore requires 1.6 car spaces which equates to 2 car spaces if rounded up. The subject shop and surrounding shops on Dalley Avenue all have existing access to shared line marked parking spaces outside the commercial shops in Dalley Avenue. This satisfies the required parking under the DCP.

Part 5.2.2.2 - Page Street Neighbourhood Centre

The subject site is located within the Page Street Neighbourhood Centre under BBDCP 2013. This control is relating to the desired future character of the centre if the centre was redeveloped through site amalgamation of all existing five allotments.

The current proposal is for the use only of one of the existing five allotments in the neighbourhood centre and therefore Part 5.5.2 is not relevant to this application.

Part 3I - Crime prevention

Council referred the Development Application to the NSW Police Local Area Command for assessment against CPTED principles. The NSW Police recommendation is included below:

NSW Police

There is nil reason to suggest the proposal should be opposed.

CCTV shall be installed and operational inside the shop, capturing check-out area/top shelf spirits area/cold room and entry/exit points.

It is recommended CCTV be installed on the outside of the shop front pointing toward the entry/exit points, outside to any rear door and to capture the approach to the shop.

Subject to the above recommendations the proposed use is considered suitable in regards to crime prevention by NSW Police.

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

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

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

The proposed fitout and use of the premises does not give rise to adverse environmental, social or economic impacts in the locality as discussed below.

Environmental impacts: The proposal is for minor internal fitout works which will not have adverse environmental impacts.

Social impacts: The proposal is for a liquor shop use. While liquor itself if misused can have social impacts, Council cannot refuse a use based on subjective predictions of what social problems can occur when alcohol is abused as this is a broader social issue and these issues of alcohol related crime and violence are within the jurisdiction of NSW Police. Notably the proposed liquor shop was referred externally to NSW Police who recommend there is no reason to oppose the proposed shop in the location.

Economic impacts: As discussed in response to the submissions received from neighbours stating that there are already enough Liquor shops in the area. Section 45 of the *Competition and Consumer Act* prohibits concerted practices that have the purpose or effect of lessening competition in the market. That is Council does not determine applications for types of businesses based on how many of that type of business already exists in a location. That would be anti-competitive conduct and in conflict with the *Competition and Consumer Act*.

S.4.15(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.

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 fourteen (14) days. Six (6) unique submissions were received, one of which was received from Pagewood Primary School on behalf of the school community. The issues raised are addressed below:

Issue: There is a pattern of alcohol related assault and crime increasing in the Pagewood area

Comment: The abuse of alcohol and crime is a broader social issue under the jurisdiction of NSW Police not Council, which is a subjective expectation of what can still occur in the area regardless of whether this small scale liquor retail shop is operating. The potential to misuse alcohol is not a planning legislation matter, notably the application was referred externally to NSW Police who recommended there is nil reason to oppose the proposed liquor shop use subject to conditions for installation of CCTV cameras.

Issue: Community Impact Statement provides poor justification of proposed liquor shop.

Comment: The Community Impact Statement document provided is not a Council Development Application requirement. That document is required by the Independent Liquor and Gaming Authority (ILGA) when the applicant applies for a packaged retail liquor licence with the Independent Liquor and Gaming Authority (ILGA). As the applicant's Statement of Environmental Effects states "as part of the liquor licence application the applicant must provide a Class B Community Impact Statement which details any possible impacts on the community and how they are proposed to be minimised and managed." Notably the Development Application was referred externally to NSW Police who recommended there is nil reason to oppose the proposed liquor shop use subject to conditions for installation of CCTV cameras.

Issue: Proposal located too close to school, do not want school children being exposed to a liquor shop.

Comment: There is no legislation requiring a minimum distance of a liquor shop from a school. The proposed shop is not a restricted premises under Botany Local Environmental Plan and is a permissible type of use within the B1 zone. The potential for children from the primary school to be exposed to a liquor shop is a subjective perceived risk, as children can be exposed to liquor advertising or liquor packaging in many contexts in society and in the home.

Issue: There are plenty of established liquor retail premises in the area.

Comment: Council does not determine applications for types of businesses based on how many of that type of business already exists in a location. That would be anti-competitive conduct and in conflict with the *Competition and Consumer Act* legislation. The Australian Competition and Consumer Commission outlines that Section 45 of the *Competition and Consumer Act* prohibits concerted practices that have the purpose or effect of lessening competition in the market.

Issue: Increased noise of traffic and "hoon" drivers at night

Comment: The proposed 40sqm shop use is not defined as a traffic generating type of development. The Botany Development Control Plan requires 1 car parking space per 25sqm of shop floor area. The subject shop has 40sqm floor area, which equates to 1.6 required car spaces or 2 car spaces if rounded up. The shop has shared customer parking outside the strip of shops in Dalley Avenue. This satisfies the required parking under the DCP. The proposed use causing increased reckless driving in the area is a subjective statement to say as reckless driving would occur as a result of a small liquor shop and this behaviour is under the jurisdiction of the Police and not a consideration under the *Planning and Assessment Act*.

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

Granting approval to the proposed use does not have unreasonable adverse impact on the public interest.

Conclusion

Development Application No. 2018/1199 at Shop 1, 25 Dalley Avenue, Pagewood has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 1/25 Dalley Avenue, Pagewood

DA No: DA-2018/1199

SCHEDULE OF CONSENT CONDITIONS**GENERAL CONDITIONS**

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

Drawing No.	Author	Date	Received by Council
Site Plan, Drawing no. 133	Mr. Gong Xue	11/7/18	1/11/18
Floor Plan, Drawing no. 131	Mr Gong Xue	11/7/18	1/11/18

Reference Documents	Author	Received by Council
Statement of Environmental Effects	JPC Town Planning	1/11/18

2. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA). Your attention is drawn to the proposed cool room and the need for fire separation between the shop and any residence above.
3. A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.

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

4. The applicant must prior to the issue of the Construction Certificate pay the following fees:-

- a) Development Control \$247.00

Note: The Footpath Crossing Deposit shall be paid 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.

5. A list of the proposed and existing essential services to be installed in the building shall be submitted to Council in accordance with the relevant requirements.

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

6. 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.

DURING WORKS

7. 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.
8. 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.

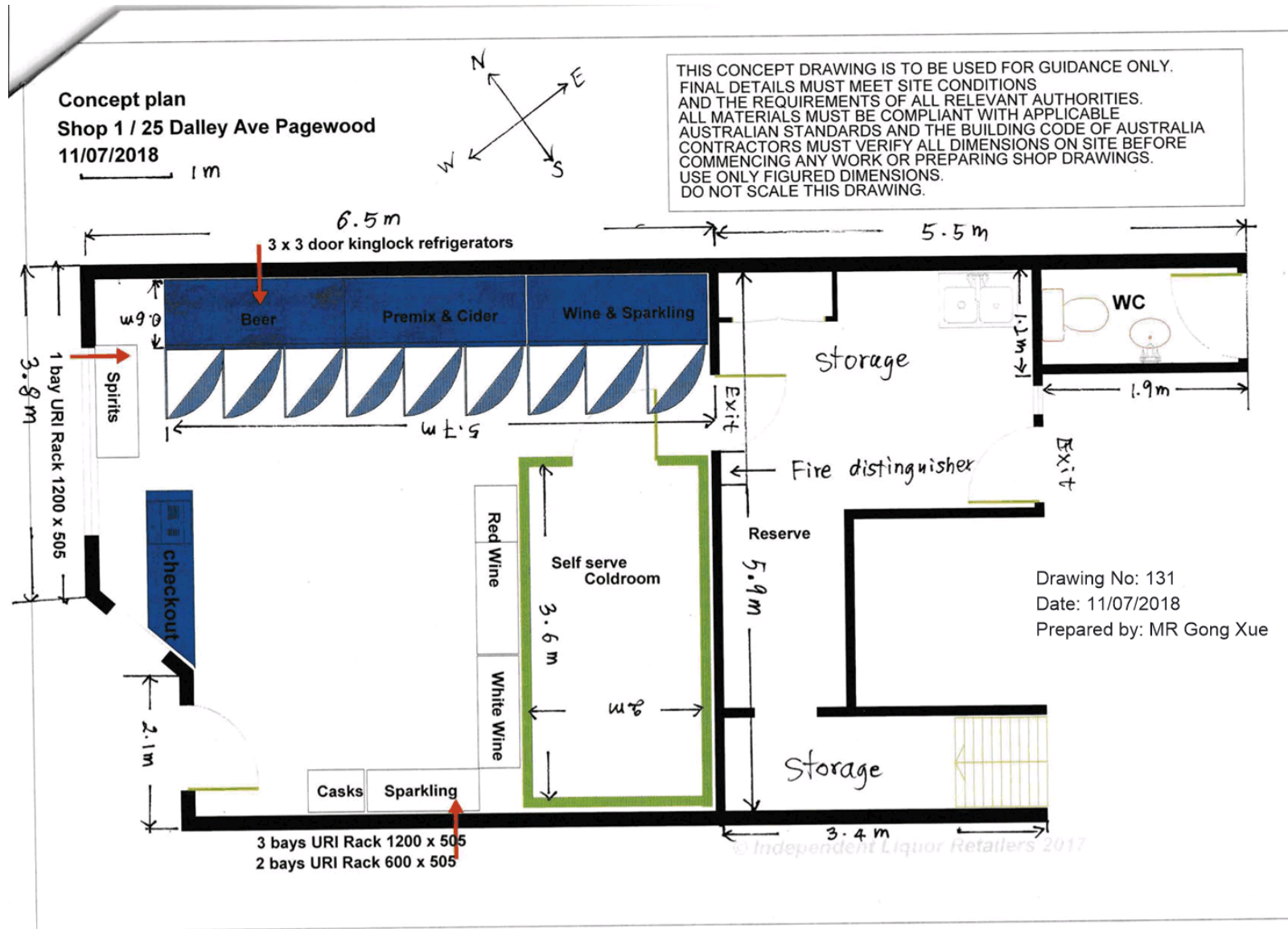
CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A OCCUPATION CERTIFICATE

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

CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT

10. Hours of operation shall be 10am to 8pm, seven days a week.
11. In accordance with NSW Police recommendation, CCTV shall be installed and operational inside the shop, capturing checkout area / top shelf spirits area / cold room and entry/exit points. CCTV shall be installed on the outside of the shop front pointing toward the entry/exit points, outside to any rear door and to capture the approach to the shop.
12. 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.





Statement of Environmental Effects



Change of use of existing retail tenancy to bottle shop



Prepared by James Chappell

B. Urban and Regional Planning - UNE

Submitted to Bayside Council on Behalf of Mr Gong Xue

Proposal	Change of use of existing retail tenancy to bottle shop
Property	Shop 1, 25 Dalley Avenue, PAGEWOOD NSW 2035

1 APPLICATION OVERVIEW

1 EXECUTIVE SUMMARY

Proposal

The proposal involves the change of use of an existing retail tenancy from a hair dresser to a bottle shop. No change of building classification is proposed under the BCA.

Permissibility

The proposed **shop** is a permissible use in the B1 Neighbourhood Centre zone. Refer to the body of this report for a detailed discussion regarding permissibility.

Notification

The application is for a change of use of an existing commercial premises and will have minimal noticeable impact on the amenity of the near occupants, land and buildings or traffic safety. Subject to clause 2.3.1 Part 2 Botany Bay Development Control Plan 2013 the application should not require notification.

Planning controls and compliance

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP No. 55 – Remediation of Land

Local Environmental Planning Policies:

- Botany Bay Local Environmental Plan 2013

Development Control Plans:

- Botany Bay Development Control Plan 2013

Likely impacts

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality. Likely impacts are discussed in greater detail in the body of this report including a draft Class B Community Impact Statement provided at Appendix A.

Main issues

- Possible perceived social impacts – see further discussion in the body of this report.

Recommendation

It is recommended that the application be conditionally approved.

1.1 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the following:

Use

- Sale of packaged alcohol – no alcohol will be consumed on-site
- 2 full time staff members and one part time staff member
- Operating hours – 10am to 8pm
- The intention is to have only \$50,000 of stock in store at any time

Works / Construction / building details

- Installation of a cool room, refrigerators and checkout – no structural changes proposed.
- Business Identification signage provided as a fascia sign and painted wall signage – all signage is exempt development under Botany Bay Local Environmental Plan 2013 and does not require approval.

Traffic, parking and servicing

- Existing commercial tenancy – dedicated car parking is provided at street level – the proposal is not anticipated to increase the demand for parking.
- Existing servicing provision will be adequate for the new business. Limited general waste or recycling is anticipated to be generated by the proposal.

General Comments

The proposed business will be an added convenience to regular customers of the existing neighbourhood centre. The proposed bottle shop is considered consistent with the land use definition of a shop as discussed below and will be a professionally run, positive addition to the surrounding community.

1.1 BACKGROUND

The proposal has been presented to Bayside Council previously. DA-2018/1059 was rejected for lack of information. Comments were provided from Coordinator of Development Assessment, Ben Latta, as follows:

A preliminary review of the application has been made, and the following deficiency has been found that needs to be addressed prior to the commencement of assessment and notification:

- *A Statement of Environmental Effects is to be submitted with the application. The submitted 'Community Impact Statement' and "Additional Information" are not sufficient and combined do not comprise sufficient information to be considered as a Statement of Environmental Effects under the Environmental Planning and Assessment Regulation 2000. It is recommended that you commission a Consultant Town Planner to prepare the report that covers the site conditions, the proposal, planning considerations and any likely impacts of the proposal.*

Accordingly, Development Application No. 2018/1059 has been rejected in accordance with the provisions of Clause 51 the Environmental Planning and Assessment Regulation 2000

Comment: A comprehensive Statement of Environmental Effects has now been provided and the assessment can now commence.

No pre-lodgement meeting was held for the proposal.

1.2 SITE DESCRIPTION

The site is located at Shop 1 25 Dalley Avenue, PAGEWOOD NSW 2035.

On the site sits an existing 5 tenancy commercial/retail building that currently runs at 80% occupancy. The proposed use will bring the complex to full capacity.

The surrounding locality is characterised by a mix of different land uses. Immediately adjacent to the north is Pagewood Public School. The school is fenced with 8 foot high security fencing which is locked during school hours to prevent unwanted intruders onto school grounds. The main gated entrance points to the school are not located within the immediate vicinity of the proposed development.

There is also a residential area comprised of mainly detached, single and double storey dwellings located to the north. The shops are in a convenient location to service the residents of these dwellings.

Development to the rear of the site is characterised mainly by light industrial uses.

Due to the variety of different land use zonings within the immediate vicinity of the site, the locality has become a diverse and vibrant part of the Pagewood community. The proposed bottle shop will fit within this mixed use context and pose minimal to no noticeable impacts to those who live and interact within the area on a day to day basis.

Property constraints

There are no relevant environmental constraints affecting the land.

There are no relevant restrictions on the title

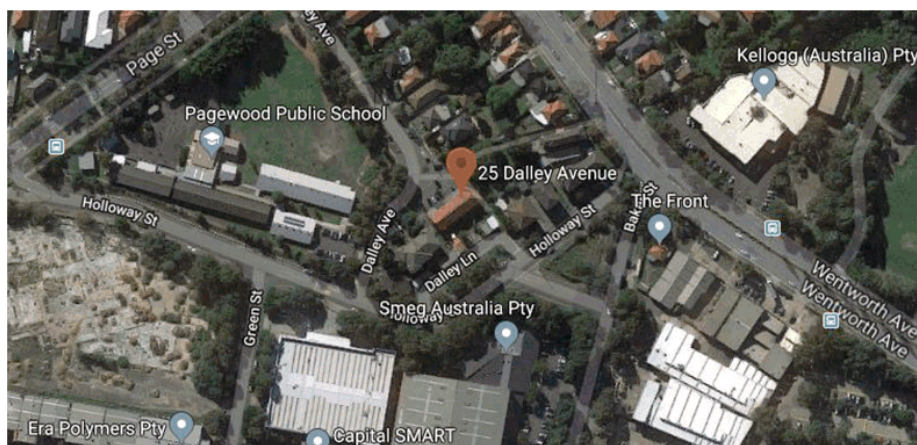


Figure 1: Aerial photograph



Figure 2: 25 Dalley Ave – Shop 1 (second from left)



Figure 3: Pagewood Public School (adjacent and security fenced)



Figure 4: Residential adjoining to the north



Figure 5: Industrial adjoining to the south

1.3 CONSULTATION

1.3.1 INTERNAL CONSULTATION

At Council's discretion.

1.3.2 EXTERNAL CONSULTATION

The client is intending to apply for a packaged retail liquor licence with the Independent Liquor and Gaming Authority (ILGA) after obtaining conditional DA approval for the change of use. As part of the liquor licence application the applicant must provide a Class B Community Impact Statement which details any possible impacts on the community and how they are proposed to be minimised and managed. As part of the CIS there are a number of community groups and organisations, as well as adjoining neighbours who need to be notified of the intent to lodge at least 30 days prior to the application for the licence. The CIS must address any community concerns and detail ongoing management strategies that will prevent any negative social impacts. The draft CIS has been attached at Appendix A. The CIS will be updated upon completion of the notification/consultation component of the process. Council will have the opportunity to comment in this regard at the consultation stage and at the ILGA notification stage. An approval for change of use to a bottle shop cannot be acted upon until a liquor licence is obtained and as such we see no reason why the DA can't be assessed prior to the finalisation of the CIS.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

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

7 Contamination and remediation to be considered in determining development application

(1) A consent authority must not consent to the carrying out of any development on land unless:

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

(4) The land concerned is:

(a) land that is within an investigation area,

(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,

(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:

(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and

(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

Comment: A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. The site is intended to continue as a commercial use and there are no earthworks proposed. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

2.1.2 BOTANY BAY LOCAL ENVIRONMENTAL PLAN 2013

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned B1 Neighbourhood Centre

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.

Comment: The proposed bottle shop is a small-scale retail use that will serve the needs of people who live and potentially work within the surrounding neighbourhood. A number of management strategies have been proposed within the draft Community Impact Statement to ensure that the proposed use does not adversely impact on the amenity of adjoining residential dwellings and Public School. The owner is happy to accept any conditions the Council deems appropriate to limit the shops impact on the surrounding neighbourhood and is focussed on establishing a strong relationship with his neighbouring community members.

The only external changes to the tenancy proposed is the installation of business identification signage on the existing fascia and small business identification signage on the shop front. This is considered exempt development. The proposal will be compatible with the existing streetscape.

The proposal is therefore considered satisfactory with regard to the above objectives.

The land use table permits the following uses in the zone.

*Bed and breakfast accommodation; Boarding houses; Business premises; Centre-based child care facilities; Community facilities; Dwelling houses; Food and drink premises; Hostels; Kiosks; Markets; Medical centres; Neighbourhood shops; Neighbourhood supermarkets; Respite day care centres; Roads; Shop top housing; **Shops***

The proposal is categorised as a shop as defined below and is permissible in the zone with development consent.

Clause 1.4 Definitions

Shop means premises that **sell merchandise such as groceries**, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, **but does not include food and drink premises or restricted premises.**

Comment: 'Merchandise' and 'groceries' are not terms that are defined in the standard instrument so we must rely on some other form of definition to establish meaning. Google's online dictionary defines merchandise as, "goods to be bought and sold" and the Macmillan online dictionary defines groceries as, "food and other goods for the home that you buy regularly".

Packaged liquor is obviously a good and it is proposed for sale so it would reasonably be assumed to meet the average person's definition of merchandise.

Liquor is consumed via mouth and is considered a food grade product. There is existing precedent for this assumption evidenced by the sale of liquor in most ALDI grocery stores. The other two main

grocery providers, Woolworths and Coles, also have their smaller scale liquor offerings provided in store via the Liquorland and BWS brands.

Not only must the proposal meet the definition of a shop, it must not meet the definition of a food and drink premises or a restricted premises. The two additional uses are defined as follows:

Food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- a) a restaurant or cafe,
- b) take away food and drink premises,
- c) a pub,
- d) a small bar.

Comment: The proposed bottle shop is not a restaurant or café, a take away food and drink premises, a pub or a small bar.

Restricted premises means premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes **sex shops and similar premises**, but does not include a pub, hotel or motel accommodation, home occupation (sex services) or sex services premises.

Comment: Whilst alcohol is prohibited for sale to persons under the age of 18 in Australia there are a number of specific considerations and case law that needs to be taken into account with the definition above. The definition specifically refers to 'sex shops and similar premises'. A bottle shop is not deemed 'similar' to a sex shop for a number of reasons. Advertising of a sexual nature is restricted in print media and must be shown only after certain hours on television and radio. In comparison, alcohol advertising is permitted in all timeslots and makes up a large contingent of the sponsorship deals with major sporting codes and grounds. Also, persons under the age of 18 are allowed to enter a bottle shop when accompanied by a legal guardian or responsible adult hence access is not entirely restricted.

Additionally, in *Aldi Stores v Newcastle City Council [2010] NSWLEC 227* and *Aldi Stores v Newcastle City Council [2010] NSWLEC 1110* (set aside by the preceding appeal) ALDI Australia successfully had their proposed grocery store classified firstly as a combination between and shop and a local shop and then finally, solely as a local shop. As discussed previously under clause 1.4, ALDI grocery stores contain a dedicated liquor aisle. The final appeal reads as follows:

12 In terms of characterising the proposed development, the Senior Commissioner found that the development was not precluded from the definition of a "local shop" on the basis that it was not a bulky goods retail outlet, a convenience store or a sex aid establishment.

The appeal was run in reference to the now repealed Newcastle Local Environmental Plan 2003. Local shops have since been removed as a land use from the standard instrument; however, the conclusions drawn in both the original judgement and the subsequent appeal would not suggest that the proposed use would be classified as a restricted premises.

The proposal can therefore be classified as a shop and is permissible with consent.

Part 4 Principal development standards

Clause 4.3 Height of Buildings

The proposal does not alter the existing building height.

Clause 4.4 Floor Space Ratio

The proposal does not involve any additional GFA.

Part 6 Additional Local Provision

Clause 6.3 Stormwater Management

No changes are proposed to the existing stormwater drainage system servicing the development site.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 BOTANY BAY DEVELOPMENT CONTROL PLAN 2013

Part 3 General Provisions

3A Parking and access

No additional floor space is proposed therefore additional car parking is not required under this plan. Existing car parking provision is considered adequate to service the proposed bottle shop. Existing rear lane access can continue to be utilised for servicing and deliveries. The rear laneway is separated from any adjoining school or residential uses which will minimise potential amenity impacts.

3C Access and mobility

The hierarchy of controls pertaining to disabled access within buildings is as follows:

- Disability Discrimination Act 1992
- Access to Premises 2010
- Building Code of Australia
- Australian Standards (regulations and guidelines).

Comment: The proposed change of use does not involve a change of building classification under the BCA and therefore the building does not technically require upgrades; however, the tenancy is located at street level and is accessible for people with a disability.

3I Crime prevention, safety and security

<u>Lighting</u>	
	Low impact lighting can be provided as required.
<u>Natural surveillance and sightlines</u>	
	The entrance to the tenancy has a high level of natural surveillance.
<u>Signage</u>	
	Proposed fascia signage and painted wall signage meets the requirements for exempt development under Botany Bay Local Environmental Plan 2013 Schedule 2. The proposed signage will be kept in clean state and any graffiti will immediately be removed.
<u>Landscaping</u>	
	There is no landscaping proposed or required. No entrapment points or hiding places are anticipated as a result of existing vegetation.
<u>Public open space and parks</u>	
	The site does not front any public open spaces or parks.
<u>Community facilities and public amenities</u>	
	Pagewood Public School is located immediately adjacent; however, the school is surrounded by an 8 foot high security fence with all entrance gates locked during school hours. The likelihood of antisocial behaviour outside or inside the bottle shop is low and the likelihood that any potential antisocial behaviour associated with the use would impact on school students and staff is even lower.

3N Waste minimisation and management

A site waste minimisation plan is considered unnecessary in this instance as the proposed use will not create additional waste in comparison to previous uses. The most common waste product will be cardboard boxes, which can be recycled in the existing recycling bin located and collected from the rear laneway of the site.

Part 5 Business Centre**5.2.2.2 Page Street Neighbourhood Centre****Objective 2**

To support a variety of local retail, commercial and residential development.

Comment: The proposal adds to the variety of local retail offerings.

No changes to the existing built form are proposed. The signage associated with the development is considered exempt development under Botany Bay Local Environmental Plan 2013 Schedule 2.

Part 8 Character Precincts**8.3 Pagewood Character Precinct**

The Page Street Neighbourhood Centre is a small group of shops located in Dalley Avenue, Pagewood servicing the local shopping needs of nearby residents and the community.

8.3.2 Desired Future Character

Encourage the redevelopment of Page Street Neighbourhood Centre to a height of 12 metres and FSR of 1.5:1 to maintain a shopping service to nearby residents.

Comment: The Council's desired outcome for the neighbourhood centre appears to be an expanded retail offering to maintain the shopping services required to service a growing community. The proposed development fits into this overarching strategic vision by providing a shop type that is currently unavailable to local residents in this precinct.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

None applicable

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

94 Consent authority may require buildings to be upgraded

No change of building classification is proposed.

2.6 SECTION 4.15(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT

REPEALED

2.7 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENTContext and Setting:

In regard to the matter of context, the planning principle in *Project Venture Developments v Pittwater Council [2005] NSWLEC 191* is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact. In assessing each of these the following questions should be asked:

- Are the proposals physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.

- Is the proposals appearance in harmony with the buildings around it and the character of the street?

In response to the first question, matters such as overshadowing, privacy concerns, bulk scale and setbacks are relevant. The proposal is for a change of use and doesn't involve any external building alteration. The proposal is satisfactory in this regard.

In regard to the visual impact, the development is considered to be largely in harmony with the surrounding buildings and character of the street. The area is characterised by a mixture of land uses and the proposed shop fits within the existing neighbourhood centre by providing for the day to day needs of surrounding residents.

In summary, the proposal has been assessed with regard to the amenity impacts from the development, the zoning, permissible height and FSR for the land, and existing and future character of the area, and is considered to be compatible with the local area

Safety, Security and Crime Prevention:

Refer to CPTED assessment above and management measures detailed in the draft Community Impact Statement at Appendix A.

Social Impact:

General principles and assessment criteria that can be used for social impact assessment (source: the International Association for Impact Assessment) are as follows:

- Precautionary Principle – there are not considered to be any significant uncertainties regarding the likely impacts of the proposal. In their 2011 study, "Distances to on and off premises alcohol outlets and experiences of alcohol related amenity problems", Wilkinson and Livingston found that living closer to an off-premises liquor outlet is associated with a slight increase of reported property damage and litter; however, concluded that these findings are concentrated among demographic groups who live in these areas and direction of influence cannot be inferred from their data. Essentially the findings concluded that the negative amenity impacts were concentrated in areas with existing socio-economic pressures. The local suburb of Pagewood is affluent and unlikely to experience any noticeable amenity impacts as a result of the proposal.
- Inter-generational equity – The proposal is not considered to compromise the needs of future generations.
- Recognition and preservation of diversity – The proposal is not expected to result in a loss of social diversity or a diminishment of social cohesion.
- Internalisation of cost – The proposal is not expected to result in any out of the ordinary external costs to current or future generations or the environment.
- The principle of subsidiarity – the development will be notified to the local community and relevant stakeholders as part of finalisation of the Community Impact Statement and as required for lodgement of the liquor licence with ILGA. There are not considered to be any specific affected people that require more targeted consultation.

Economic Impact

The proposal will result in the creation of three additional jobs for local community members and provide rental income for the landlord of the property. The proposal will result in a net positive economic impact.

Cumulative Impacts:

As such, the proposal is not expected to have any negative cumulative impacts.

2.8 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

3 RECOMMENDATION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Botany Bay Local Environmental Plan 2013 and all relevant Council DCPs, Codes and Policies.

It is recommended that the development application be approved subject to appropriate conditions of consent.

Issue of this letter is authorised by

James Chappell
Senior Planner
JPC Planning

Appendix A

Draft Community Impact Statement (Class B)

*To be completed past the executive summary section as part of
the liquor licence assessment process*

DRAFT Community Impact Statement (Class B) – Application for the grant of a packaged liquor licence at Shop 1 25 Dalley Avenue, PAGEWOOD NSW 2035 to operate as a Local Bottle Shop

Stakeholders

General:

The Commander
Botany Bay Local Area Command
1441 Botany Road
MASCOT 2020

The Town Clerk
Bayside Council
PO Box 21, ROCKDALE NSW 2216

The Manager
Population Health and Partnerships Drug and Alcohol Clinical Program
Mental Health and Drug and Alcohol
Locked Mail Bag 961
NORTH SYDNEY NSW 2059

The Secretary
Department of Family and Community Services (FACS) Department of Family and Community Services
Locked Bag 4028
ASHFIELD NSW 2131

The Chief Executive
NSW Roads and Maritime Services
Locked Bag 928 North Sydney NSW 2059

NSW Department of Aboriginal Affairs
Level 13, Tower B
Centennial Plaza
280 Elizabeth St
SURRY HILLS NSW 2010

Local Special Interest Groups

Indigenous Australians

The Secretary
La Perouse Local Aboriginal Land Council
1 Elaroo Avenue
LA PEROUSE NSW 2036

Services or Facilities “Near”

The Principal
Pagewood Public School
60 Page St
BOTANY NSW 2019

In addition to the above identified stakeholders, the occupiers of neighbouring premises and neighbouring dwellings (that is every property within 100 metres of the proposed premises) was

provided with the 'Notice of Intention to Apply for a Liquor Licence or Licence Authorisation' and invited to take part in the community consultation process of the application.

Statement of Impact

Executive Summary

This document considers the likely social impact of the grant of a packaged liquor licence (the "Licence") at Shop 1 25 Dalley Avenue, PAGEWOOD NSW 2035 (the "Proposed Premises") and matters of the public interest. The assessment aims to understand the potential positive or negative impacts of the proposed development and how any potential negative impacts may be addressed. The cornerstone of the recognised assessment process is that the impact of any application is interpreted as the difference between the future with, and without the approval of the application. Therefore the summary set out below (and expanded upon within this document) is a reasonable assessment of the likely future social change as a result of operating the Licence at the Proposed Premises.

The combined risk factors to be considered by this Application are summarised as follows:

- a) **Type of outlet** – the trading hours and the manner in which the business is to be operated
- b) **Outlet density** – expressed in terms of the number of licenced premises in a given area compared with an average.
- c) **The presence of at-risk groups and sensitive facilities near the proposed premises** - such as socially disadvantaged groups. The potential for the Proposed Premises to affect at-risk groups is considered higher where there are many sensitive facilities near the Proposed Premises that might be frequented by at-risk groups.
- d) **The incidence of alcohol related crime in the area** – including assault, domestic violence, drink driving, risk drinking behaviour etc.
- e) **The incidence of alcohol related health problems in the area** – including rates of alcohol related hospital admissions and deaths.

The Local Community and Broader Community of the Proposed Premises are considered low risk communities based on the potential for increased rates of alcohol related harm or adverse social impact from the operation of the Licence at the Proposed Premises, for the reasons summarised below and later expanded upon within this document:

- a) Liquor retailing/service is already existing and available throughout the local community and broader community. The Proposed Premises will not result in a change of existing consumer behaviour as to the type or quantity of alcohol to be consumed. The Proposed Premises will not introduce 'new drinkers'.
- b) The Licence does not permit the consumption of alcohol on premises and therefore it does not cause the same amenity type concerns as those that can arise potentially from licenced venues where the consumption of alcohol occurs on premises which trade late into the evening or early morning.
- c) The Proposed Premises will form part of an existing neighbourhood retail precinct. The Proposed Premises will deliver convenience, choice, range and value for shoppers, as well as jobs and investment for the Local Community. The Proposed Premises will meet a reasonable public expectation that such a facility will be available.
- d) Features will be included in the design, layout and management of the Proposed Premises to minimise the potential for risk such as
 - Proven harm minimisation and responsible service of alcohol policies and procedures;
 - The installation of a CCTV monitoring (internal and external, as well as a back to base security alarm) system;
 - Low impact security lighting on the external walls of the building outside of trading hours.
 - Clear lines of sight with exit and entrance points monitored by staff members.
 - More than one staff member on the shop floor during trading hours.

- e) Due to the heavy or bulky nature of most items sold in store most customers will be arriving and departing by motor vehicle, reducing the likelihood of localised social amenity impacts.
- f) There is no evidence that any of the at-risk groups as determined by the characteristics of the Local Community could be impacted adversely by the grant of the Licence. Most specifically, the adjoining Primary School is fenced around its entire perimeter with 8 foot high security fencing to prevent access or egress during school hours.
- g) There is no potential to cause adverse impact to the at-risk indicators for the Broader Community in circumstances where there are large numbers of people residing in the Broader Community who will not be customers of the Proposed Premises.
- h) There are no potentially sensitive facilities or services near the Proposed Premises which will place the identifiable at-risk groups at heightened risk for alcohol related harm. As indicated previously the Pagewood Public School is fenced around its entire perimeter with 8 foot high security fencing to prevent access or egress during school hours and the proposed liquor licence does not permit consumption of any liquor on-premises.
- i) The level of assault and alcohol related crime in the Local Community and Broader Community are lower than the rates for NSW and there is no evidence to suggest that the existing rates of these crimes will increase by the approval of this application. This is because the Proposed Premises is unlikely to change existing consumer behaviour as to the type or quantity of alcohol consumed and therefore no additional impact on victims of alcohol related crime is expected.
- j) The level of risk for alcohol related hospitalisations is lower in the Local Community and Broader Community when compared to NSW.
- k) The SEIFA statistics provide evidence of advantage in 3 out of the 4 indexes within the Broader Community and this should be balanced against any disadvantage that could result by not approving this application, including the employment opportunities it will offer.

The following impact statement concludes that the overall social impact of the Application will not be detrimental to the well-being of the Local Community or Broader Community. As such the Section 48 2007 Liquor Act 'test' has been satisfied and in these circumstances the Authority is in a position to approve this application.



SENSITIVE GOVERNMENT



Our reference: D/2018/1037703

17th December 2018

Mr. M McCABE
Director – City Futures
City of Bayside Council
444-446 Princess Highway
Rockdale NSW 2216

Dear Mr McCABE,

Application No: DA 2018/1199**Property: 1/25 Dalley Avenue, Pagewood NSW 2035****BOTANY BAY POLICE AREA COMMAND**

965 Botany Road, Mascot NSW 2020

T 02 8338 7399 F 028338 7311 W www.police.nsw.gov.au

TTY 02 9211 3776 for the hearing and speech impaired ABN 43 408 613 180

TRIPLE ZERO (000)

Emergency only

POLICE ASSISTANCE LINE (131 444)

For non emergencies

CRIME STOPPERS (1800 333 000)

Report crime anonymously



SENSITIVE GOVERNMENT



Proposal: Use of the ground floor level as a liquor retail premises operating 10am – 8pm seven days.

I refer to the above and your correspondence dated 11th December 2018. In accordance with the Environmental Planning and Assessment Act, 1979, Section 79C Crime Prevention Guidelines, a Safer by Design Crime Risk Evaluation has been prepared.

As a result of this process a **Medium** crime risk rating has been identified for the proposed development on a sliding scale of **Low, Medium, High** and **Extreme** crime risk.

Crime risks:

- It is likely once liquor shop is open and operational, there will be a risk to property theft.

Identified Issues:

Police suspect the building is currently unoccupied and cannot identify any current issues.

There is nil reason to suggest the above proposal should be opposed. Please see below recommendations:

Recommendations:

- CCTV shall be installed and operational inside the shop, capturing checkout area / top shelf spirits area / cold room and entry/exit points.

BOTANY BAY POLICE AREA COMMAND

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**SENSITIVE GOVERNMENT**

- Its recommended CCTV be installed on the outside of the shop front pointing toward the entry/exit points, outside to any rear door and to capture the approach to the shop.

For any further information or questions in relation to the evaluation contact Senior Constable Rebecca Leo, Crime Prevention Officer, Botany Bay Police Area Command on (02) 8338 7475.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "B. Hodder".

Brad HODDER
Superintendent
Commander
Botany Bay PAC

BOTANY BAY POLICE AREA COMMAND

965 Botany Road, Mascot NSW 2020

T 02 8338 7399 **F** 028338 7311 **W** www.police.nsw.gov.au

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CRIME STOPPERS (1800 333 000)

Report crime anonymously

Bayside Local Planning Panel

12/03/2019

Item No	6.3
Application Type	Modification application to approved residential flat building
Application No	SF18/2444
Lodgement Date	13/11/2018
Property	DA-2015/88/04 - 141 O'Riordan Street, Mascot
Ward	Mascot
Owner	Karimbla Properties (No. 47) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Section 4.55(1A) Application to modify Development Consent No. 2015/88 to modify or delete Condition Nos. 119 and 125 relating to registration of a positive covenant relating to on-site detention system and completion and approval of associated works on Council land
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Bayside Local Planning Panel approves Section 4.55(1A) Application to modify Development Consent No. 2015/88 to modify or delete Condition Nos. 119 and 125 which relates to public domain works and positive covenant occupation conditions at 141 O'Riordan Street, Mascot as follows:

- a delete Condition No. 119 which relates to registration of a positive covenant on the land relating to stormwater detention/infiltration system; and
 - b delete Condition No. 125 which relates to completion and approval of associated works on Council land.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)
- 3 Existing DA Consent - 141 O'Riordan Street Mascot [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2015/88/04
Date of Receipt:	13 November 2018
Property:	141 O'Riordan Street Mascot Lot 1 in DP 739565
Owners:	Karimbla Properties (No. 47) Pty Ltd
Applicant:	Karimbla Constructions Services (NSW) Pty Ltd
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2015/88 to modify or delete Condition Nos. 119 and 125 relating to registration of a positive covenant relating to on-site detention system and completion and approval of associated works on Council land
Recommendation:	Approval, subject to recommended conditions of consent.
Value:	N/A
No. of submissions:	Nil
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	12 February 2019

Key Issues

Development Application No. 2015/88 was approved by the former Joint Regional Planning Panel on 19 October 2016, for the integrated development for the demolition of the existing structures and construction of a 14 storey residential flat building comprising of 101 apartments with four levels of basement car parking for 177 car parking spaces.

Bayside Council received the subject Section 4.55(1A) Application No. 2015/88/04 on 13 November 2018 to modify Development Consent No. 2015/88 to delete Condition Nos. 119 and 125 which relate to the registration of a positive covenant relating to on-site detention system and completion and approval of associated works on Council land.

Due to the nature of the proposed modifications, the application was not required to be placed on public notification as stipulated within Part 2 of the BBDCP 2013.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to the modifications to the conditions of consent.

Item

Bayside Planning Panel Meeting
26/02/2019

Recommendation

That the Bayside Local Planning Panel:

1. Approve Section 4.55(1A) Application to modify Development Consent No. 2015/88 to modify or delete Condition Nos. 119 and 125 which relates to public domain works and positive covenant occupation conditions at 141 O’Riordan Street, Mascot as follows:
 - a) Delete Condition No. 119 which relates to registration of a positive covenant on the land relating to stormwater detention/infiltration system; and
 - b) Delete Condition No. 125 which relates to completion and approval of associated works on Council land.

Background

Site Description

The site is legally described as Lot 1 in DP 739565 and the site is known at 141 O’Riordan Street, Mascot and as 1-3 Haran Street Mascot. The site is located on the south western corner of the intersection of O’Riordan Street and Haran Street.

The site is irregular in shape with the side boundaries provided with a northeast-southwest orientation. The site has an area of 2,324sqm. The northern boundary of the site, adjoining Haran Street, has a length of 53.95 metres, the eastern boundary adjoining O’Riordan Street has a length of approximately 42.965 metres, the western boundary a length of 44.635 metres and the southern boundary has a length of 54.155 metres. The site has a minor fall of approximately 1 metres from the north-western corner to both the east and the south.

The site is currently subject to excavation and construction activity as the applicant has commenced the build under the existing approvals. Three trees on the north east corner of the site are retained.

The site lies within the Mascot Station Town Centre Precinct. The precinct is located in close proximity to major regional road networks, Sydney Airport and Port Botany.

Shallow Groundwater is present in this locality.

Item

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12/03/2019



Figure 1. Locality Plan

Approved Development

- DA-2015/88- On 19 October 2016, Development Application No. 2015/88 was approved by the former Joint Regional Planning Panel for the integrated development for the demolition of the existing structures and construction of a 14 storey residential flat building comprising of 101 apartments with four levels of basement car parking for 177 car parking spaces.
- DA-2015/88/02- On 3 April 2018, the modification application was approved under delegation to amend the basement design to reflect a reduction in car parking to align with the apartment design guide and to amend Condition No. 27 to reflect the amended landscape design.
- DA-2015/88/03- This application was withdrawn which related to modifying the internal area of the basement.

The site has approval for a proposal that will supersede the previous approved development under DA-2015/88 from the ground level up. This is as follows:

- Development Application No. 2018/1013 approved the detailed design of a 13 storey residential flat building containing a total of 104 residential units, basement car parking for 118 cars and 8,999sqm GFA and associated excavation, earthworks and landscaping.
- Modification Application No. 2018/1013/02 and 2018/1013/03 relating to modifications of the approved materials and finishes and design amendments including internal and external changes to the building resulting in amended unit mix as well as amend various conditions including requirements in relation to undergrounding of services, landscaping maintenance, dilapidation report requirements, location of gas booster and fire booster

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assembly is currently under assessment with Council and to be determined by the Sydney Eastern City Planning Panel.

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

The proposed development seeks consent to delete two conditions that are required to be satisfied prior to the issue of the Occupation Certificate. These conditions are Condition Nos. 119 and 125.

Condition No. 119

Condition No. 119 relates to the registration of a positive covenant on the land associated with an onsite stormwater detention system. The wording of the condition is as follows:

119 Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) Restriction on Use of Land for On-Site Stormwater Detention / Infiltration System. Refer to Appendix B of Council's Stormwater Management Technical Guidelines for suggested wording.*

Condition No. 125

Condition No. 125 relates to completion and approval of associated works on Council land. The wording of the condition is as follows:

125 Prior to the issue of any Occupation Certificate, all associated works on Council's land must be must be completed and approved by Council.

The applicant has requested that the two conditions be deleted to allow the private certifier to issue occupation certificate for the subject proposal. The occupation relates to the basement levels of the development only and not the built form above. The built form above is subject to and approved under DA-2018/1013 which also contains the two subject conditions within the consent.

On 18 January 2019, the developer submitted to Council a copy of the Construction Certificate for DA-2018/1013 therefore demonstrating to Council that the consent has been enacted and can supersede the approved above ground works as approved under DA-2015/88. As the construction certificate for DA-2018/1013 has been received and the proposed deleted conditions are also imposed within DA-2018/1013 as Condition Nos. 105(a) and 112, the removal of Condition Nos. 119 and 125 are supported.

Statutory Considerations

SECTION 4.55(1A) CONSIDERATIONS

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Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

- a) ***It is satisfied that the proposed modification is of minimal environmental impact, and***

The Section 4.55(1A) modification application relates to registration of a positive covenant relating to on-site stormwater detention system and completion and approval of associated works on Council land, and as such, the modifications will result in substantially the same development as approved under DA-2015/88 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to registration of a positive covenant relating to on-site stormwater detention system and completion and approval of associated works on Council land without affectation to the approved development as a whole. Therefore the modification application is substantially the same development to which consent was originally granted.

- c) ***It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was not required to be notified due to the minimal scope of work.

- d) ***It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.***

No submissions were received as the application was not publically notified.

SECTION 4.55(3) MODIFICATION CONSIDERATIONS

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.

The proposed modifications have taken regard to the original approval under DA-2015/88 and the reasons of consent. The original DA was approved by the former Joint Regional Planning Policy who approved the development application on the basis of built form and suitability of the site. The proposed modifications do not seek to alter the built form or the suitability of the

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site and relate to timing and completion of the development rather than any physical change to the approval under both DA-2015/88 and DA-2018/1013. The proposed modifications do not detract nor are they inconsistent with the approval or reasons given and therefore are supported.

S.4.15(1) – MATTERS FOR CONSIDERATION – GENERAL

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

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered as follows:

Botany Bay Local Environmental Plan 2013

The proposed modifications are to amend a number of conditions which relate to registration of a positive covenant and timing of completion of associated works. There are no relevant provisions of the Botany Bay Local Environmental Plan 2013 and no changes to the development standards assessed under DA-2015/88.

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

There are no current Draft EPIs applicable to this development.

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

Botany Bay Development Control Plan 2013

The proposed modifications are to amend a number of conditions which relate to the registration of a positive covenant and timing of completion of associated works. There are no relevant provisions of the Botany Bay Development Control Plan 2013 and no changes to the controls and outcomes assessed under DA-2015/88.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

The proposed modifications relates to the conditions of consent involving registration of a positive covenant relating to on-site stormwater detention system and completion and approval of associated works on Council land and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2015/88.

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

The suitability of the site was addressed in the original approval of DA-2015/88.

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

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No submissions were received as the application was not publically notified.

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

The proposed amendments will have no significant adverse impact upon the public interest.

Conclusion

Section 4.55(1A) Application No.2015/88 on 13 November 2018 to modify Development Consent No. 2015/88 to delete Condition Nos. 119 and 125 which relates to registration of a positive covenant relating to on-site stormwater detention system and completion and approval of associated works on Council land.

The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal is permissible within the B4 – Mixed Use zone and is considered to result in a development which is suitable in the context. The proposed modification is consistent and substantially the same with the approved development on the site. Therefore, the application is recommended for approval, subject to the amended conditions of consent in the attached schedule.

Attachment

Schedule 1 – Conditions of Consent

Premises: 141 O’Riordan Street Mascot

DA No: 2015/88/04

Schedule 1 – Conditions of Consent

GENERAL CONDITIONS

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

Drawing No.	Author	Dated Received
DA_002 - Site Plan & Demolition (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_100 – Basement 4 Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_101 – Basement Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_102 – Basement 2 Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_103 – Basement 1 Floor Plan (Rev 3)	Bennet Murada Architects	Dated: 20 June 2016 Received: 20 June 2016

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Drawing No.	Author	Dated Received
DA100 - Basement 2 Floor Plan, Revision F	DKO Architecture	Dated 27 February 2016. Received by Council Monday 5 March 2018
DA101 - Basement 2 Floor Plan, Revision F	DKO Architecture	Dated 27 February 2016. Received by Council Monday 5 March 2018
DA_104 - Ground Floor Plan (Rev 4)	Bennet Murada Architects	Dated: 6 January 2016. Received: 11 January 2016
DA_105 - Level-1-5 Floor Plan (Rev 4)	Bennet Murada Architects	Dated: 6 January 2016. Received: 11 January 2016
DA_106 - Level 6 Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 7 December 2015. Received: 11 January 2016
DA_107 - Level 7-11 Floor Plan (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_108 - Level 12 Floor Plan (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_109 - Level 13 Floor Plan (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_110 - Roof Level Plan (Rev 4)	Bennet Murada Architects	Dated: 14 June 2016 Received: 11 September 2016
DA_112 - Adaptable Units Plan (Rev 2)	Bennet Murada Architects	Dated: 5 December 2015. Received: 11 January 2016
DA_201 - East Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_202 - North Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_203 - West Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_204 - South Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_205 - Section A_A (Rev 4)	Bennet Murada Architects	9 September 2016 Received: 11 September 2016
DA_206 - Section B_B (Rev 5)	Bennet Murada Architects	9 September 2016 Received: 11 September 2016
DA_701 - External Material and Finishes (Rev 1)	Bennet Murada Architects	Dated: 27 May 2015. Received: 11 January 2016
100 - Cover Sheet (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
101 - Concept + Philosophy (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
102 - Design Statement (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
103 - Colour Landscape Masterplan (4)	Arcadia	Dated: November 2015. Received: 25 November 2015

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Drawing No.	Author	Dated Received
104 – Detail Plan Public Domain (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
105 – Precedents Public Domain (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
106 – Detail Plan Ground Level Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
107 – Precedents Ground Level Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
108 - Detail Plan Rooftop Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
109 – Precedents Rooftop Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
110 - Landscape Sections A (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
111 - Landscape Sections B (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
112 - Landscape Sections C (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
113 - Landscape Sections D (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
114 - Landscape Sections E (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
115 - Landscape Sections F (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
116 - Planting Palette (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
117 - Planting Schedule (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
201 – Landscape Plan Ground (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
202 – Planting Plan Ground (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
203 - Landscape Plan Roof (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
204 - Planting Plan Roof (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
205 - Landscape Details (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
206 - Landscape Details (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
207 - Landscape Specification (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
208 - Landscape BASIX Plan (4)	Arcadia	Dated: November 2015. Received: 25 November 2015

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Drawing No.	Author	Dated Received
Site Image Landscape Architects, Plans 101, 501 and 502 (Issue C, dated 20 March 2018)	Site Image	Dated 20 March 2018, Received 21 March 2018
SW-000 Stormwater Services Cover Sheet & Legend (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-001 Stormwater Services Site Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-100 Basement 4 Inground Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-101 Basement 4 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-102 Basement 3 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-103 Basement 2 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-104 Basement 1 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-105 Ground Level Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-106 Level 1 - 5 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-107 Level 6 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-108 Level 7 - 11 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-109 Level 12 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-110 Level 13 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-111 Roof Level Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-300 Erosion and Sediment Control Plan (A)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-301 Detail Sheet (A)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
Sketch of widened carriageway – "Option 2"	-	Dated: n.d. Received: 4 October 2016

Reference Document(s)	Author	Date Received
Arboricultural Impact Report	Landscape Matrix Pty Ltd	Dated: 14 March 2015. Received: 10 June 2015
SEPP 65 Design Verification Statement	Dominic Bennett	n.d. Received: 10 June 2015

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Reference Document(s)	Author	Date Received
BASIX Certificate No. 606324M_03	Windtech	Dated: 12 July 2016. Received: 14 September 2016
Pedestrian Wind Environment Statement WC154-01F02(Rev 1)	Windtech	Dated: 25 February 2015. Received: 10 June 2015
Phase II Detailed Site Investigation 8157/DS11	ADE Consulting Group	Dated: 27 November 2014. Received: 10 June 2015
Waste Management Plan	Elephant's Foot	Dated: February 2015. Received: 10 June 2015
Acoustic Report Ref: 150204	DK Acoustics	Dated: 2 March 2015. Received: 10 June 2015
Access Review	Morris Goding Accessibility Consulting	Dated: 4 March 2015. Received: 10 June 2015
Preliminary Geotechnical Assessment, Ref: 84531	Douglas Partners	Dated: October 2014. Received: 10 June 2015
Traffic & Parking Impact Report A1514072N (1b)	ML Traffic Engineers	Dated: January 2015. Received: 10 June 2015
Construction Management Plan (A)	Belbore	Dated: March 2015. Received: 10 June 2015
BCA Compliance Assessment Report	Barry Johnson & Associates Pty Ltd	n.d. Received: 10 June 2015

(Amended DA-15/88/02)

Where there are inconsistencies between the approved plans, the plans prepared by Bennet Murada shall prevail.

2. No construction works shall be undertaken prior to the issue of the Construction Certificate.
3. This Consent relates to land in Lot 1 in DP 739565, and as such, building works must not encroach on to adjoining lands or other public places, other than public domain work or the awning required of this consent.
4.
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) All plumbing stacks, vent pipes and downpipes, including balcony drainage and the like shall be kept within the building and suitably concealed from view. This

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- Condition does not apply to the venting to atmosphere of the stack above roof level; and,
- c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view.
5. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 606324M_03 dated 12 July 2016 for the development are fulfilled.
- a) Note Relevant BASIX Certificate means:
- i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or,
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate;
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
6. 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 DEMOLITION OF ANY BUILDING OR STRUCTURE

7. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
- a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This persons full name and address.
 - c) Details of Public Liability Insurance.
- 8.

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- a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority.
 - b) The demolition by induced collapse, the use of explosives, implosions or on-site burning is not permitted.
 - c) The demolisher shall comply with Australian Standard 2601 - 1993 "Demolition of Structures".
 - d) 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.
 - e) The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
 - f) No demolition materials shall be burnt or buried on the site.
 - g) Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
9. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.
- The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:
- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
 - b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of Gas and Electrical Supply;
 - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
 - j) Working hours, in accordance with this Development Consent;

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- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;
- m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
- n) Sewer – common sewerage system ad08.

10.

- a) Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the all properties immediately adjoining the site;.
- b) In relation to Council's infrastructure, the report shall include at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure. The survey shall detail the physical conditions and identify any existing damage to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development.
- c) Prior to commencement of the surveys, the applicant/ owner shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making any future claim regarding property damage. A copy of this communication shall be submitted to Council.
- d) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.
- e) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities, including Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
- f) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of all works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners.

- 11. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be lodged with Council before any work is commenced. The amount of Common Law liability shall be unlimited.

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12. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
 - a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
13. 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).
14. 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.
15. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
 - a) AS2601-2001 - Demolition of structure.
 - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings.
 - c) Requirements of the NSW WorkCover Authority.
16. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
17. No demolition materials shall be burnt or buried on the site.
18. 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.
19. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.

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20. 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.
21. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

22. The proposed development is to comply with conditions issued by the Australian Government Department of Infrastructure and Regional Development.
- a) The building must not exceed a maximum height of 52.5 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.
 - b) The building must be obstacle lit by low intensity steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the Manual of Standards Part 139 - Aerodromes (MOS Part 139).
 - c) In addition, the building must be obstacle lit by medium intensity flashing white lighting during the hours of daylight at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the MOS Part 139.
 - d) The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. If a light becomes unserviceable, it must be replaced or repaired, and reported to the Sydney Airport Airfield Operations Coordinator on 0419 278 208 or 02 9667 9824 immediately. Any unserviceable obstacle lights that are not reported to SACL will be referred by SACL to CASA and the Department for action. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
 - e) The proponent must advise Airservices at least 3 business days prior to the controlled activity commencing by emailing <pds.obs@airservicesaustralia.com> and quoting "SY-CA-237 P2".

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- f) Separate approval must be sought under the Regulations for any cranes required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
 - g) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.
23. The proposed development is to comply with the following General Terms of Approval provided by the NSW Office of Water on 28 October 2015:
- 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:
 - i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - iii) where the habitable 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) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to the DPI Water at Parramatta

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Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
- i. measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
 - ii. a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - iii. details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - iv. a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to . potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- i) Groundwater quality testing generally in accordance with Clause 8 shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
- k) A copy of a valid consent for the development shall be provided in the initial report.

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- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of 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.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/so The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

- u) Following completion of the dewatering operations, the Applicant shall submit to the DPI Water, Parramatta Office, the completion report which shall include:
 - i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and

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- ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
- iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
- v) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

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

24. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees, with details provided elsewhere within these conditions. A summary of the payments is as follows:-

a) Builders Damage Deposit and Performance Bond	\$363,000.00
b) Development Control	\$12,900.00
c) Section 94 Contributions	\$1,331,334.42
d) Tree Preservation Bond	\$13,735.00
e) Landscape Completion Bond	\$10,175.00 (+\$550)
f) Street Tree Maintenance Bond	\$4,070.00

25. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans the following required contributions have been calculated:

Section 94 Development Contribution Plan 2016.

The Section 94 Contribution of **\$1,331,334.42** is to be paid to Council prior to the issue of the first Construction Certificate. Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

26. Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$13,740 (\$4,800 /tree) to ensure protection of the three (3) *Eucalyptus microcorys* trees (Tree 11, Tree 13 and Tree 15) from damage during construction. The duration of the Bond shall be limited to a period of 6 months after issue (or cease upon issue of) 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 all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.

27. The private and public domain landscape areas shown on the plan by the Arcadia Landscape Architecture, Plans referenced in Condition 2 100 to 208 (~~Issue 4 dated November 2015~~) as they refer to the rooftop terraces and Site Image Landscape

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Architects, Plans 101, 501 and 502 (Issue C, dated 20 March 2018) as they refer to the at grade landscaping shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the City of Botany Bay Bayside Council Landscape Architect prior to Construction. The landscape documentation is to be prepared by Arcadia Landscape Architects or Site Image Landscape Architects and shall include, but not be limited to:

- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
 - c) Trees shall be used extensively throughout the site. Trees must be an appropriate species to ameliorate buildings and enhance open spaces (private and communal).
 - d) Increase the quantity of medium-large canopy tree planting within the setbacks to ameliorate the development and add amenity and screening to the site and adjoining the southern boundary. Street setback trees are to be evergreen and larger pot sizes being deep soil areas.
 - e) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the buildings.
 - f) Indicate the location of all basement structures relative to the landscape areas.
 - g) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
 - h) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification.
 - i) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
 - j) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
 - k) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
 - l) Indicate the location of all basement structures relative to the landscape areas.
 - m) Minimum tree size required to be 100L in accordance with DCP 2013. Feature trees and deep soil areas should contain larger pot sizes (200-400L).
 - n) Include additional canopy trees under-planted with densely foliated smaller trees along the O'Riordan Street setback to mitigate wind effects and provide enhanced amelioration of the development.
 - o) Within the public domain, locations of electrical pillar boxes (associated with the undergrounding of power) shall be carefully considered and co-ordinated with the electrical consultant to ensure that pillar boxes are not sited within the footpath.
- 27A. Prior to the issue of any construction certificate, all construction documentation including plans shall be updated to reflect the retention of the three trees, T 18, T19 and T 20 as outlined in the approved arborist report

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28. The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times.
29. An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.
- This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
- This plan shall incorporate and reference the construction environmental management plan and address site limitations.
30. A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated acid sulfate soils. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate.
31. An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
- This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.
32. It should be noted that a basement car park stormwater pump-out system will be only considered after all avenues to draw the property by gravity are exhausted. The basement car park stormwater pump-out system will not cater for (a) subsoil water (which are not allowed to intrude into the carpark) and (b) any stormwater that originates from a level that is above the top of the adjacent street kerb or, if no street kerb, the level of the existing ground at the property boundary at the road reserve.
33. In order to make satisfactory arrangements for the operation of the stormwater pump-out system, the system shall be designed and constructed to ensure the following are provided:

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- a) A holding tank capable of storing the run-off from a 100 year ARI – 12 hour duration storm event allowing for pump failure.
 - b) Two pump system (on alternate basis) capable of emptying the holding tank at a rate equal to the lower of the permissible site discharge (PSD) rate; or the rate of inflow for the one hour, 5 year ARI storm event
 - c) An alarm system in case of pump failure
 - d) Submission of full hydraulic details and pump manufacturers specifications
 - e) Pump out system to be connected to the on-site infiltration system or a stilling sump and gravity line before discharge to the street drainage or, if no drainage, the gutter.
 - f) Plans and calculations are to be submitted and approved along with certification from the designer to indicate that the design complies with the above requirements, prior to the release of the Construction Certificate.
34. Stormwater plans shall to be submitted to Council or Principal Certifying Authority prior to the release of the Construction Certificate. The proposed stormwater drainage system shall be designed according to Council's current Guidelines for the Design of Stormwater Drainage Systems. The plans must be certified (by the appropriate practicing expert) that they have been "designed in accordance with Council's current Guidelines for the Design of Stormwater Drainage systems, and other current industry standards, codes and guidelines".
- The stormwater plans should be generally in accordance with the approved drawings prepared by Insync Services.
- a) Where problems occur between the providing of stormwater systems and landscaping, landscaping provisions shall prevail. In these circumstances large stormwater structures shall be placed under a proposed hard surface as long as it is not located within the building footprint. If this cannot be achieved than Council may, on representation, consider placement within the landscape footprint provided it does not cover greater than 50% of the landscape area and/or it is constructed so that the top of the structure is 1.2m below final surface levels.
 - b) Council requires drainage structures to be located adjacent to the building or boundary rather than in the middle of the landscape footprint.
 - c) All underground parking structures are to be "tanked" so that there is no intrusion of waters into the structure.
 - d) Council will send, if it deems necessary, the submitted stormwater plans to a stormwater consultant of its choosing, for a peer review. The applicant will pay for this review and abide by any of the findings. This peer review will generally only be required for major or difficult sites.
35. Prior to the issue of the Construction Certificate, a report is required from a practicing civil engineer (NPER) certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.
36. All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment prior to entering the public stormwater system. Details

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of the pollution control device shall be submitted to Principal Certifying Authority prior to the issuing of the Construction Certificate.

37. The proposed traffic movements and parking arrangements within and adjoining the development shall conform with the current versions of Council's off-street parking DCP; Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation unless otherwise stipulated by another condition of consent. All off street resident, disabled, visitor and commercial parking shall be provided in accordance with the approved plans, Australian Standards AS 2890.6 and Council requirements.
38. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:-
 - a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and 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.
 - iii) As part of this development, two Ausgrid power poles along O'Riordan Street will need to be decommissioned and new light pole(s) and associated underground infrastructure shall be provided as specified by Ausgrid, RMS and any other affected service provider. The location of the new electrical pillars shall be confirmed with Council prior to the issue of the Construction Certificate.
 - iv) All utility services are to be undergrounded for the full frontage of the street frontages.
 - c) Any costs in the relocation, adjustment, provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

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

39. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit and Performance Bond of \$363,000.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
40. Plans and specifications for the management of waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The approved Waste Management Plan and architectural plans shall be amended to meet the following requirements:
 - a) To enable waste collection and loading in at the front of the site, the carriageway shall be widened for a clear length (excluding splays) of 12 metres, generally in

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accordance with the approved sketch received by Council on 4 October 2016. The required public domain landscape plan is to accommodate this requirement. Replacement planting may be required.

- b) 240L bins proposed to be used for garbage and recycling shall be replaced with 360L bins to achieve the same waste storage capacity.
 - c) The Waste Management Plan shall be amended to reflect the correct number of approved dwellings.
 - d) The rooms for the storage of garbage and recyclable materials shall be
 - i) Fully enclosed,
 - ii) Adequately ventilated,
 - iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor,
 - e) The floor within the garbage storage areas shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation, and
 - f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
41. Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by the Consent Authority prior to issue of a Construction Certificate. All works must be approved by Council prior to issue of a Construction Certificate.
- This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
42. 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.
43. The following requirements apply to telecommunication facilities in the building:
- a) Appropriate access and space within the plant area of the building shall be provided for telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
 - b) Appropriate ducting and cabling shall be provided for telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.
44. Prior to the issue of the construction certificate, the architectural plans shall be amended to include gas (where available) and water tap connections to each balcony.

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

- a) Acknowledges that:
 - i) The land is within a 25 ANEF contour;
 - ii) The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and
- b) Requires the Owner to maintain the noise attenuation work in accordance with the recommendations within the approved acoustic report; and
- c) The terms of such positive covenant shall provide that it can only be varied by the City of Botany Bay.

45. Detailed mechanical ventilation system plans and specification prepared by a *professional practising engineer*, as defined by the Building Code of Australia, must be submitted to Principal certifying authority prior to the release of the Construction Certificate certifying compliance with AS/NZS 1668 *The Use of Mechanical Ventilation and Air Conditioning in Buildings*, Part 1-2002: *Fire and smoke control in multi-compartment buildings* and Part 2-2002: *Ventilation design for indoor air contamination control*. (Note: BCA has not yet adopted the 2002 Standards and still utilises the previous 1991 AS1668).

46. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and AS1668.2. Details to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.

47. The building shall be constructed in accordance with AS2021- 2000: *Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the acoustical assessment report prepared by Acoustic Noise, dated 02/03/2015, Report reference number 150204 shall be undertaken in accordance with the provisions of AS 2021 – 2000: *Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
- b) Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

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48. Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:
- identify each item of plant and equipment;
 - the following additional criteria adopted by City of Botany Bay Council:
 - The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} 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 L_{Aeq} 50dB(A) day time and L_{Aeq} 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 L_{Aeq} 65dB(A) day time/night time.
 - For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- Note** "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
49. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
50. 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.
51. Prior to issue of any Construction Certificate, a Dilapidation Report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a Practising Structural / Geotechnical Engineer and submitted to Council. The report shall include records and photographs of the adjoining properties that will be impacted by the development:
- Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the all properties immediately adjoining the site;.
 - In relation to Council's infrastructure, the report shall include at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure. The survey shall detail the physical conditions and

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identify any existing damage to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development.

- c) Prior to commencement of the surveys, the applicant/ owner shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making any future claim regarding property damage. A copy of this communication shall be submitted to Council.
- d) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.
- e) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities, including Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
- f) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of all works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners.

(Note: Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.)

- 52. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.

- 53. The proposed development will result in substantial excavation that has the potential to affect adjoining buildings and proposed public infrastructure.

Prior to the issue of the Construction Certificate, the applicant shall:

- a) seek independent advice from a Geotechnical Engineer on the impact of the proposed excavations on the adjoining properties;
- b) detail what measures are to be taken to protect those properties from undermining during construction; and
- c) provide Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties.

All recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

- 54. Prior to the issue of the Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority. Storage of Waste and recycling shall meet the following requirements.

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The rooms for the storage of garbage and recyclable materials shall be:

- a) Fully enclosed;
- b) Adequately ventilated;
- c) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
- d) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.
- e) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

55. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be provided prior to the issue of the Construction Certificate.

56. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:-

- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- b) The proposed phases of construction works on the site and the expected duration of each construction phase.
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent.
- i) Proposed protection for Council and adjoining properties.
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

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- k) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
 - l) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited.
 - m) Obtain Permits required under this consent.
57. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and the installation of solar power to external space lighting. Details are to be submitted to the Principal Certifying Authority prior to the release to the Construction Certificate.

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

58. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
59. The substation located on O'Riordan Street is required to 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 the substation is to be approved by Council's Landscape Architect prior to installation.
60. In order to ensure that tree T11 *Eucalyptus microcorys* (Tallowwood), T13 *Eucalyptus microcorys* (Tallowwood), and T15 *Eucalyptus microcorys* (Tallowwood) are retained and protected during construction, and their health and structural stability ensured, the following is required:
- a) Engage the Consultant Arborist AQF Level 5 (Landscape Matrix) from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
 - b) All tree works and tree management shall be undertaken in accordance with the Arborist reports by Landscape Matrix (Issue D, 14th March 2015) and Supplementary Arboricultural Report dated 17 September 2015. For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.

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- c) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
- d) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
- e) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- f) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- g) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- h) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- i) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- j) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- k) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- l) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- m) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- n) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
- o) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.

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61. If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
62. The Applicant has permission to remove trees T1, T2, T3, T4, T5, T6, T7, T8, T9 and T10, T12, T14, T16 to T28 as identified by the Consultant Arborist in the reports by Landscape Matrix, dated 14th March 2015 and Supplementary Arboricultural Report dated 17 September 2015. Note : Trees are not permitted to be removed until the Construction Certificate has been issued.
63. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
 - a) A qualified Arborist with their own public liability insurance must be engaged.
 - b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
 - c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.
 - d) Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.
64. Tree 29 (*Ailanthus altissima*), located within the neighboring property to the south will be affected by excavation. The Applicant is required to notify the adjoining property owner (143 O'Riordan Street) that the stability of Tree 29 will be undermined by construction works and that the tree should be removed, as identified in the Supplementary Arboricultural Report prepared by Landscape Matrix dated 17 September 2015. The tree is exempt from the Council TPO. The Applicant has consent to remove the tree at their own expense in accordance with the following:
 - a) Owner's written consent is required prior to removal.
 - b) The tree is not permitted to be removed until the Construction Certificate has been issued.
 - c) A qualified Arborist with their own public liability insurance must be engaged.
 - d) Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.
65. Sampling and analysis of soil at the site for asbestos shall be undertaken and any exceedances managed and remediated in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 2013 and all relevant NSW EPA Guidelines. This assessment and management shall be completed prior to any disturbance of soil or excavation on the site. Details of sampling and analysis and the proposed management of any exceedances shall be provided to Council prior to the commencement of any development or work at the site, including excavation or disturbance of soil.

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66. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
67. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system.

If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
68. The applicant shall conduct all construction and related deliveries wholly on site or shall make a separate application to Council's Engineering Services Department for a "Work Zone" adjacent to the development site. This application should be submitted one (1) month prior to the planned commencement of building works on the development site. Application forms are available at Council's Customer Service Counter.
69. A Road Opening Occupancy Licence is required from the relevant Road Authorities (Council or RMS) for all works on existing public roads. The application for this licence must be accompanied by a Traffic Management / Control plans.
70. The construction of any works on Council's road reserve or other Council lands requires the applicant to make separate applications to Council's Customer Services Counter and gain approval (plus satisfying any Conditions Of Approval) prior to commencing construction. 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.
71. The use of any part of Council's road reserve or other Council lands must have prior approval of Council. For example, should the development require a building waste container(s) (building skip), then such container shall not be placed or left on a public road or road related area (eg footpath, nature strip, shoulder, road reserves, public carparks, service stations, etc) without the prior approval of Council's Engineering Services Section.
72. A Traffic Management Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with the requirements of current Australian Standard 1742.3 (Traffic Control Devices for Works on Roads) and current RMS Traffic Control at Work Sites manual. Any persons preparing such traffic control layout plans shall be RMS accredited.

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73. Existing structures and or services on this and adjoining properties are not to be endangered during any excavation or construction work associated with the above project. The application is to provide details of any shoring, piercing or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilize any adjacent structures.
74. 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.
75. At least forty-eight (48) hours prior to the commencement of, the applicant must inform Council, in writing, of:
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance.
76. 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.
77. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's lands /road reserve under Road Act 1993 and Local Government Act 1993:
 - 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, footpaths, kerbs and gutters over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services.
 - f) Permit to place skip/waste bin on footpath and/or nature strip

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- g) Permit to use any part of Council's road reserve or other Council lands
 - h) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
 - i) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area. Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s).
- Copies of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.
- Note: No works or occupancy shall be carried out in road reserve until permits have been granted from Council's engineers. 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.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

- 78. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 78A The three trees which are retained shall be mulched and regularly irrigated by the Landscape Contractor at the commencement and ongoing duration of construction. This is due to the root systems have been severed/pruned by the piling rig.
(Added DA-15/88/02)
Reason – To ensure the ongoing health and protection of the retained trees on the site.
- 79. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed

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- finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
- d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
80. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
81. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
82. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to any construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
83. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.
- If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.

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84. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
85. 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.
86. 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.
87. 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.
88. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
89.
 - a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - c) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or

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- other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- e) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - f) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
90. Care must be taken to protect Council's roads, including the made footway, kerbs, etc and where plant and vehicles enter the site. Protecting constructions shall be maintained in a state of good repair and condition throughout the course of construction and kept in a safe condition. The area must be safe for pedestrian traffic at all times. Any damage to Council's road reserve will be repaired and the full cost shall be borne by the applicant.
- 91.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
92. Council's footway is to be kept clean, tidy, washed and maintained at the applicant's expense.
93. 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.

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94. During Construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times: -
- a) Approved Erosion and Sediment Control Plan;
 - b) Approved Construction Traffic Management Plan;
 - c) Approved Construction Management Plan; and
 - d) Final Waste Management Plan.
95. 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.
96. 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.
97. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

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- 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
98. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA *Environmental Noise Control Manual*.
99. 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.
100. 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.
101. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
102. During Construction and any associated deliveries activities, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
103. 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*.
 - a) Construction Noise
 - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's *Environmental Noise Manual – Chapter 171* and the *Protection of the Environment Operations Act 1997*.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

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- 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- c) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm
 - ii) Saturday 08:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
- d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.

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

104. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas, inclusive of the street tree pits in O'Riordan Street and Haran Street. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
105. The public footpaths in O'Riordan Street and Haran Street shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
106. New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
107. Landscaping on the property and in the public domain shall be installed in accordance with the approved (stamped by Council Landscape Architect) landscape plans referenced in Condition 2 by ~~Arcadia Landscape Architecture, Plans 100 to 208 (Issue 4 dated November 2015)~~ prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
(Amended - DA-15/88/02).
108. The applicant is to submit payment of a Street Tree Maintenance Bond of \$4,070.00. The duration of the Bond shall be limited to a period of 12 months after final inspection

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of new street trees by Council. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.

109. The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgment of a bond in the sum of \$10,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.
110. 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.
111. The applicant must, at no cost or expense to Council:
 - b) Upgraded the public domain and Council footpath area with new paving installed by the applicant and at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate; and
 - c) Upgraded the public domain and Council kerb and gutter with new kerb and gutter installed by the applicant and at the applicant's expense.
 - d) Provide new kerb and gutter in Haran Street and half road reconstruction. The road pavement is to be designed to traffic loading of N(E.S.A) 1x106.
112. An assessment of the status of asbestos in soil at the site shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
 - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

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The validation report shall provide a notice of completion of any required remediation works identified during the additional assessment of asbestos in soils at the site required prior to the issue of the construction certificate and commencement of works on the site, and include a clear statement on the suitability of the site for residential use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

113. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site.

113A

- a) The 104 car parking spaces shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of any Occupation Certificate;
- b) Allocation of the car parking shall be as follows:
 - i) 7 x Studio Apartments shall be allocated 5 car parking spaces
 - ii) 20 x 1 bedroom apartments shall be allocated 12 car spaces
 - iii) 70 x 2 bedroom apartments shall be allocated 63 car spaces
 - iv) 2 x 3 bedroom apartments shall be allocated 3 car spaces.
 - v) Visitor Space shall be allocated 20 spaces
 - vi) Service vehicle shall be allocated with 1 space, with an additional service bay being shared with a visitor space.

(Added - DA-15/88/02).

114. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

115. Prior to the issue of any Occupation Certificates(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

116. Prior to the issue of Occupation Certificate, the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied:-

- a) Inspection reports (formwork and final) for the works on public domain and road reserve area, and the on-site detention system shall be obtained from Council's engineer; and
- b) A copy of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the civil works on public domain and road reserve area. The plan shall be prepared by a registered surveyor.

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117. A certificate from a Chartered Professional Engineer/Registered Surveyor must be obtained and submitted to Council verifying that the on-site detention system as constructed will function hydraulically in accordance with the approved design plans.
118. A certificate from a Registered Engineer (NPER) must be lodged with Council verifying that the structures associated with the on-site detention systems have been constructed to withstand all loads likely to be imposed on them during their lifetime.
119. ~~Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:~~
 - a) ~~Restriction on Use of Land for On-Site Stormwater Detention / Infiltration System. Refer to Appendix B of Council's Stormwater Management Technical Guidelines for suggested wording.~~
(DA-2015/88/04)
120. Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the development site which: –
 - a) Acknowledges that:
 - i) The land is within a 25 ANEF contour;
 - ii) The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and
 - b) Requires the Owner to maintain the noise attenuation work in accordance with the recommendations within the approved acoustic report; and
 - c) The terms of such positive covenant shall provide that it can only be varied by the City of Botany Bay.
121. Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused by the site works undertaken (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 the issue of Final Occupation Certificate.
122. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the approved acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
123. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment

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Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.

124. All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.
125. **Prior to the issue of any Occupation Certificate, all associated works on Council's land must be must be completed and approved by Council. (DA-2015/88/04)**
126. All vehicular crossings are to be constructed. Prior to the issuing of an Occupation Certificate (or the completion of work or the use of the building), the applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted. The footway area must be restored by turfing.
127. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
 - a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - b) The development as built stands within the subject land.
128. Prior to the issue of the Occupation Certificate, street numbers shall be clearly displayed on the residential flat building with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
129. Prior to the issue of the Occupation Certificate, all letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.
130. A copy of any Building Management Statement and By-Laws shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 15/88 and include:
 - a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 15/88;

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- b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 15/88;
- c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;
- d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are available for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;
- e) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
- f) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
- g) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- h) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- i) 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;
- j) CCTV surveillance of all public areas within the development site.

131.

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

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132. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
133. Written evidence is required to be provided to Council prior to the issue of the Final Occupation Certificate from all service providers such as Sydney Water, Energy Australia and their telecommunication provider, confirming that adequate infrastructure can and/or has been provided to the development.
134. The car parking spaces within the basement shall be made available to occupants and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate. The Allocation of the car parking shall be as indicated on the approved plans. Ten of the adaptable dwellings shall be provided with the accessible parking spaces marked within the Basement 1 Floor Plan.
135. 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. Condition Nos. 112-142 are pre-conditions prior to the issue of the Occupation Certificate.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

136. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
137. Ongoing maintenance of the road verges, footpaths and nature strips in O'Riordan and Haran Streets shall be undertaken by the owner/body corporate/strata corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
138. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
139.
 - a) All waste and recycling containers shall be stored in the designated waste storage areas within the building. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.

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- b) No waste or waste containers shall be placed on the public way (including: footpaths, roadways and reserved) at any time.

140.

- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
- b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
- c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times;
- d) The final Waste Management Plan shall be complied with at all times during the on-going use of the site / premises.

141. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.

142. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

143. Any air conditioning units shall comply with the following requirements:

- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.

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

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

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

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

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

146. The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997*. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.

147. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

148. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/88 dated as 9 June 2015 and Section 4.55 Modification application dated 21 November 2017 and Section 4.55 Modification Application dated 13 November 2018 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.

(Amended DA-15/88/02)(DA-15/88/04)

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Statement Environmental Effects

Section 4.55 Application

141 O’Riordan Street, Mascot

Delete conditions 119 and 125

13 November 2018

PREPARED BY

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Statement of Environmental Effects
 141 O'Riordan Street, Mascot
 Delete conditions 119 and 125

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1 Introduction

This Statement of Environmental Effects relates to a Section 4.55 Application seeking Council's consent to amend development consent No.15/088.

The subject Section 4.55 Application seeks to delete conditions 119 and 125.

This Statement:

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

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

2 Site and Surroundings

2.1 The Site

The site is known as 141 O'Riordan Street, Mascot, and occupies a parcel of land on the southwestern corner of O'Riordan Street and Haran Street. **Figure 1** shows the general location of the site and **Figure 2** shows an aerial view of the site and its boundaries.

The site comprises Lot 1 in Deposited Plan 739565. It has an 24.97 metre frontage to O'Riordan Street; a 53.95 metre frontage to Haran Street; and a total site area of 2,325 sqm.

The site is currently under construction pursuant to two approvals on the site - refer section 3.1 of this Statement.

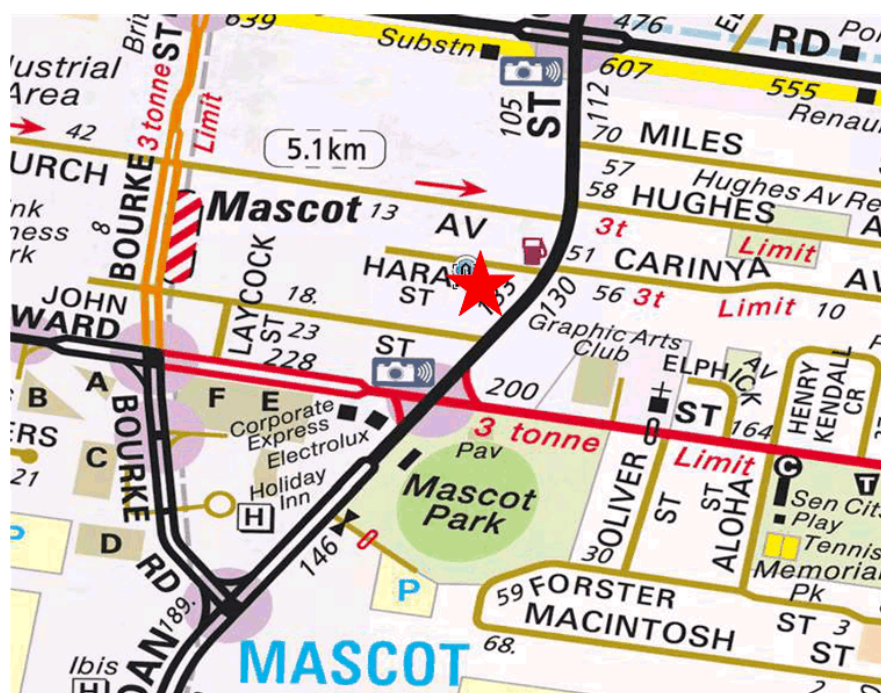


Figure 1: Location of subject site marked with red star



Figure 2: Aerial view of subject site – red border (as at 19 October 2017)

2.2 Surroundings

The area surrounding the site is mixed in land uses.

3 Proposed Modifications

3.1 Existing Consents

On 18 November 2016, the Council issued its consent for approval of DA 15/088 for the following development:

Integrated Development Application for the demolition of existing structures and construction of a residential flat building comprising 99 apartments over 13 storeys with 2 levels of basement parking for 104 car parking spaces. (As amended DA 15/88/02)

On 23 August 2018, the Council issued its consent for approval of DA-2018/1013 for the following development:

Integrated development for the construction of a thirteen storey Residential Flat Building with a total of 105 apartments and two levels of basement car parking

3.2 Proposed Amendments

It is proposed to delete Conditions 119 and 125 in DA 15/088. The reason for the condition deletion is to allow the PCA to issue occupation certificates in relation to 15/088. That consent applies to the basement levels of the development on the site only.

The development on the site – from ground level up – is being constructed in accordance with DA-2018/1013. That consent contains the same conditions as those proposed to be deleted, as follows:

- Condition 119 in DA 15/088 is covered by Condition 105 in DA-2018/1013.
- Condition 125 in DA 15/088 is covered by Conditions 98 and 101 in DA-2018/1013.

3.3 Proposed Conditions

3.3.1 Condition 119

It is proposed to delete condition 119 as follows:

~~Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:~~

~~a) Restriction on Use of Land for On-Site Stormwater Detention / Infiltration System. Refer to Appendix B of Council's Stormwater Management Technical Guidelines for suggested wording.~~

3.3.2 Condition 125

It is proposed to delete condition 125 as follows:

~~Prior to the issue of any Occupation Certificate, all associated works on Council's land must be must be completed and approved by Council.~~

4 Threshold Test – Substantially the Same

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

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

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

5 Environmental Planning Assessment

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

5.1.1 Botany Local Environmental Plan 2013

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

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

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

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

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

5.3.1 Botany Development Control Plan 2013

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

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

Not applicable.

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

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

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

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

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

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

5.8 Section 4.15(1)(d): Submissions

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

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

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

6 Conclusion

The subject Section 4.55 Application seeks to delete conditions 119 and 125.

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

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

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

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

Our Ref: LLawler/ DA 15/88/02



Karimbla Construction Services (NSW) Pty Ltd
Level 11, 528 Kent Street
SYDNEY NSW 2000

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
SECTION 4.55(1A)
MODIFICATION OF DEVELOPMENT CONSENT NO 15/88**

**141 O'Riordan Street, Mascot
Lot 1 in DP 739565**

Your section 4.55(1A) application 15/88/02 to modify Development Consent No. 15/88 that was approved on 19 October 2016 for:

Integrated Development Application for the demolition of existing structures and construction of a residential flat building comprising 99 apartments over 13 storeys with 4 levels of basement parking for 177 car parking spaces.

has been APPROVED by Council.

The development consent has been modified as follows:

i) Amended Description

Integrated Development Application for the demolition of existing structures and construction of a residential flat building comprising 99 apartments over 13 storeys with 2 levels of basement parking for 104 car parking spaces.

- ii) Amend Condition 1 to reflect amended basement and landscape plans
- iii) Amend Condition No. 27 to reflect the amended landscape design.
- iv) Insert Condition 78A in relation to the maintenance of trees during construction given the basement design.
- v) Amend Condition 107 in relation to the amended landscape plans.
- vi) Insert Condition 113A in relation to car parking allocation
- vii) Amend Condition No. 148 to reflect the current application.

A copy of the consent, as amended is attached for your information.

Eastgardens Customer Service Centre
Westfield Eastgardens
152 Bunnerong Road
Eastgardens NSW 2036, Australia
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Rockdale Customer Service Centre
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Τηλεφωνικές Υπηρεσίες Διερμηνείας

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NOTE:

The conditions of consent are imposed, taking into account the matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act, 1979, to protect the amenity of the neighbourhood and so that the development will not be contrary to public interest.

RIGHT OF APPEAL

Section 8.9 of the Act confers on an applicant who is dissatisfied with the determination of a Consent Authority in respect of an Application under Section 4.55(1A) of the Act, a right of appeal to the Land and Environment Court within six (6) months after the date on which you receive this Notice.

Date of Determination: 3 April 2018

A handwritten signature in black ink, appearing to read 'P. Van de Walle', with a large, stylized initial 'P'.

PASCAL VAN DE WALLE
COORDINATOR, DEVELOPMENT ASSESSMENT

Premises: 141 O'Riordan Street, Mascot

DA No: 15/88/02

SCHEDULE OF CONDITIONS**GENERAL CONDITIONS**

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

Drawing No.	Author	Dated Received
DA_002 - Site Plan & Demolition (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_100 - Basement 4 Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_101 - Basement Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_102 - Basement 2 Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 9 November 2015. Received: 11 January 2016
DA_103 - Basement 1 Floor Plan (Rev 3)	Bennet Murada Architects	Dated: 20 June 2016 Received: 20 June 2016
DA100 - Basement 2 Floor Plan, Revision F	DKO Architecture	Dated 27 February 2016. Received by Council Monday 5 March 2018
DA101 - Basement 1 Floor Plan, Revision F	DKO Architecture	Dated 27 February 2016. Received by Council Monday 5 March 2018
DA_104 - Ground Floor Plan (Rev 4)	Bennet Murada Architects	Dated: 6 January 2016. Received: 11 January 2016
DA_105 - Level-1-5 Floor Plan (Rev 4)	Bennet Murada Architects	Dated: 6 January 2016. Received: 11 January 2016
DA_106 - Level 6 Floor Plan (Rev 2)	Bennet Murada Architects	Dated: 7 December 2015. Received: 11 January 2016
DA_107 - Level 7-11 Floor Plan (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_108 - Level 12 Floor Plan (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_109 - Level 13 Floor Plan (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_110 - Roof Level Plan (Rev 4)	Bennet Murada Architects	Dated: 14 June 2016 Received: 11 September 2016
DA_112 - Adaptable Units Plan (Rev 2)	Bennet Murada Architects	Dated: 5 December 2015. Received: 11 January 2016
DA_201 - East Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_202 - North Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_203 - West Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016
DA_204 - South Elevation (Rev 5)	Bennet Murada Architects	Dated: 9 September 2016 Received: 11 September 2016

Drawing No.	Author	Dated Received
DA_205 - Section A_A (Rev 4)	Bennet Murada Architects	9 September 2016 Received: 11 September 2016
DA_206 - Section B_B (Rev 5)	Bennet Murada Architects	9 September 2016 Received: 11 September 2016
DA_701 - External Material and Finishes (Rev 1)	Bennet Murada Architects	Dated: 27 May 2015. Received: 11 January 2016
100 - Cover Sheet (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
101 - Concept + Philosophy (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
102 - Design Statement (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
103 - Colour Landscape Masterplan (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
104 - Detail Plan Public Domain (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
105 - Precedents Public Domain (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
106 - Detail Plan Ground Level Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
107 - Precedents Ground Level Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
108 - Detail Plan Rooftop Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
109 - Precedents Rooftop Courtyard (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
110 - Landscape Sections A (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
111 - Landscape Sections B (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
112 - Landscape Sections C (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
113 - Landscape Sections D (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
114 - Landscape Sections E (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
115 - Landscape Sections F (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
116 - Planting Palette (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
117 - Planting Schedule (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
201 - Landscape Plan Ground (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
202 - Planting Plan Ground (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
203 - Landscape Plan Roof (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
204 - Planting Plan Roof (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
205 - Landscape Details (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
206 - Landscape Details (4)	Arcadia	Dated: November 2015. Received: 25 November 2015

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Drawing No.	Author	Dated Received
207 - Landscape Specification (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
208 - Landscape BASIX Plan (4)	Arcadia	Dated: November 2015. Received: 25 November 2015
Site Image Landscape Architects, Plans 100, 501 and 502 (Issue C, dated 20 March 2018)	Site Image	Dated 20 March 2018, Received 21 March 2018
SW-000 Stormwater Services Cover Sheet & Legend (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-001 Stormwater Services Site Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-100 Basement 4 Inground Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-101 Basement 4 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-102 Basement 3 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-103 Basement 2 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-104 Basement 1 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-105 Ground Level Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-106 Level 1 - 5 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-107 Level 6 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-108 Level 7 - 11 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-109 Level 12 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-110 Level 13 Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-111 Roof Level Stormwater Services Plan (B)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-300 Erosion and Sediment Control Plan (A)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
SW-301 Detail Sheet (A)	Insync Services	Dated: 11 March 2015. Received: 10 June 2015
Sketch of widened carriageway – "Option 2"	-	Dated: n.d. Received: 4 October 2016

Reference Document(s)	Author	Date Received
Arboricultural Impact Report	Landscape Matrix Pty Ltd	Dated: 14 March 2015. Received: 10 June 2015
SEPP 65 Design Verification Statement	Dominic Bennett	n.d. Received: 10 June 2015
BASIX Certificate No. 606324M_03	Windtech	Dated: 12 July 2016. Received: 14 September 2016

Reference Document(s)	Author	Date Received
Pedestrian Wind Environment Statement WC154-01F02(Rev 1)	Windtech	Dated: 25 February 2015. Received: 10 June 2015
Phase II Detailed Site Investigation 8157/DSI1	ADE Consulting Group	Dated: 27 November 2014. Received: 10 June 2015
Waste Management Plan	Elephant's Foot	Dated: February 2015. Received: 10 June 2015
Acoustic Report Ref: 150204	DK Acoustics	Dated: 2 March 2015. Received: 10 June 2015
Access Review	Morris Goding Accessibility Consulting	Dated: 4 March 2015. Received: 10 June 2015
Preliminary Geotechnical Assessment, Ref: 84531	Douglas Partners	Dated: October 2014. Received: 10 June 2015
Traffic & Parking Impact Report A1514072N (1b)	ML Traffic Engineers	Dated: January 2015. Received: 10 June 2015
Construction Management Plan (A)	Belbore	Dated: March 2015. Received: 10 June 2015
BCA Compliance Assessment Report	Barry Johnson & Associates Pty Ltd	n.d. Received: 10 June 2015

(Amended DA-15/88/02)

Where there are inconsistencies between the approved plans, the plans prepared by Bennet Murada shall prevail.

2. No construction works shall be undertaken prior to the issue of the Construction Certificate.
3. This Consent relates to land in Lot 1 in DP 739565, and as such, building works must not encroach on to adjoining lands or other public places, other than public domain work or the awning required of this consent.
4.
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) All plumbing stacks, vent pipes and downpipes, including balcony drainage and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level; and,
 - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view.
5. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 606324M_03 dated 12 July 2016 for the development are fulfilled.

- a) Note Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or,
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate;
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
- 6. 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 DEMOLITION OF ANY BUILDING OR STRUCTURE

- 7. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This persons full name and address.
 - c) Details of Public Liability Insurance.
- 8.
 - a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority.
 - b) The demolition by induced collapse, the use of explosives, implosions or on-site burning is not permitted.
 - c) The demolisher shall comply with Australian Standard 2601 - 1993 "Demolition of Structures".
 - d) 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.

- e) The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
 - f) No demolition materials shall be burnt or buried on the site.
 - g) Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
9. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.
- The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:
- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
 - b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of Gas and Electrical Supply;
 - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
 - j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent;
 - m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
 - n) Sewer – common sewerage system ad08.

10.
 - a) Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the all properties immediately adjoining the site;
 - b) In relation to Council's infrastructure, the report shall include at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure. The survey shall detail the physical conditions and identify any existing damage to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development.
 - c) Prior to commencement of the surveys, the applicant/ owner shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making any future claim regarding property damage. A copy of this communication shall be submitted to Council.
 - d) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.
 - e) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities, including Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
 - f) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of all works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners.
11. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be lodged with Council before any work is commenced. The amount of Common Law liability shall be unlimited.
12. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
 - a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.

13. 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).
14. 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.
15. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
 - a) AS2601-2001 - Demolition of structure.
 - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings.
 - c) Requirements of the NSW WorkCover Authority.
16. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
17. No demolition materials shall be burnt or buried on the site.
18. 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.
19. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
20. 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.
21. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

22. The proposed development is to comply with conditions issued by the Australian Government Department of Infrastructure and Regional Development.
- a) The building must not exceed a maximum height of 52.5 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.
 - b) The building must be obstacle lit by low intensity steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the Manual of Standards Part 139 - Aerodromes (MOS Part 139).
 - c) In addition, the building must be obstacle lit by medium intensity flashing white lighting during the hours of daylight at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360 degree radius as per subsection 9.4.3 of the MOS Part 139.
 - d) The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. If a light becomes unserviceable, it must be replaced or repaired, and reported to the Sydney Airport Airfield Operations Coordinator on 0419 278 208 or 02 9667 9824 immediately. Any unserviceable obstacle lights that are not reported to SACL will be referred by SACL to CASA and the Department for action. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
 - e) The proponent must advise Airservices at least 3 business days prior to the controlled activity commencing by emailing <pd.s.obs@airservicesaustralia.com> and quoting "SY-CA-237 P2".
 - f) Separate approval must be sought under the Regulations for any cranes required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
 - g) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

23. The proposed development is to comply with the following General Terms of Approval provided by the NSW Office of Water on 28 October 2015:

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:
 - i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - iii) where the habitable 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) DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to the DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
 - i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.

- ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- i) Groundwater quality testing generally in accordance with Clause 8 shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
- k) A copy of a valid consent for the development shall be provided in the initial report.
- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.

- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of 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.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/so The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

- u) Following completion of the dewatering operations, the Applicant shall submit to the DPI Water, Parramatta Office, the completion report which shall include:
 - i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

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- v) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

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

24. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees, with details provided elsewhere within these conditions. A summary of the payments is as follows:-
- | | |
|---|----------------------|
| a) Builders Damage Deposit and Performance Bond | \$363,000.00 |
| b) Development Control | \$12,900.00 |
| c) Section 94 Contributions | \$1,331,334.42 |
| d) Tree Preservation Bond | \$13,735.00 |
| e) Landscape Completion Bond | \$10,175.00 (+\$550) |
| f) Street Tree Maintenance Bond | \$4,070.00 |
25. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans the following required contributions have been calculated:
- Section 94 Development Contribution Plan 2016.
- The Section 94 Contribution of **\$1,331,334.42** is to be paid to Council prior to the issue of the first Construction Certificate. Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.
26. Prior to the Commencement of Demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$13,740 (\$4,800 /tree) to ensure protection of the three (3) *Eucalyptus microcorys* trees (Tree 11, Tree 13 and Tree 15) from damage during construction. The duration of the Bond shall be limited to a period of 6 months after issue (or cease upon issue of) 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 all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
27. The private and public domain landscape areas shown on the plan by the Arcadia Landscape Architecture, Plans ***referenced in Condition 2 400 to 208 (Issue 4 dated November 2015) as they refer to the rooftop terraces and Site Image Landscape Architects, Plans 101, 501 and 502 (Issue C, dated 20 March 2018) as they refer to the at grade landscaping*** shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the City of Botany Bay Bayside Council Landscape Architect prior to Construction. The landscape documentation is to be prepared by Arcadia Landscape Architects ***or Site Image Landscape Architects*** and shall include, but not be limited to:

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- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
 - b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
 - c) Trees shall be used extensively throughout the site. Trees must be an appropriate species to ameliorate buildings and enhance open spaces (private and communal).
 - d) Increase the quantity of medium-large canopy tree planting within the setbacks to ameliorate the development and add amenity and screening to the site and adjoining the southern boundary. Street setback trees are to be evergreen and larger pot sizes being deep soil areas.
 - e) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the buildings.
 - f) Indicate the location of all basement structures relative to the landscape areas.
 - g) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
 - h) Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification.
 - i) Details of all fencing, privacy screening, arbors and the like – elevations and materials, impacting or visible to public domain areas.
 - j) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
 - k) Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
 - l) Indicate the location of all basement structures relative to the landscape areas.
 - m) Minimum tree size required to be 100L in accordance with DCP 2013. Feature trees and deep soil areas should contain larger pot sizes (200-400L).
 - n) Include additional canopy trees under-planted with densely foliated smaller trees along the O'Riordan Street setback to mitigate wind effects and provide enhanced amelioration of the development.
 - o) Within the public domain, locations of electrical pillar boxes (associated with the undergrounding of power) shall be carefully considered and co-ordinated with the electrical consultant to ensure that pillar boxes are not sited within the footpath.
- 27A. Prior to the issue of any construction certificate, all construction documentation including plans shall be updated to reflect the retention of the three trees, T 18, T19 and T 20 as outlined in the approved arborist report

28. The public domain landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. This amended plan supercedes the original landscape plan. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times.
29. An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.
- This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
- This plan shall incorporate and reference the construction environmental management plan and address site limitations.
30. A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated acid sulfate soils. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate.
31. An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
- This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.
32. It should be noted that a basement car park stormwater pump-out system will be only considered after all avenues to draw the property by gravity are exhausted. The basement car park stormwater pump-out system will not cater for (a) subsoil water (which are not allowed to intrude into the carpark) and (b) any stormwater that originates from a level that is above the top of the adjacent street kerb or, if no street kerb, the level of the existing ground at the property boundary at the road reserve.
33. In order to make satisfactory arrangements for the operation of the stormwater pump-out system, the system shall be designed and constructed to ensure the following are provided:

- a) A holding tank capable of storing the run-off from a 100 year ARI – 12 hour duration storm event allowing for pump failure.
 - b) Two pump system (on alternate basis) capable of emptying the holding tank at a rate equal to the lower of the permissible site discharge (PSD) rate; or the rate of inflow for the one hour, 5 year ARI storm event
 - c) An alarm system in case of pump failure
 - d) Submission of full hydraulic details and pump manufacturers specifications
 - e) Pump out system to be connected to the on-site infiltration system or a stilling sump and gravity line before discharge to the street drainage or, if no drainage, the gutter.
 - f) Plans and calculations are to be submitted and approved along with certification from the designer to indicate that the design complies with the above requirements, prior to the release of the Construction Certificate.
34. Stormwater plans shall to be submitted to Council or Principal Certifying Authority prior to the release of the Construction Certificate. The proposed stormwater drainage system shall be designed according to Council's current Guidelines for the Design of Stormwater Drainage Systems. The plans must be certified (by the appropriate practicing expert) that they have been "designed in accordance with Council's current Guidelines for the Design of Stormwater Drainage systems, and other current industry standards, codes and guidelines".
- The stormwater plans should be generally in accordance with the approved drawings prepared by Insync Services.
- a) Where problems occur between the providing of stormwater systems and landscaping, landscaping provisions shall prevail. In these circumstances large stormwater structures shall be placed under a proposed hard surface as long as it is not located within the building footprint. If this cannot be achieved than Council may, on representation, consider placement within the landscape footprint provided it does not cover greater than 50% of the landscape area and/or it is constructed so that the top of the structure is 1.2m below final surface levels.
 - b) Council requires drainage structures to be located adjacent to the building or boundary rather than in the middle of the landscape footprint.
 - c) All underground parking structures are to be "tanked" so that there is no intrusion of waters into the structure.
 - d) Council will send, if it deems necessary, the submitted stormwater plans to a stormwater consultant of its choosing, for a peer review. The applicant will pay for this review and abide by any of the findings. This peer review will generally only be required for major or difficult sites.
35. Prior to the issue of the Construction Certificate, a report is required from a practicing civil engineer (NPER) certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.
36. All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment prior to entering the public stormwater system. Details of the pollution control device shall be submitted to Principal Certifying Authority prior to the issuing of the Construction Certificate.

37. The proposed traffic movements and parking arrangements within and adjoining the development shall conform with the current versions of Council's off-street parking DCP; Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation unless otherwise stipulated by another condition of consent. All off street resident, disabled, visitor and commercial parking shall be provided in accordance with the approved plans, Australian Standards AS 2890.6 and Council requirements.
38. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:-
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and 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.
 - iii) As part of this development, two Ausgrid power poles along O'Riordan Street will need to be decommissioned and new light pole(s) and associated underground infrastructure shall be provided as specified by Ausgrid, RMS and any other affected service provider. The location of the new electrical pillars shall be confirmed with Council prior to the issue of the Construction Certificate.
 - iv) All utility services are to be undergrounded for the full frontage of the street frontages.
 - c) Any costs in the relocation, adjustment, provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

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

39. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit and Performance Bond of \$363,000.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
40. Plans and specifications for the management of waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. The approved Waste Management Plan and architectural plans shall be amended to meet the following requirements:
- a) To enable waste collection and loading in at the front of the site, the carriageway shall be widened for a clear length (excluding splays) of 12 metres, generally in accordance with the approved sketch received by Council on 4 October 2016. The required public domain landscape plan is to accommodate this requirement. Replacement planting may be required.
 - b) 240L bins proposed to be used for garbage and recycling shall be replaced with 360L bins to achieve the same waste storage capacity.

- c) The Waste Management Plan shall be amended to reflect the correct number of approved dwellings.
 - d) The rooms for the storage of garbage and recyclable materials shall be
 - i) Fully enclosed,
 - ii) Adequately ventilated,
 - iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor,
 - e) The floor within the garbage storage areas shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation, and
 - f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
41. Stormwater drainage works discharging from the site into a public system or public land require approval from Council under Section 68 of the Local Government Act. The extent of work must be determined by the Consent Authority prior to issue of a Construction Certificate. All works must be approved by Council prior to issue of a Construction Certificate.
- This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
42. 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.
43. The following requirements apply to telecommunication facilities in the building:
- a) Appropriate access and space within the plant area of the building shall be provided for telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
 - b) Appropriate ducting and cabling shall be provided for telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.
44. Prior to the issue of the construction certificate, the architectural plans shall be amended to include gas (where available) and water tap connections to each balcony.
- Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the development site which: –
- a) Acknowledges that:
 - i) The land is within a 25 ANEF contour;
 - ii) The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and

- b) Requires the Owner to maintain the noise attenuation work in accordance with the recommendations within the approved acoustic report; and
 - c) The terms of such positive covenant shall provide that it can only be varied by the City of Botany Bay.
45. Detailed mechanical ventilation system plans and specification prepared by a *professional practising engineer*, as defined by the Building Code of Australia, must be submitted to Principal certifying authority prior to the release of the Construction Certificate certifying compliance with AS/NZS 1668 *The Use of Mechanical Ventilation and Air Conditioning in Buildings*, Part 1-2002: *Fire and smoke control in multi-compartment buildings* and Part 2-2002: *Ventilation design for indoor air contamination control*. (Note: BCA has not yet adopted the 2002 Standards and still utilises the previous 1991 AS1668).
46. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and AS1668.2. Details to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
47. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.
- The measures required in the acoustical assessment report prepared by Acoustic Noise, dated 02/03/2015, Report reference number 150204 shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.
- The work detailed in the report includes:
- a) Appropriate acoustic glazing to stated windows and doors,
 - b) Detailed roof and ceiling construction,
 - c) Wall and ceiling corner details and,
 - d) External door specification,
 - e) Acoustically treated mechanical ventilation.
- Note:** In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).
48. Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:
- a) identify each item of plant and equipment;

- b) the following additional criteria adopted by City of Botany Bay Council:
- i) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
 - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.
 - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds L_{Aeq} 65dB(A) day time/night time.
 - iv) For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

- 49. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
- 50. 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.
- 51. Prior to issue of any Construction Certificate, a Dilapidation Report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a Practising Structural / Geotechnical Engineer and submitted to Council. The report shall include records and photographs of the adjoining properties that will be impacted by the development:
 - a) Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the all properties immediately adjoining the site;
 - b) In relation to Council's infrastructure, the report shall include at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure. The survey shall detail the physical conditions and identify any existing damage to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development.
 - c) Prior to commencement of the surveys, the applicant/ owner shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making any future claim regarding property damage. A copy of this communication shall be submitted to Council.

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- d) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.
- e) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities, including Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
- f) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of all works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners.

(Note: Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.)

- 52. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
- 53. The proposed development will result in substantial excavation that has the potential to affect adjoining buildings and proposed public infrastructure.
Prior to the issue of the Construction Certificate, the applicant shall:
 - a) seek independent advice from a Geotechnical Engineer on the impact of the proposed excavations on the adjoining properties;
 - b) detail what measures are to be taken to protect those properties from undermining during construction; and
 - c) provide Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties.
 All recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.
- 54. Prior to the issue of the Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority. Storage of Waste and recycling shall meet the following requirements.
The rooms for the storage of garbage and recyclable materials shall be:
 - a) Fully enclosed;
 - b) Adequately ventilated;
 - c) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - d) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.

- e) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
55. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be provided prior to the issue of the Construction Certificate.
56. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:-
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase.
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent.
 - i) Proposed protection for Council and adjoining properties.
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
 - l) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited.
 - m) Obtain Permits required under this consent.
57. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and the installation of solar power to external space lighting. Details are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

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

58. Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
59. The substation located on O'Riordan Street is required to 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 the substation is to be approved by Council's Landscape Architect prior to installation.
60. In order to ensure that tree T11 *Eucalyptus microcorys* (Tallowwood), T13 *Eucalyptus microcorys* (Tallowwood), and T15 *Eucalyptus microcorys* (Tallowwood) are retained and protected during construction, and their health and structural stability ensured, the following is required:
 - a) Engage the Consultant Arborist AQF Level 5 (Landscape Matrix) from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
 - b) All tree works and tree management shall be undertaken in accordance with the Arborist reports by Landscape Matrix (Issue D, 14th March 2015) and Supplementary Arboricultural Report dated 17 September 2015. For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
 - c) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
 - d) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
 - e) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
 - f) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
 - g) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
 - h) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.

- i) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
 - j) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
 - k) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
 - l) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
 - m) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
 - n) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
 - o) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
61. If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
62. The Applicant has permission to remove trees T1, T2, T3, T4, T5, T6, T7, T8, T9 and T10, T12, T14, T16 to T28 as identified by the Consultant Arborist in the reports by Landscape Matrix, dated 14th March 2015 and Supplementary Arboricultural Report dated 17 September 2015. **Note : Trees are not permitted to be removed until the Construction Certificate has been issued.**
63. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- a) A qualified Arborist with their own public liability insurance must be engaged.
 - b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
 - c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.
 - d) Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

64. Tree 29 (*Ailanthus altissima*), located within the neighboring property to the south will be affected by excavation. The Applicant is required to notify the adjoining property owner (143 O'Riordan Street) that the stability of Tree 29 will be undermined by construction works and that the tree should be removed, as identified in the Supplementary Arboricultural Report prepared by Landscape Matrix dated 17 September 2015. The tree is exempt from the Council TPO. The Applicant has consent to remove the tree at their own expense in accordance with the following:
- a) Owner's written consent is required prior to removal.
 - b) The tree is not permitted to be removed until the Construction Certificate has been issued.
 - c) A qualified Arborist with their own public liability insurance must be engaged.
 - d) Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.
65. Sampling and analysis of soil at the site for asbestos shall be undertaken and any exceedances managed and remediated in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 2013 and all relevant NSW EPA Guidelines. This assessment and management shall be completed prior to any disturbance of soil or excavation on the site. Details of sampling and analysis and the proposed management of any exceedances shall be provided to Council prior to the commencement of any development or work at the site, including excavation or disturbance of soil.
66. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.
These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
67. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
68. The applicant shall conduct all construction and related deliveries wholly on site or shall make a separate application to Council's Engineering Services Department for a "Work Zone" adjacent to the development site. This application should be submitted one (1) month prior to the planned commencement of building works on the development site. Application forms are available at Council's Customer Service Counter.
69. A Road Opening Occupancy Licence is required from the relevant Road Authorities (Council or RMS) for all works on existing public roads. The application for this licence must be accompanied by a Traffic Management / Control plans.

70. The construction of any works on Council's road reserve or other Council lands requires the applicant to make separate applications to Council's Customer Services Counter and gain approval (plus satisfying any Conditions Of Approval) prior to commencing construction. 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.
71. The use of any part of Council's road reserve or other Council lands must have prior approval of Council. For example, should the development require a building waste container(s) (building skip), then such container shall not be placed or left on a public road or road related area (eg footpath, nature strip, shoulder, road reserves, public carparks, service stations, etc) without the prior approval of Council's Engineering Services Section.
72. A Traffic Management Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with the requirements of current Australian Standard 1742.3 (Traffic Control Devices for Works on Roads) and current RMS Traffic Control at Work Sites manual. Any persons preparing such traffic control layout plans shall be RMS accredited.
73. Existing structures and or services on this and adjoining properties are not to be endangered during any excavation or construction work associated with the above project. The application is to provide details of any shoring, piling or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilize any adjacent structures.
74. 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.
75. At least forty-eight (48) hours prior to the commencement of, the applicant must inform Council, in writing, of:
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance.
76. 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.

77. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's lands /road reserve under Road Act 1993 and Local Government Act 1993:
- 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, footpaths, kerbs and gutters over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services.
 - 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
 - h) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
 - i) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area. Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s).
- Copies of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.
- Note: No works or occupancy shall be carried out in road reserve until permits have been granted from Council's engineers. 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.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

78. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 78A *The three trees which are retained shall be mulched and regularly irrigated by the Landscape Contractor at the commencement and ongoing duration of construction. This is due to the root systems have been severed/pruned by the piling rig.***
(Added DA-15/88/02)
- Reason – To ensure the ongoing health and protection of the retained trees on the site.***

79. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
80. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
81. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
82. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to any construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.

83. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
84. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
85. 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.
86. 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.
87. 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.
88. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
- 89.
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - c) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.

- d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - e) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - f) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
90. Care must be taken to protect Council's roads, including the made footway, kerbs, etc and where plant and vehicles enter the site. Protecting constructions shall be maintained in a state of good repair and condition throughout the course of construction and kept in a safe condition. The area must be safe for pedestrian traffic at all times. Any damage to Council's road reserve will be repaired and the full cost shall be borne by the applicant.
- 91.
- 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.
92. Council's footway is to be kept clean, tidy, washed and maintained at the applicant's expense.
93. 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.
94. During Construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times: -
- a) Approved Erosion and Sediment Control Plan;

- b) Approved Construction Traffic Management Plan;
 - c) Approved Construction Management Plan; and
 - d) Final Waste Management Plan.
95. 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.
96. 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.
97. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
98. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA *Environmental Noise Control Manual*.
99. 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.

100. 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.
101. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
102. During Construction and any associated deliveries activities, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
103. 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*.
 - a) Construction Noise
 - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm
 - ii) Saturday 08:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.

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

104. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas, inclusive of the street tree pits in O'Riordan Street and Haran Street. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

105. The public footpaths in O'Riordan Street and Haran Street shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
106. New street trees at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
107. Landscaping on the property and in the public domain shall be installed in accordance with the approved (stamped by Council Landscape Architect) landscape plans **referenced in Condition 2** ~~by Arcadia Landscape Architecture, Plans 100 to 208 (Issue 4 dated November 2015)~~ prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
(Amended - DA-15/88/02).
108. The applicant is to submit payment of a Street Tree Maintenance Bond of \$4,070.00. The duration of the Bond shall be limited to a period of 12 months after final inspection of new street trees by Council. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
109. The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgment of a bond in the sum of \$10,000.00 after practical completion of landscape works within all public domain areas, to ensure establishment and maintenance of the landscaping in accordance with the approved plans until handover to Council. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years. The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan. The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.
110. 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.

111. The applicant must, at no cost or expense to Council:
- Upgraded the public domain and Council footpath area with new paving installed by the applicant and at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate; and
 - Upgraded the public domain and Council kerb and gutter with new kerb and gutter installed by the applicant and at the applicant's expense.
 - Provide new kerb and gutter in Haran Street and half road reconstruction. The road pavement is to be designed to traffic loading of N(E.S.A) 1x106.
112. An assessment of the status of asbestos in soil at the site shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
- The validation report shall provide a notice of completion of any required remediation works identified during the additional assessment of asbestos in soils at the site required prior to the issue of the construction certificate and commencement of works on the site, and include a clear statement on the suitability of the site for residential use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.
113. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site.

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- The 104 car parking spaces shall be made available to residents and visitors at all times, with such spaces being clearly marked and signposted prior to issue of any Occupation Certificate;***
- Allocation of the car parking shall be as follows:***
 - 7 x Studio Apartments shall be allocated 5 car parking spaces***
 - 20 x 1 bedroom apartments shall be allocated 12 car spaces***
 - 70 x 2 bedroom apartments shall be allocated 63 car spaces***
 - 2 x 3 bedroom apartments shall be allocated 3 car spaces.***
 - Visitor Space shall be allocated 20 spaces***
 - Service vehicle shall be allocated with 1 space, with an additional service bay being shared with a visitor space.***

(Added - DA-15/88/02).

114. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.

115. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
116. Prior to the issue of Occupation Certificate, the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied:-
- a) Inspection reports (formwork and final) for the works on public domain and road reserve area, and the on-site detention system shall be obtained from Council's engineer; and
 - b) A copy of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the civil works on public domain and road reserve area. The plan shall be prepared by a registered surveyor.
117. A certificate from a Chartered Professional Engineer/Registered Surveyor must be obtained and submitted to Council verifying that the on-site detention system as constructed will function hydraulically in accordance with the approved design plans.
118. A certificate from a Registered Engineer (NPER) must be lodged with Council verifying that the structures associated with the on-site detention systems have been constructed to withstand all loads likely to be imposed on them during their lifetime.
119. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Stormwater Detention / Infiltration System. Refer to Appendix B of Council's Stormwater Management Technical Guidelines for suggested wording.
120. Prior to the issue of the Occupation Certificate, a positive covenant shall be registered on the Title of the development site which: –
- a) Acknowledges that:
 - i) The land is within a 25 ANEF contour;
 - ii) The noise attenuation work does not extend to or include outdoor areas such as balconies, terraces and the like; and
 - b) Requires the Owner to maintain the noise attenuation work in accordance with the recommendations within the approved acoustic report; and
 - c) The terms of such positive covenant shall provide that it can only be varied by the City of Botany Bay.
121. Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused by the site works undertaken (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 the issue of Final Occupation Certificate.
122. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the approved acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

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123. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
124. All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.
125. Prior to the issue of any Occupation Certificate, all associated works on Council's land must be completed and approved by Council.
126. All vehicular crossings are to be constructed. Prior to the issuing of an Occupation Certificate (or the completion of work or the use of the building), the applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted. The footway area must be restored by turfing.
127. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
 - a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - b) The development as built stands within the subject land.
128. Prior to the issue of the Occupation Certificate, street numbers shall be clearly displayed on the residential flat building with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
129. Prior to the issue of the Occupation Certificate, all letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.
130. A copy of any Building Management Statement and By-Laws shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 15/88 and include:
 - a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 15/88;
 - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 15/88;
 - c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste storage, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;

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- d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are available for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;
 - e) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
 - f) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
 - g) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
 - h) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
 - i) 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;
 - j) CCTV surveillance of all public areas within the development site.
- 131.
- a) Residents of this development are not eligible to participate in Council's on-street resident parking scheme. Before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised of this by the owner of the building.
 - b) Prior to the issue of the Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building;
 - c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
132. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
133. Written evidence is required to be provided to Council prior to the issue of the Final Occupation Certificate from all service providers such as Sydney Water, Energy Australia and their telecommunication provider, confirming that adequate infrastructure can and/or has been provided to the development.


134. The car parking spaces within the basement shall be made available to occupants and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate. The Allocation of the car parking shall be as indicated on the approved plans. Ten of the adaptable dwellings shall be provided with the accessible parking spaces marked within the Basement 1 Floor Plan.
135. 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. Condition Nos. 112-142 are pre-conditions prior to the issue of the Occupation Certificate.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

136. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
137. Ongoing maintenance of the road verges, footpaths and nature strips in O'Riordan and Haran Streets shall be undertaken by the owner/body corporate/strata corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
138. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 139.
- a) All waste and recycling containers shall be stored in the designated waste storage areas within the building. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.
 - b) No waste or waste containers shall be placed on the public way (including: footpaths, roadways and reserved) at any time.
- 140.
- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
 - b) The adaptable apartments approved under this development consent are to remain unaltered at all times; and
 - c) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces shall be monitored by CCTV cameras at all times;
 - d) The final Waste Management Plan shall be complied with at all times during the on-going use of the site / premises.

141. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
142. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
143. Any air conditioning units shall comply with the following requirements:
- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.
144. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 -1978 Intruder alarm systems*.
145. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
- The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
- For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
146. The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997*. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
147. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

148. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 15/88 dated as 9 June 2015 **and Section 4.55 Modification application dated 21 November 2017** and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.
(Amended DA-15/88/02)



Certified by Pascal Van De Walle
Coordinator, Development Assessment

Bayside Local Planning Panel

12/03/2019

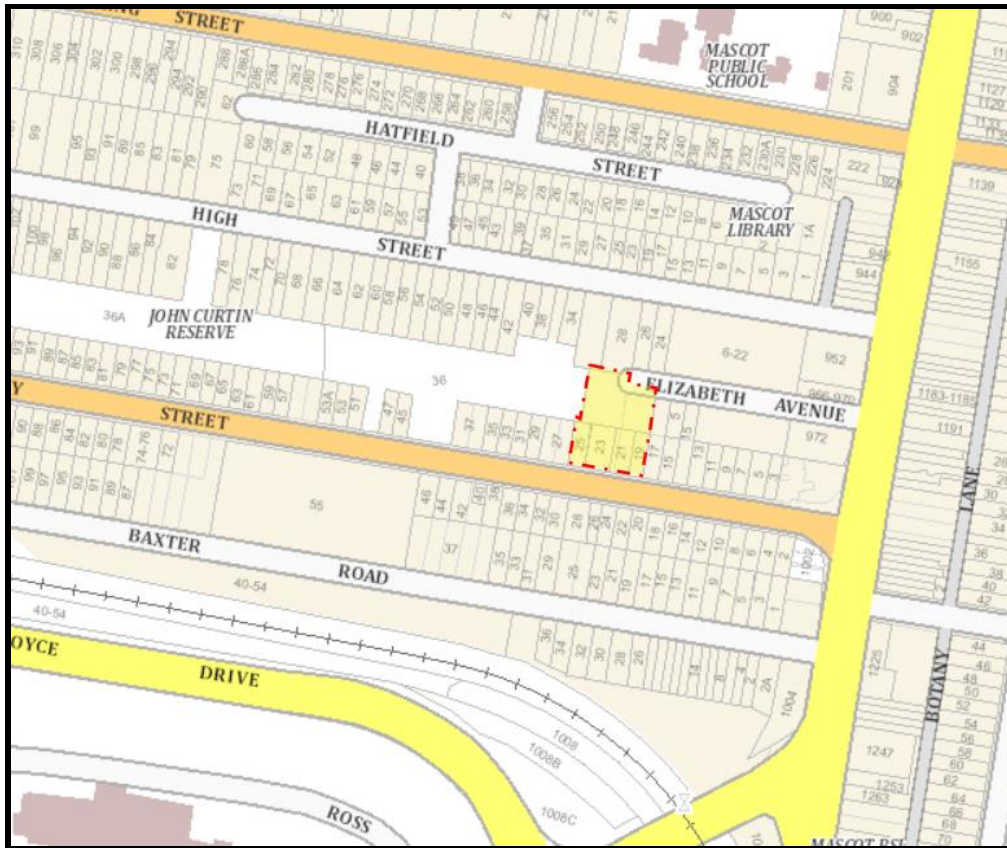
Item No	6.4
Application Type	Development Application
Application No	SF19/386
Lodgement Date	08/08/2018
Property	DA-2016/165/02 - 19-25 Robey Street, Mascot
Ward	Mascot
Owner	Robey Mascot Pty Limited
Applicant	Inca Property Group C/- John Chudleigh
Proposal	Section 4.55(1A) Application to modify Development Consent No. 2016/165 to relocate the travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Bayside Local Planning Panel APPROVES Section 4.55(1A) Application to modify Development Consent No. 2016/165 as follows:

- 1 that Condition No. 1 be modified to reflect the proposed plans that are subject to this application;
 - 2 that Condition No. 33 be modified to change the flood proofing level;
 - 3 that Condition No. 95 b) be added to maintain safety for pedestrians due to the revised location of the travel path; and
 - 4 that Condition No. 107 be amended to reflect Council's Development Engineers' requirements.
-

Location Plan



Attachments

- 1 Supplementary Planning Report [↓](#)
- 2 Previous Planning Assessment Report [↓](#)
- 3 Statement of Environmental Effects [↓](#)
- 4 Architectural Plan [↓](#)
- 5 Ausgrid Correspondence 1 [↓](#)
- 6 Ausgrid Correspondence 2 [↓](#)

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

APPLICATION DETAILS

Application Number:	DA-2016/165/02
Date of Receipt:	8 August 2018
Property:	19-25 Robey Street, Mascot
Owner:	Robey Mascot Pty Limited
Applicant:	Inca Property Group C/- John Chudleigh
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2016/165 to relocate the travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2
Recommendation:	Approval
No. of submissions:	Nil
Author:	Sumeet Badhesha – Development Assessment Planner
Date of Report:	1 March 2019

KEY ISSUES

The modification application was referred to the Bayside Planning Panel for determination on 12 February 2019. The Panel resolved as follows;

1. *That the Bayside Local Planning Panel DEFERS the Section 4.55(1A) Application to modify Development Consent No. 16/165 to relocate travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 at 19-25 Robey Street, Mascot, to allow submission to the Panel of the appropriate correspondence from Ausgrid.*

The applicant submitted information as stated in (1) above to Council for assessment on 18 February 2019.

RECOMMENDATION

That Development Application No 2016/165/02, being a Section 4.55(1A) application to amend Development Consent Number 2016/165, relocate the travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 be **APPROVED** and the consent amended in the following manner:

By Amending conditions 1, 33, 95 b) and 107 to read as follows:

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

Plans	Author	Date Received
Cover Page, Drawing No. DA001, Rev A dated 27 February 2018	DKO Architecture	1 March 2018
Site Analysis Plan, Drawing No. DA101, Rev A dated 27 February 2018		1 March 2018
Site Plan, Drawing No. DA102, Rev A dated 27 February 2018		1 March 2018
Demolition Plan, Drawing No. DA103, Rev A dated 27 February 2018		1 March 2018
Ground Floor Plan, Drawing No. DA201, Rev A dated 27 February 2018 Ground Floor Plan, Drawing No. DA201, Rev E dated 12 July 2018		1 March 2018 8 August 2018
Level 1 Plan, Drawing No. DA202, Rev A dated 27 February 2018		1 March 2018
Level 2 Plan, Drawing No. DA203, Rev A dated 27 February 2018		1 March 2018
Level 3 Plan, Drawing No. DA204, Rev A dated 27 February 2018		1 March 2018
Level 4 Plan, Drawing No. DA205, Rev A dated 27 February 2018		1 March 2018
Roof Terrace, Drawing No. DA206, Rev A dated 27 February 2018		1 March 2018
Basement 1 Plan, Drawing No. DA207, Rev A dated 27 February 2018		1 March 2018
Basement 2 Plan, Drawing No. DA208, Rev A dated 27 February 2018		1 March 2018
Adaptable Units, Drawing No. DA209, Rev A dated 27 February 2018		1 March 2018
South Elevation, Drawing No. DA301, Rev A dated 27 February 2018 South Elevation, Drawing No. DA301, Rev D.1 dated 25 February 2019		1 March 2018 26 February 2019
North Elevation, Drawing No. DA302, Rev A dated 27 February 2018		1 March 2018
East Elevation, Drawing No. DA303, Rev A dated 27 February 2018		1 March 2018
West Elevation, Drawing No. DA304, Rev A dated 27 February 2018		1 March 2018
Section A, Drawing No. DA305, Rev A dated 27 February 2018		1 March 2018
Section B, Drawing No. DA306, Rev A dated 27 February 2018		1 March 2018
Section C, Drawing No. DA307, Rev A dated 27 February 2018		1 March 2018
Streetscape, Drawing No. DA308, Rev A dated 27 February 2018		1 March 2018

Landscape Concept Ground Floor Plan, DWG No. LSDA-201, Issue C dated 7 February 2018	Greenplan	1 March 2018
Landscape Concept Roof Floor Plan DWG No. LSDA-202, Issue C dated 7 February 2018		1 March 2018
Landscape Planting Ground Floor DWG No. LSDA-301, Issue A, dated 7 February 2018		1 March 2018
Landscape Planting Roof Floor, DWG No. LSDA-302, Issue A dated 7 February 2018		1 March 2018
Landscape Details Planting, DWG No. LSDA-401, Issue A, dated 7 February 2018		1 March 2018
Landscape Details Typical Construction, DWG No. LSDA-404, Issue A dated 7 February 2018		1 March 2018
Cover Sheet, Drawing No. SW100, Revision A dated 26 February 2018	SCG Engineering	1 March 2018
Stormwater Concept Design – Basement 2 Plan, Drawing No. SW200, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Ground Floor Plan, Drawing No. SW201, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Roof Plan, Drawing No. SW202, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 1 of 2, Drawing No. SW300, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 2 of 2, Drawing No. SW301, Issue A, dated 26 February 2018		1 March 2018
Erosion & Sediment Control – Plan & Details, Drawing No. SW400 dated 26 February 2018		1 March 2018
Stormwater Concept Design – Music Catchment Plan, Drawing No. SW500, Issue A, dated 26 February 2018		1 March 2018
Survey Plan (Ref: 3558), dated 7 June 2016	Cedar Surveying Services Pty Ltd	16 September 2016
Ground Floor Swept Paths – 6.4m SRV, Drawing No TX.01 Rev C, dated 23 February 2018	Traffix Traffic and Transport Planners	1 March 2018
Ground Floor Swept Paths – B85 & B99 Drawing No TX.02 Rev C, dated 23 February 2018		1 March 2018
Basement Level 1 B99 Circulation & Passing, Drawing No. TX.03, Rev C dated 23 February 2018		1 March 2018
Basement Level 2 B99 Circulation & Passing, Drawing No. TX.04, Rev B dated 18 January 2018		1 March 2018
Ramp Profile, Drawing No. TX.05, Rev C dated 23 February 2018		1 March 2018

Reference Document(s)	Author	Date
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		Received
Amended Statement of Environmental Effects	Chapman Planning Pty Ltd	1 March 2018
Amended Clause 4.6 variation to the height development standard dated 27 February 2018	Chapman Planning Pty Ltd	1 March 2018
Statement of Compliance: Access for people with a disability (Ref: 216196), dated 26 February 2018	Accessible Building Solutions	1 March 2018
SEPP 65 Report dated 26 February 2018	DKO Architecture	1 March 2018
Traffic Impact Assessment Rev B- Ref: 17.607v02, dated 23 February 2018	Traffix Traffic and Transport Planners	1 March 2018
BASIX Certificate No. 902705M_02, dated 25 February 2018	Senica Consultancy Group Pty Ltd	1 March 2018
NATHERS Certificates with various dates	Senica Consultancy Group Pty Ltd	1 March 2018
Acoustic Report- Ref: 20161114.1/1104A/R1/RL (Rev 1), dated 11 April 2017;	Acoustic Logic	21 April 2017
Arboricultural Assessment Report (Ref: R 17/11), dated 24 August 2016.	Angophora Consulting Arborist	16 September 2016
Arboricultural Assessment Report - Tree Impact Statement & Root Investigation dated 12 April 2017;	Naturally Trees	21 April 2017
BCA Compliance Assessment Report No. 18/002, dated 23 February 2018	Paul Aramini Consulting Pty Ltd	1 March 2018
Waste Management Plan 2018/02034 dated 22 February 2018	Senica Consultancy Group	1 March 2018
Stage 1 Desktop Environmental Site Assessment (Ref: E29461KHrpt dated 20 July 2016.	Environmental Investigation Services (EIS)	16 September 2016
Stage 2 Environmental Site Assessment (Ref: E29461KHrpt2-interim) dated 16 September 2016;	Environmental Investigation Services (EIS)	16 September 2016
Geotechnical Investigation- Ref: 29461ZRrpt dated 20 July 2016;	JK Geotechnics	16 September 2016

(Modified via DA-2016/165/02)

33. Prior to the issue of the construction certificate, details shall be provided certifying that the proposed substation chamber is flood proofed/protected up to a level of at least RL **6.50m** **5.99m** AHD.

Note: The intent of this condition is not for the substation to be raised and other means can be explored to the satisfaction of Ausgrid to flood proof the substation.

(Modified via DA-2016/165/02)

95. The following requirements are to be met:

- a) Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
- b) ***Prior to the issue of any Occupation Certificate, a convex mirror shall be installed near the top of the basement ramp, in a position that ensures that vehicles have adequate sight lines both entering and exiting the basement structure at the top of this ramp, to the satisfaction of the Principal Certifier. Additionally, electronic warning signage shall be provided and clearly displayed around the exit of the service bay to warn occupants of a reversing vehicle.***

(Modified by DA-2016/165/02)

- 107 ***Prior to the issue of any Occupation Certificate, the approved Flood Risk Management Plan and Flood Evacuation Plan shall be permanently fixed and displayed in a prominent location that can be accessed by all residents/occupiers on each level of the development, to the satisfaction of the Principal Certifier. Should the flood risk management report require a flood evacuation plan. The flood evacuation plan shall be located and fixed in a suitable location that can be accessed by all residents/occupiers to the satisfaction of the principal certifier.***

(Modified via DA-2016/165/02)

BACKGROUND

Development Application No. 16/165 was approved by the Sydney Eastern City Planning Panel on 17 April 2018 for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.

PROPOSAL

Modification No. 1: Reconfiguration of retail floor area, with retail unit 1 reduced in floor area by 5sqm, and retail unit 2 increased in floor area by 5sqm

The proposed modification seeks to reduce the size of retail unit 1 from 91sqm down to 86sqm, and increase the size of retail unit from 102sqm to 107sqm. The proposed reconfiguration of both retail units does not change the overall size of retail space provided for the development and therefore does not impact on the S7.11 Contributions or car parking as was originally approved.

Proposed modification is considered acceptable.

Modification No. 2: Reconfiguration of bicycle parking

The proposed modification seeks to relocate the bicycle parking from along retail unit 2 to along the landscape strip fronting residential apartment 2B. It is acknowledged the bicycle parking will be located adjacent to the bedroom however there is a proposed landscape strip which provides a buffer. The proposed modification is considered acceptable.

Modification No. 3: Relocation of substation chamber to align with front boundary as required through correspondence with Ausgrid

The modification application seeks consent to relocate the substation chamber up to the front boundary of the site as per the requirements of Ausgrid. Correspondence from Ausgrid has been submitted by the applicant which stipulates the following:

Extract 1:

5) CIVIL Comments

a) the engineers letter needs to refer to the requirements of Ausgrid NS113, and the FRL 180/180/180 (not just 180)

b) The standard layout drawing already has the transformer 2 metres back from the open air which is one metre over the optimal location in respect to ventilation. This design pushes the transformer back into the building a further 2.9 metres and so is not acceptable.

I.E the centre line position of the Transformer must be located no more than 5.2m from the edge of the roadway kerb, Refer to NS113 Section 8.4.3.3b)

Extract 2:

Section 6 from Ausgrid's Network Engineering Guideline (NEG-SD14) states that "*chamber should be incorporated in the overall development flood mitigation strategy at an elevated level above the 1% AEP level*".

However, when the single transformer standard layout drawings are used (as is the case for this project), the elevated substation chamber floor level will result in the lifting transformers and then pushing them back into the building to achieve transformer access.

This is unacceptable as it results in adverse ventilation issues that will impact on the performance (output rating), reliability (reduced asset life) of the transformer overall.

It is noted the substation chamber does not achieve the maximum 5.2m setback from the edge of the roadway kerb and can only be located 6m from the kerb. Compliance with the 5.2m setback cannot be achieved as the substation chamber is already proposed to be located up to the site boundary and in order to achieve a 5.2m setback the substation chamber would be required to encroach onto Council land. Building encroachment onto Council land will not be supported. Therefore based on the limited opportunity to achieve a 5.2m setback, a 6m setback is considered appropriate as the substation chamber remains wholly within the site boundary and allows for adequate ventilation. Further, the substation chamber is appropriately screened utilising materials and colours which are in keeping with the development and the streetscape.

The modification application also seeks consent to delete condition 33. This was assessed by Council's Development Engineer and entire deletion of the condition is not supported as sufficient justification for the removal of the condition is not provided. The condition does not require the substation to be raised but requires the substation to be flood proofed up to a level of 5.99m AHD. The condition is modified to avoid confusion and reinforce the requirement of flood proofing, and not raising of the substation.

Modification No. 4: Relocation of egress travel path from eastern edge of vehicular crossing to the western edge, adjacent to the building

This modification is supported by Council's Development Engineer subject to a condition requiring suitable signage to avoid pedestrian and service vehicle conflict, due to the pedestrian footpath running along the loading bay.

Modification No. 5: Minor reconfiguration of waste storage area behind retail unit 1.

The proposed modification seeks to make internal changes to the waste storage area located behind retail unit 1. The changes to the waste storage are minor in nature and limited to the internal area of the rooms. The proposed modification is consideration acceptable.

Modification No. 6: New plant room to be located behind substation chamber adjacent to the western wall of retail unit 2.

The proposed modification seeks to add a new plant room behind the substation chamber. The plant room is located behind the substation chamber therefore is not visible from the street. There is no change in gross floor area for the development as the plant room is excluded from the calculation of the gross floor area.

Modification No. 7: Amendment to the ramp entry to ground floor residential units within the western side setback, with new wheelchair lift at the front boundary providing access to the retail units.

The proposed modification maintains equitable access to and from the site, as was originally approved, and is considered acceptable.

Modifications to Conditions

The following conditions are proposed to be amended:

- Condition No. 1 to reflect the design changes listed above;
- Condition No. 33 is modified;
- Condition No. 95 b) is added to maintain safety for pedestrians due to the revised location of the travel path; and
- Condition No. 107 is updated to reflect the requirements of Council's Development Engineer in relation to the display of the originally approved Flood Risk Management Plan and Flood Evacuation Plan.

SITE LOCATION AND CONTEXT

The subject site is legally known as 19-25 Robey Street and 5, 5A and 5B Elizabeth Avenue, Mascot. The site comprises seven (7) parcels of land described as Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264.

The site is located on the northern side of Robey Street, between Botany Road to the east and O'Riordan Street to the west, and the southern side of Elizabeth Avenue. Botany Road is approximately 130 metres to the east, containing the Mascot Town Centre while Sydney Kingsford Smith Airport is a short distance to the south-west of the site. Mascot train station is approximately 1.2Km to the north-west of the site, with a bus interchange located within 200 metres of the site along Botany Road. John Curtin Reserve adjoins the site to the north. The site location is illustrated in **Figure 1**.

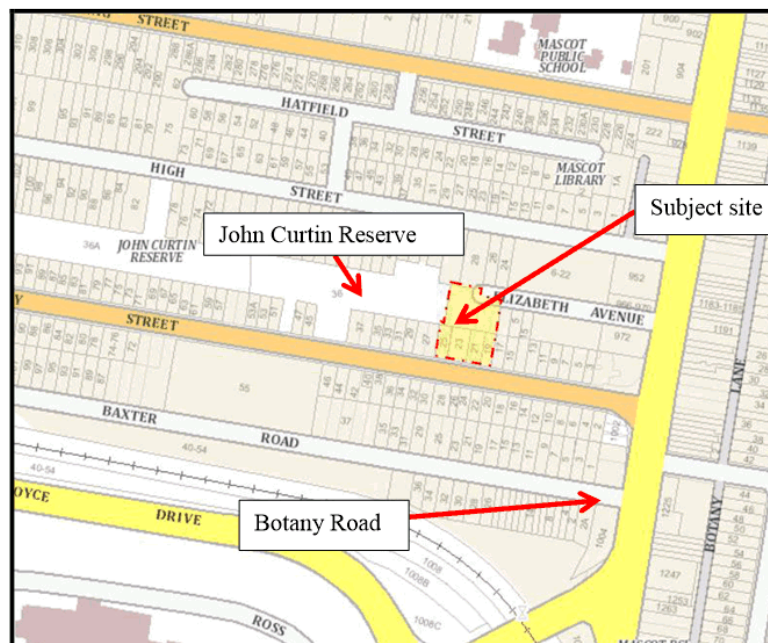


Figure 1: Locality Plan (Source: SIX Maps)

The site has a total area of 2,590m² with a 47 metre street frontage to Robey Street and two street frontages to Elizabeth Avenue of 6.6 metres and 18.3 metre frontage. The side boundaries comprise 53.8 metres along the eastern boundary and 60.3 metre along the western boundary. The rear boundary (stepped) to Elizabeth Avenue is 44.2 metres long. The site is relatively flat, with a 1.5 metre fall across the site from north to south.

The site comprises a generally regular shaped parcel of land, with the two street frontages to Robey Street and Elizabeth Avenue. There are numerous vehicle crossings into the site.

along Robey Street, while there is also existing vehicle access to the Elizabeth Avenue properties from the cul-de-sac in Elizabeth Avenue.

The site is currently vacant and all structures on the site have been demolished for construction of the approved development.



Figure 1: Robey Street Frontage



Figure 2: Looking towards adjoining development under construction at 27-29 Robey Street, Mascot



Figure 3: Looking towards Elizabeth Avenue frontage

The surrounding area includes a mix of residential, commercial and open space uses. Land to the north is occupied by single and two (2) storey detached dwelling houses with frontages to High Street. John Curtin Reserve, an area of passive public open space, is located adjoining the site to the north-west and links High Street with Robey Street to the west of the site. A three (3) storey residential flat building is located to the north-east of the site along High Street while the Mascot Town Centre is located further to the east along Botany Road.

An 8 storey serviced apartments building is currently nearing completion to the west at 62-66 Robey Street on the southern side of Robey Street. A mixed use building at the corner of Robey Street and Botany Road has also recently been constructed, which comprises five storeys and a maximum height of 17.99 metres. A five (5) storey mixed use building has been approved on the adjoining site to the west and is currently under construction, known as No 27-29 Robey Street, with a gross floor area of 1,526.94m² and a maximum height of 16.16 metres.

STATUTORY CONSIDERATIONS

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

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

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:”

- a) *It is satisfied that the proposed modification is of minimal environmental impact, and***

The Section 4.55(1A) modification application relates to modifications to the ground floor and conditions, and as such, the modifications will result in substantially the same development as approved under DA-16/165. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to modifications to the ground floor, therefore the modification application is substantially the same development to which consent was originally granted.

- c) *It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, due to the nature of the modifications proposed the application was not required to be notified.

- d) *It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

No submissions were received.

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

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

The following Environmental Planning Instruments are relevant to this application:

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the original development application.

Development Application No. 16/165 was approved as integrated development as the proposal involves a temporary construction dewatering activity. General Terms of Approval were placed in the consent relating to the temporary construction dewatering activity. The subject application does not change the depth of excavation required or the envelope of the basement levels approved therefore the subject application is not integrated development and does not need to be referred to Water NSW.

State Environmental Planning Policy (Infrastructure) 2007

Due to the nature of the modifications proposed, the proposal remains consistent with the Infrastructure SEPP.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was not required to provide a revised BASIX Certificate as the proposed changes do not modify any windows or opening or thermal comfort as originally approved.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

Consideration of SEPP No. 55 was carried out within the assessment of DA-16/165. Therefore SEPP No. 55 does not need to be assessed as part of this proposal.

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

The provisions of State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Building' have been considered in the assessment of the Development Application. Due to the proposed modifications being predominately encased within the approved built form approved under DA-16/165, the development application was not required to be presented to the Design Review Panel.

The building will continue to be consistent with the approved design that was originally assessed against SEPP 65 and the Apartment Design Guide.

Botany Bay Local Environmental Plan 2013 (BBLEP)

The Section 4.55(1A) modification application relates to various minor modifications to which there is no section within the Botany Bay Local Environmental Plan 2013 that is of relevance as part of this assessment. The previous conclusions that were approved in the parent DA have not been altered as part of this application. The proposal will continue to be consistent with the objectives of the BBLEP 2013.

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

There are no current Draft EPIs applicable to this development.

S.4.15(1)(a)(iii) - Provisions of any Development Control PlanBotany Bay Development Control Plan (BBDCP) 2013

The Section 4.55(1A) modification application relates to minor modifications to which there is no section within the Botany Bay Development Control Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

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

The proposal does not alter the conclusions that were resolved and approved within DA-16/165.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The proposed changes are not considered to be substantial and no significant planning issues are raised that would warrant the refusal of the proposed development.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was not required to be notified.

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.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-16/165/02
Date of Receipt:	8 August 2018
Property:	19-25 Robey Street, Mascot
Owners:	Robey Mascot Pty Limited
Applicant:	Inca Property Group C/- John Chudleigh
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2016/165 to relocate the travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2
Recommendation:	Approval, subject to recommended conditions of consent
Value:	N/A
No. of submissions:	Nil
Author:	Sumeet Badhesha, Development Assessment Planner
Date of Report:	14 January 2018

Key Issues

Bayside Council received Modification Application No. 16/165/02 on 8 August 2018 seeking consent to modify Development Consent No. 2016/165 to relocate the travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 at 19-25 Robey Street, Mascot.

The proposed modification seeks consent to relocate the substation chamber up to the front boundary of the site as per the requirements of Ausgrid. The matters regarding compliance with Ausgrid requirements and streetscape impacts are discussed below within this report.

The proposed modifications are supported with the exception of deletion of Condition 33 as sufficient justification for the removal of the condition is not provided. The condition does not require the substation to be raised but requires the substation to be flood proofed up to a level of 5.99m AHD.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, except for the mailroom relocation.

Recommendation

That the Bayside Local Planning Panel approve Section 4.55(1A) Application to modify Development Consent No. 16/165 to relocate travel path, reconfigure waste storage area, amendment to ramp entry to ground floor residential units, relocation of plant room, reconfiguration of bicycle parking, relocation of substation chamber and reconfiguration of retail units 1 and 2 at 19-25 Robey Street, Mascot, as follows:

1. That Condition No. 1 be modified to reflect the proposed plans that are subject to this application;
2. That Condition No. 33 be modified;
3. That Condition No. 95 b) be added to maintain safety for pedestrians due to the revised location of the travel path; and
4. That Condition No. 107 be updated to reflect Council's Development Engineers' requirements.

Background

History

Development Application No. 16/165 was approved by the Sydney Eastern City Planning Panel on 17 April 2018 for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.

Site Description

The subject site is legally known as 19-25 Robey Street and 5, 5A and 5B Elizabeth Avenue, Mascot. The site comprises seven (7) parcels of land described as Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264.

The site is located on the northern side of Robey Street, between Botany Road to the east and O'Riordan Street to the west, and the southern side of Elizabeth Avenue. Botany Road is approximately 130 metres to the east, containing the Mascot Town Centre while Sydney Kingsford Smith Airport is a short distance to the south-west of the site. Mascot train station is approximately 1.2Km to the north-west of the site, with a bus interchange located within 200 metres of the site along Botany Road. John Curtin Reserve adjoins the site to the north. The site location is illustrated in **Figure 1**.

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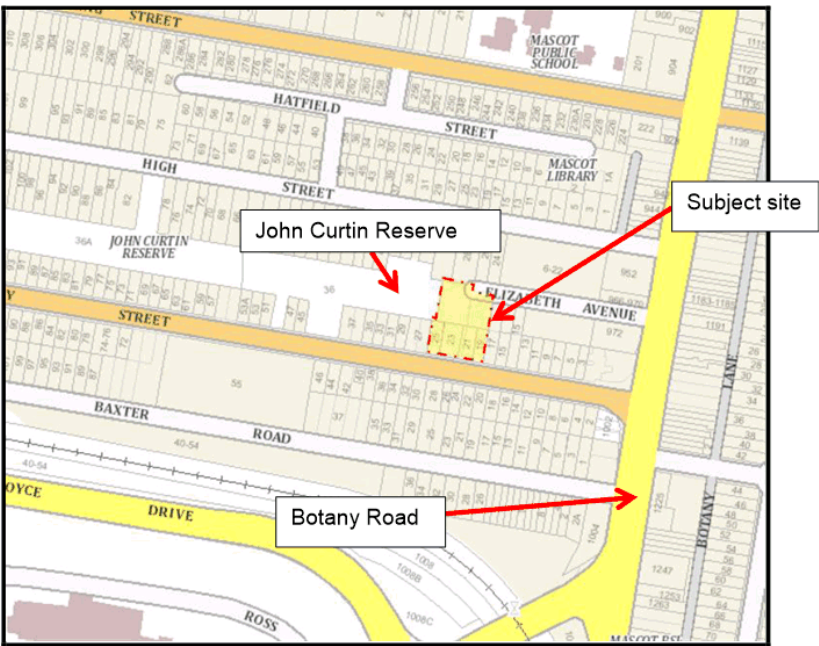


Figure 1: Locality Plan (Source: SIX Maps)

The site has a total area of 2,590m² with a 47 metre street frontage to Robey Street and two street frontages to Elizabeth Avenue of 6.6 metres and 18.3 metre frontage. The side boundaries comprise 53.8 metres along the eastern boundary and 60.3 metre along the western boundary. The rear boundary (stepped) to Elizabeth Avenue is 44.2 metres long. The site is relatively flat, with a 1.5 metre fall across the site from north to south

The site comprises a generally regular shaped parcel of land, with the two street frontages to Robey Street and Elizabeth Avenue. There are numerous vehicle crossings into the site along Robey Street, while there is also existing vehicle access to the Elizabeth Avenue properties from the cul-de-sac in Elizabeth Avenue.

The site is currently vacant and all structures on the site have been demolished for construction of the approved development.



Figure 1: Robey Street Frontage



Figure 2: Looking towards adjoining development under construction at 27-29 Robey Street, Mascot

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Figure 3: Looking towards Elizabeth Avenue frontage

The surrounding area includes a mix of residential, commercial and open space uses. Land to the north is occupied by single and two (2) storey detached dwelling houses with frontages to High Street. John Curtin Reserve, an area of passive public open space, is located adjoining the site to the north-west and links High Street with Robey Street to the west of the site. A three (3) storey residential flat building is located to the north-east of the site along High Street while the Mascot Town Centre is located further to the east along Botany Road.

An 8 storey serviced apartments building is currently nearing completion to the west at 62-66 Robey Street on the southern side of Robey Street. A mixed use building at the corner of Robey Street and Botany Road has also recently been constructed, which comprises five storeys and a maximum height of 17.99 metres. A five (5) storey mixed use building has been approved on the adjoining site to the west and is currently under construction, known as No 27-29 Robey Street, with a gross floor area of 1,526.94m² and a maximum height of 16.16 metres.

Description and Assessment of the Proposed 4.55(1A) Modifications

Modification No. 1: Reconfiguration of retail floor area, with retail unit 1 reduced in floor area by 5sqm, and retail unit 2 increased in floor area by 5sqm

The proposed modification seeks to reduce the size of retail unit 1 from 91sqm down to 86sqm, and increase the size of retail unit from 102sqm to 107sqm. The proposed reconfiguration of both retail units does not change the overall size of retail space provided for the development and therefore does not impact on the S7.11 Contributions or car parking as was originally approved.

Proposed modification is considered acceptable.

Modification No. 2: Reconfiguration of bicycle parking

The proposed modification seeks to relocate the bicycle parking from along retail unit 2 to along the landscape strip fronting residential apartment 2B. It is acknowledged the bicycle

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parking will be located adjacent to the bedroom however there is a proposed landscape strip which provides a buffer. The proposed modification is considered acceptable.

Modification No. 3: Relocation of substation chamber to align with front boundary as required through correspondence with Ausgrid

The modification application seeks consent to relocate the substation chamber up to the front boundary of the site as per the requirements of Ausgrid. Correspondence from Ausgrid has been submitted by the applicant which stipulates the following:

Extract 1:

5) CIVIL Comments

a) the engineers letter needs to refer to the the requirements of Ausgrid NS113, and the FRL 180/180/180 (not just 180)

b) The standard layout drawing already has the transformer 2 metres back from the open air which is one metre over the optimal location in respect to ventilation. This design pushes the transformer back into the building a further 2.9 metres and so is not acceptable.

I.E the centre line position of the Transformer must be located no more than 5.2m from the edge of the roadway kerb. Refer to NS113 Section 8.4.3.3b)

Extract 2:

Section 6 from Ausgrid's Network Engineering Guideline (NEG-SD14) states that "chamber should be incorporated in the overall development flood mitigation strategy at an elevated level above the 1% AEP level".

However, when the single transformer standard layout drawings are used (as is the case for this project), the elevated substation chamber floor level will result in the lifting transformers and then pushing them back into the building to achieve transformer access.

This is unacceptable as it results in adverse ventilation issues that will impact on the performance (output rating), reliability (reduced asset life) of the transformer overall.

It is noted the substation chamber does not achieve the maximum 5.2m setback from the edge of the roadway kerb and can only be located 6m from the kerb. Compliance with the 5.2m setback cannot be achieved as the substation chamber is already proposed to be located up to the site boundary and in order to achieve a 5.2m setback the substation chamber would be required to encroach onto Council land. Building encroachment onto Council land will not be supported. Therefore based on the limited opportunity to achieve a 5.2m setback, a 6m setback is considered appropriate as the substation chamber remains wholly within the site boundary and allows for adequate ventilation. Further, the substation chamber is appropriately screened utilising materials and colours which are in keeping with the development and the streetscape.

The modification application also seeks consent to delete condition 33. This was assessed by Council's Development Engineer and entire deletion of the condition is not supported as sufficient justification for the removal of the condition is not provided. The condition does not require the substation to be raised but requires the substation to be flood proofed up to a level of 5.99m AHD. The condition is modified to avoid confusion and reinforce the requirement of flood proofing, and not raising of the substation.

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Modification No. 4: Relocation of egress travel path from eastern edge of vehicular crossing to the western edge, adjacent to the building

This modification is supported by Council's Development Engineer subject to a condition requiring suitable signage to avoid pedestrian and service vehicle conflict, due to the pedestrian footpath running along the loading bay.

Modification No. 5: Minor reconfiguration of waste storage area behind retail unit 1.

The proposed modification seeks to make internal changes to the waste storage area located behind retail unit 1. The changes to the waste storage are minor in nature and limited to the internal area of the rooms. The proposed modification is considered acceptable.

Modification No. 6: New plant room to be located behind substation chamber adjacent to the western wall of retail unit 2.

The proposed modification seeks to add a new plant room behind the substation chamber. The plant room is located behind the substation chamber therefore is not visible from the street. There is no change in gross floor area for the development as the plant room is excluded from the calculation of the gross floor area.

Modification No. 7: Amendment to the ramp entry to ground floor residential units within the western side setback, with new wheelchair lift at the front boundary providing access to the retail units.

The proposed modification maintains equitable access to and from the site, as was originally approved, and is considered acceptable.

Modifications to Conditions

The following conditions are proposed to be amended:

- Condition No. 1 to reflect the design changes listed above;
- Condition No. 33 is modified;
- Condition No. 95 b) is added to maintain safety for pedestrians due to the revised location of the travel path; and
- Condition No. 107 is updated to reflect the requirements of Council's Development Engineer in relation to the display of the originally approved Flood Risk Management Plan and Flood Evacuation Plan.

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Statutory Considerations

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

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

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

- a) *It is satisfied that the proposed modification is of minimal environmental impact, and*

The Section 4.55(1A) modification application relates to modifications to the ground floor and conditions, and as such, the modifications will result in substantially the same development as approved under DA-16/165. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to modifications to the ground floor, therefore the modification application is substantially the same development to which consent was originally granted.

- c) *It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, due to the nature of the modifications proposed the application was not required to be notified.

- d) *It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

No submissions were received.

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

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

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The following Environmental Planning Instruments are relevant to this application:

Environmental Planning and Assessment Act 1979 – Part 4, Division 5 – Special Procedures for Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3 – Integrated Development

The relevant requirements under Division 5 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the original development application.

Development Application No. 16/165 was approved as integrated development as the proposal involves a temporary construction dewatering activity. General Terms of Approval were placed in the consent relating to the temporary construction dewatering activity. The subject application does not change the depth of excavation required or the envelope of the basement levels approved therefore the subject application is not integrated development and does not need to be referred to Water NSW.

State Environmental Planning Policy (Infrastructure) 2007

Due to the nature of the modifications proposed, the proposal remains consistent with the Infrastructure SEPP.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was not required to provide a revised BASIX Certificate as the proposed changes do not modify any windows or opening or thermal comfort as originally approved.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

Consideration of SEPP No. 55 was carried out within the assessment of DA-16/165. Therefore SEPP No. 55 does not need to be assessed as part of this proposal.

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

The provisions of State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Building' have been considered in the assessment of the Development Application. Due to the proposed modifications being predominately encased within the approved built form approved under DA-16/165, the development application was not required to be presented to the Design Review Panel.

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The building will continue to be consistent with the approved design that was originally assessed against SEPP 65 and the Apartment Design Guide.

Botany Bay Local Environmental Plan 2013 (BBLEP)

The Section 4.55(1A) modification application relates to various minor modifications to which there is no section within the Botany Bay Local Environmental Plan 2013 that is of relevance as part of this assessment. The previous conclusions that were approved in the parent DA have not been altered as part of this application. The proposal will continue to be consistent with the objectives of the BBLEP 2013.

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

There are no current Draft EPIs applicable to this development.

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

Botany Bay Development Control Plan (BBDCP) 2013

The Section 4.55(1A) modification application relates to minor modifications to which there is no section within the Botany Bay Development Control Plan 2013 that is of relevance as part of this assessment. The previously conclusions that were approved in the parent DA and in subsequent modifications has not been altered as part of this application.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

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

The proposal does not alter the conclusions that were resolved and approved within DA-16/165.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The proposed changes are not considered to be substantial and no significant planning issues are raised that would warrant the refusal of the proposed development.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was not required to be notified.

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

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

Conclusion

The Section 4.55(1A) Application seeks to modify Development Consent No. 2016/165 which approved the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking. The modification relates to amendments to the ground floor of the building and are minor in nature. The development as modified, is substantially the same development that was originally approved. The proposed modification will not alter the built form or character of the development, and will continue to ensure the development is carried out in an orderly manner. Therefore it is recommended that the Panel approve the proposed modifications to the proposal.

Attachment**Schedule 1 – Conditions of Consent****Premises: 19-25 Robey Street, Mascot****DA No: DA-16/165/02****SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

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

Plans	Author	Date Received
Cover Page, Drawing No. DA001, Rev A dated 27 February 2018	DKO Architecture	1 March 2018
Site Analysis Plan, Drawing No. DA101, Rev A dated 27 February 2018		1 March 2018
Site Plan, Drawing No. DA102, Rev A dated 27 February 2018		1 March 2018
Demolition Plan, Drawing No. DA103, Rev A dated 27 February 2018		1 March 2018
Ground Floor Plan, Drawing No. DA201, Rev A dated 27 February 2018 Ground Floor Plan, Drawing No. DA201, Rev E dated 12 July 2018		1 March 2018 8 August 2018
Level 1 Plan, Drawing No. DA202, Rev A dated 27 February 2018		1 March 2018
Level 2 Plan, Drawing No. DA203, Rev A dated 27 February 2018		1 March 2018
Level 3 Plan, Drawing No. DA204, Rev A dated 27 February 2018		1 March 2018
Level 4 Plan, Drawing No. DA205, Rev A dated 27 February 2018		1 March 2018
Roof Terrace, Drawing No. DA206, Rev A dated 27 February 2018		1 March 2018
Basement 1 Plan, Drawing No. DA207, Rev A dated 27 February 2018		1 March 2018
Basement 2 Plan, Drawing No. DA208, Rev A dated 27 February 2018		1 March 2018
Adaptable Units, Drawing No. DA209, Rev A dated 27 February 2018		1 March 2018
South Elevation, Drawing No. DA301, Rev A dated 27 February 2018 South Elevation, Drawing No. DA301, Rev D.1 dated 25 February 2019		1 March 2018 26 February 2019
North Elevation, Drawing No. DA302, Rev A dated 27 February 2018		1 March 2018
East Elevation, Drawing No. DA303, Rev A dated 27 February 2018		1 March 2018

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West Elevation, Drawing No. DA304, Rev A dated 27 February 2018		1 March 2018
Section A, Drawing No. DA305, Rev A dated 27 February 2018		1 March 2018
Section B, Drawing No. DA306, Rev A dated 27 February 2018		1 March 2018
Section C, Drawing No. DA307, Rev A dated 27 February 2018		1 March 2018
Streetscape, Drawing No. DA308, Rev A dated 27 February 2018		1 March 2018
Landscape Concept Ground Floor Plan, DWG No. LSDA-201, Issue C dated 7 February 2018	Greenplan	1 March 2018
Landscape Concept Roof Floor Plan DWG No. LSDA-202, Issue C dated 7 February 2018		1 March 2018
Landscape Planting Ground Floor DWG No. LSDA-301, Issue A, dated 7 February 2018		1 March 2018
Landscape Planting Roof Floor, DWG No. LSDA-302, Issue A dated 7 February 2018		1 March 2018
Landscape Details Planting, DWG No. LSDA-401, Issue A, dated 7 February 2018		1 March 2018
Landscape Details Typical Construction, DWG No. LSDA-404, Issue A dated 7 February 2018		1 March 2018
Cover Sheet, Drawing No. SW100, Revision A dated 26 February 2018	SCG Engineering	1 March 2018
Stormwater Concept Design – Basement 2 Plan, Drawing No. SW200, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Ground Floor Plan, Drawing No. SW201, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Roof Plan, Drawing No. SW202, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 1 of 2, Drawing No. SW300, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 2 of 2, Drawing No. SW301, Issue A, dated 26 February 2018		1 March 2018
Erosion & Sediment Control – Plan & Details, Drawing No. SW400 dated 26 February 2018		1 March 2018
Stormwater Concept Design – Music Catchment Plan, Drawing No. SW500, Issue A, dated 26 February 2018		1 March 2018
Survey Plan (Ref: 3558), dated 7 June 2016	Cedar Surveying Services Pty Ltd	16 September 2016
Ground Floor Swept Paths – 6.4m SRV, Drawing No TX.01 Rev C, dated 23 February 2018	Traffix Traffic and Transport Planners	1 March 2018
Ground Floor Swept Paths – B85 & B99 Drawing No TX.02 Rev C, dated 23 February 2018		1 March 2018

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Basement Level 1 B99 Circulation & Passing, Drawing No. TX.03, Rev C dated 23 February 2018		1 March 2018
Basement Level 2 B99 Circulation & Passing, Drawing No. TX.04, Rev B dated 18 January 2018		1 March 2018
Ramp Profile, Drawing No. TX.05, Rev C dated 23 February 2018		1 March 2018

Reference Document(s)	Author	Date Received
Amended Statement of Environmental Effects	Chapman Planning Pty Ltd	1 March 2018
Amended Clause 4.6 variation to the height development standard dated 27 February 2018	Chapman Planning Pty Ltd	1 March 2018
Statement of Compliance: Access for people with a disability (Ref: 216196), dated 26 February 2018	Accessible Building Solutions	1 March 2018
SEPP 65 Report dated 26 February 2018	DKO Architecture	1 March 2018
Traffic Impact Assessment Rev B- Ref: 17.607v02, dated 23 February 2018	Traffic Traffic and Transport Planners	1 March 2018
BASIX Certificate No. 902705M_02, dated 25 February 2018	Senica Consultancy Group Pty Ltd	1 March 2018
NATHERS Certificates with various dates	Senica Consultancy Group Pty Ltd	1 March 2018
Acoustic Report- Ref: 20161114.1/1104A/R1/RL (Rev 1), dated 11 April 2017;	Acoustic Logic	21 April 2017
Arboricultural Assessment Report (Ref: R 17/11), dated 24 August 2016.	Angophora Consulting Arborist	16 September 2016
Arboricultural Assessment Report - Tree Impact Statement & Root Investigation dated 12 April 2017;	Naturally Trees	21 April 2017
BCA Compliance Assessment Report No. 18/002, dated 23 February 2018	Paul Aramini Consulting Pty Ltd	1 March 2018
Waste Management Plan 2018/02034 dated 22 February 2018	Senica Consultancy Group	1 March 2018
Stage 1 Desktop Environmental Site Assessment (Ref: E29461KHrpt dated 20 July 2016.	Environmental Investigation Services (EIS)	16 September 2016
Stage 2 Environmental Site Assessment (Ref: E29461KHrpt2-interim) dated 16 September 2016;	Environmental Investigation Services (EIS)	16 September 2016
Geotechnical Investigation- Ref: 29461ZRRpt dated 20 July 2016;	JK Geotechnics	16 September 2016

(Modified via DA-2016/165/02)

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- 2 This Consent relates to land in Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264 and as such, building works must not encroach on to adjoining lands or the adjoining public place, except as otherwise permitted by this consent.
- 3 The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days' notice to the council of the persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 5 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for each building in the development are fulfilled.
 - a) Note:

Relevant BASIX Certificate means:

 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

- 6 The following conditions provided by **Ausgrid**:
 - a) The developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the

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electrical supply requirements for the development (e.g. whether a substation is required on site).

- b) In general, works to be considered by Ausgrid include, but are not limited to, the following:
 - (i) Changes in electrical load requirements
 - (ii) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc.);
 - (iii) Works affecting Ausgrid's easements, leases and/ or right of ways
 - (iv) Changing the gradients of any roads or paths
 - (v) Changing the level of roads or foot paths
 - (vi) Widening or narrowing of roads
 - (vii) Closing roads or laneways to vehicles
 - (viii) In all cases Ausgrid is to have 24 hour access to all its assets
 - c) Any work undertaken near overhead power lines needs to be done in accordance with:
 - (i) WorkCover Document ISSC 23 "*Working Near Overhead Power Lines*"
 - (ii) Ausgrid's Network Standard
 - (iii) Ausgrid's Electrical Safety Rules
 - d) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation of Ausgrid's network.
- 7 The conditions provided by **Sydney Airport Corporation Limited (SACL)** in their letter dated 7 May 2018 are imposed:
- a) The approved development is permitted to be constructed to a maximum height of 27.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
- 8 The conditions provided by **Sydney Water** in their letter dated 3 November 2016 are imposed.
- 9 The conditions provided by **Water NSW** in their letter dated 9 November 2016 are imposed.

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

- 10 A Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately

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addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the demolition of any building or structure.

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

- 11 Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

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

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

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- 12 Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
- 13 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), Structural vibration Part 3 – Effects of vibration on structures Table 12-7. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 14 Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
- (a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - (b) The name and permit number of the owner-builder who intends to do the work;
 - (c) The Council also must be informed if:
 - (i) A contract is entered into for the work to be done by a different licensee; or
 - (ii) Arrangements for the doing of the work are otherwise changed.

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

- 15 The applicant must prior to the issue of any Construction Certificate, pay the following fees:
- (a) Development Control \$2,940.00
 - (b) Builders Security Deposit \$47,000 (Refer to Condition below)
 - (c) Section 94 Contributions **\$848,746.17** (Refer to Condition below)
- 16 Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$47,000.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 17 Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans, a contribution of **\$848,746.17** is payable as calculated below:

City of Botany Bay Section 94 Contributions Plan 2016

The s94 contributions (as indexed to April quarter 2017) for residential are as follows:

- a) Community Facilities = \$145,984.34
- b) Recreation = \$632,315.89
- c) Transport = \$59,412.24

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d) Administration = \$11,033.70

TOTAL: \$848,746.17.

The total Section 94 Contribution of **\$848,746.17** is to be paid to Council prior to the issue of any Construction Certificate.

Note: The Section 94 Contributions are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

- 18 Prior to the issue of the relevant Construction Certificate, the applicant shall submit amended plans to Council's Manager of Development Services for approval, showing the following:
 - a) Storage areas are to comply with the minimum ADG requirement of 6sqm for 1 bedroom apartments, 8sqm for 2 bedroom apartments and 10sqm for 3 bedroom apartments. 50% of the storage area is to be included within the apartments. A breakdown of the storage area is to be provided within a Schedule;
 - b) Front entries of the apartments, dining rooms, kitchen floors and internal storage areas are to be finished with materials that are water resistant and easy to clean (family friendly apartment provisions of the BBLEP 2013).
- 19 Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the relevant Construction Certificate. The garbage and recycling storage area shall be adequately ventilated. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 20 The drawings for the construction certificate for the basement shall show the following parking requirements:
 - a) Residential - 111 car parking spaces;
 - b) Visitor - 14 car parking spaces;
 - c) Commercial – 8 car parking spaces;

Any excess parking is to be allocated to residential apartments. This information is to be provided prior to the issue of the relevant Construction Certificate.
- 21 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to the certifying authority prior to the issue of the relevant Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the approved acoustical assessment report shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of

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construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- (a) Appropriate acoustic glazing to stated windows and doors,
- (b) Detailed roof and ceiling construction,
- (c) Wall and ceiling corner details and,
- (d) External door specification,
- (e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner.

- 22 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Certifying Authority prior to the issue of the relevant Construction Certificate and its location and specifications endorsed on the construction drawings.
- 23 Prior to the issue of the relevant construction certificate, to ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
 - a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
 - b) Negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i. The additional load on the system, and
 - ii. The relocation and/or adjustment of the services affected by the construction.
- 24 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

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- 25 A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of any Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed;
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase;
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent;
 - i) Proposed protection for Council and adjoining properties;
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation; and
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- 26 Prior to the release of the Construction Certificate, the applicant shall provide certification from a suitably qualified Traffic Engineer to the Private Certifying Authority attesting that the design of the proposed development is in accordance with the approved Traffic Management Report by Traffix.
- 27 Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1

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and Council's Infrastructure Specifications, currently under review. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new driveway layback shall be constructed as part of the new driveway. A minimum 1.0 metre length of existing kerb and gutter on each side of the driveway layback shall be removed and replaced with new kerb and gutter to enable a transition for a correct tie-in with proposed public domain works.

The design shall be submitted to the Private Certifying Authority for approval and the approved design shall form part of the subsequent road opening permit application.

- 28 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant;
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police;
- c) during construction, where required, the applicant is to submit documentary evidence to the Principal Certifying Authority that the required Section 138 Consent under the Roads Act, 1993 has been issued by Council and/or NSW 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.

- 29 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines; and
- b) The applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure;
- c) All service vehicles shall enter the property front in front out;

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- d) Demonstrate safe headroom clearance is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Small Rigid Vehicle (SRV);
 - e) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - f) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 30 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) Disabled car parking spaces shall be provided and clearly marked as per the Traffic Impact Assessment Report by Traffix, dated February 2018, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
- 31 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.
- 32 You are advised that Bayside Council's current adopted flood level for this location is RL 5.99m AHD. The proposal includes habitable/non-habitable areas that are below the flood level, the approved floor levels are 5.80m AHD for the commercial tenancies. Use of this development should reflect the flood risk. Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 6.50 metres Australian Height Datum, which is 500mm above the 1% Annual Exceedance Probability (AEP) Flood level.
- 33 Prior to the issue of the construction certificate, details shall be provided certifying that the proposed substation chamber is flood proofed/protected up to a level of at least RL ~~6.50m~~ 5.99m AHD.
Note: The intent of this condition is not for the substation to be raised and other means can be explored to the satisfaction of Ausgrid to flood proof the substation.
(Modified via DA-2016/165/02)
- 34 Prior to the issue of the Construction Certificate, the subsurface structures 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 qualified

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engineer. Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

- 35 A civil design plan must be prepared by a suitably qualified engineer and be approved by Council public domain department for all frontage works that are required to be constructed within the public domain. The frontage works shall be in accordance with any Council town centre plans and standard design drawings. Preliminary consultation with Council public domain department is highly recommended.
- 36 **Prior to the issue of the Construction Certificate**, A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, the flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:
 - (a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
 - (b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - (c) Flood warning signs/depth indicators for areas that may be inundated.
 - (d) A flood evacuation strategy.
 - (e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
 - (f) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

Flood modelling data can be obtained from Council on payment of the appropriate fee.

- 37 **Prior to the issue of the Construction Certificate**, all surface runoff from parking facilities and access ways shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted to the Principal Certifier.
- 38 **Prior to the issue of a construction certificate**, the applicant shall detail the provision for a traffic management & vehicle priority system at the top of the basement ramp & around the loading bay to help reduce the likelihood of vehicular crashes around this key circulation area.
- 39 **Prior to the issue of the Construction Certificate**, the applicant shall confirm the location of the Council pipeline that traverses the property. A report prepared by a qualified plumber certifying the location, depth and width of this pipeline shall be provided to the satisfaction of the Principal Certifier.
- 40 **Prior to the issue of Construction Certificate**, if neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the Roads

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Act 1993, via a permit application. The submission will need to be supported by an engineering report prepared by a suitably qualified engineer, with supporting details addressing the following issues:

Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.

- 41 A suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
- 42 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 Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

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

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and **permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition;**
- b) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG;
- c) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site;
- d) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011;

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- e) The submission of detailed calculations including computer modelling where required supporting the proposal;
 - f) The finished floor levels of any non-habitable and habitable buildings/structures shall be minimum 100mm and 300mm above the maximum top water level of the OSD system, which free-standing OSD tanks, situated on a the ground floor slab, would not be able to achieve;
 - g) Particular attention is also drawn to the requirements of SMTG Part 6, with respect to 6.2 (i) and (iii) – Discharge Control Pit and Storage Tank configuration; 6.2 (viii) and (x) – Orifice plate requirements; Part 7 – Underground Structures; Part 8 – Finished Floor Levels;
 - h) Concrete encasement of stormwater drainage pipelines within proposed Council drainage easements is not permitted by Council. Furthermore, the proposed diversion of stormwater drainage pipelines within proposed easements shall be shown on plans (with long-sections showing cover over pipes, pits and pit sizes, pipe sizes, pipe gradients, pipe material, and other relevant pipe characteristics) to be submitted to Council for approval prior to the issue of a construction certificate. The detailed design shall be in accordance with the requirements of Parts 12 and 13 of the SMTG. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate; and
 - i) The basement shall be protected from inundation up to and including the 1% AEP flood by a driveway crest situated on land that is not public land, and with a flood planning level of the 1% AEP flood level plus 300mm freeboard.
- 43 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the Council pipeline diversion for the development shall be submitted to the Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

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

- a) Detailed hydraulic assessment that includes analysis of upstream catchments and hydraulic performance of the proposed system is required to be undertaken for the proposed diversion of Council assets within the property. The existing connections to adjoining properties shall be investigated and maintained. The new proposed pipeline shall have a minimum capacity for a 20 year ARI event. The existing, redundant pit on Robey Street, within the frontage of 21 Robey Street, shall be investigated for if it requires upgrade and/or relocation. The existing pit on Elizabeth Avenue shall be investigated for whether it requires upgrade and/or relocation. The current catchment of Elizabeth Avenue and surrounding properties drains to the existing system within the property, the proposed Council drainage system shall consider the Stormwater run-off generated from Elizabeth Avenue and surrounding properties that are currently draining to the existing system within site. A

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connection to the existing drainage infrastructure within the frontage of 1-3 Elizabeth Avenue may be required for the development.

- b) Detailed plans & analysis shall indicate the proposed diversion of Stormwater drainage pipelines within proposed easements shall be shown on plans (with long-sections showing cover over pipes, pits and pit sizes, pipe sizes, pipe gradients, pipe material, and other relevant pipe characteristics) to the Robey Street Council drainage system from the end of Elizabeth Avenue & the end of John Curtin Reserve. The detailed design shall be in accordance with the requirements of Parts 12 and 13 of the SMTG and the diversion is to be contained wholly within the subject property and Council property. The final drainage easement locations shall be located wholly within the site. The details required above shall be submitted to Council for assessment and approval. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate.
- 44 Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$6,000 to ensure the installation and establishment of specific street trees in accordance with Councils *Street Tree Master Plan*. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found be to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.
- 45 The **Final Landscape Plan** generally in accordance with the approved Landscape Plan prepared by Greenplan (Issue A, dated 23 February 2018) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:
- a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas;
 - (i) Robey Street Tree Planting, the following is to be installed:
 - 2 x trees - *Fraxinus griffithii* min. height 1.4 metres and pot size (45 litre) and 1 x *Callistemon viminalis* (Botany *Street Tree Master Plan 2014*) shall be installed in the Robey Street nature strip at 7 metre centres by a qualified landscape contractor to aid to the public amenity are required along the Robey Street reserve;
 - A Dial-Before-You-Dig enquiry is required prior to all tree planting;
 - The shrubs shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of

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100mm. The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations;

- Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post planting;
- The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing;
- Verge plantings of low shrubs and groundcovers are also highly encouraged for aesthetic appeal to the streetscape of Robey Street. This verge under planting species should consist of Dianellas, Lomandras, native grasses and groundcovers such as Brachyscome multifida and Chryscephalum apiculatum;

- b) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees;
- c) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights;
- d) Indicate the location of all basement structures relative to the landscape areas;
- e) A tree removal and tree retention plan is required to be submitted that clearly shows trees numbered to correspond with the Arborist report;
- f) Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Use of WSUD initiatives or materials is required to be indicated. All internal access driveways, parking areas and pedestrian walkways shall be unit paved (interlocking pavers). Large areas of asphalt or concrete are not permitted. The basement driveway shall be constructed of plain broom finished concrete;
- g) Impervious surfacing is to be minimised. Permeable pavements are to be used where possible, e.g. Decks, pebbles, spaced pavers, specialised permeable pavers (DCP - 3L Landscaping and Tree Management);
- h) Rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 150mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the root ball are not permissible. Trees planted within paved areas shall have the barriers installed around the inside edge of the pavement cut-out. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing; and
- i) A raised concrete edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable.

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- 46 Side boundary fences forward of the building alignment shall be no more than 1 metre in height. Encourage and retain fencing character, styles and height for each street which may in some circumstances include no fences.
- 47 Planter boxes constructed over podium shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes;
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter;
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns;
 - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building; and

Details are to be provided on the Final Landscape Plan prior to the issue of the Construction Certificate.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 48 The proposed development shall comply with the following:
- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (i) Stating that unauthorised entry to the work site is prohibited;
 - (ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - (iii) The Development Approval number; and
 - (iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
 - (b) Any such sign is to be removed when the work has been completed.

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- 49 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.
- 50 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, must be prepared on surrounding properties. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Principal Certifying Authority prior demolition. The extent of the Dilapidation Survey is to be prepared by a practising Geotechnical Engineer having regard to foundations/structures of the locality
- 51 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
 - c) Permit to install temporary ground anchors in public land;
 - d) Permit to discharge ground water to Council's stormwater drainage system;
 - e) Permit for roads and footways occupancy (long term/ short term);
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
 - h) Permit to place skip/waste bin on footpath and/or nature strip; and
 - i) Permit to use any part of Council's road reserve or other Council lands.
- 52 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 53 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All

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management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

- 54 A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP). This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- 55 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - (a) must be standard flushing toilet; and
 - (b) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 56 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 57 Prior to the commencement of any works, the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 58 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.
- 59 Shaker pads and a wheel washer are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 60 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for

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the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

- 61 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 62 The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.
- 63 Prior to commencement of any works, the Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Bayside Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
- 64 Prior to the commencement of excavation or any building works, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 65 In order to ensure that the Trees 17 and 26 are protected during construction, and its health and structural stability ensured, the following is required:
 - a) Engage the Consultant Arborist for all tree root and canopy work to trees. Comply with recommendations and requirements and management plan contained within the *Tree Risk Assessment Report* by Angophora consulting Arborist, dated 24 August 2016.
 - b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report/Landscape Plan.
 - c)
 - (i) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence or 1.5 metre steel pickets and nylon para-webbing/hessian to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete;

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- (ii) The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction;
 - (iii) Fencing shall be erected to ensure the public footway is unobstructed;
 - (iv) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails);
 - d) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work;
 - e) All detailed Construction Certificate plans shall show trees to be protected and the TPZ;
 - f) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer (or Consultant Arborist);
 - g) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage;
 - h) Excavation within the canopy dripline or within an area extending 3 metres outward of the canopy dripline of any tree shall be carried out manually using hand tools to minimise root damage or disturbance;
 - i) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer (or the consulting Arborist) after a site inspection so as not to unduly impact or stress the tree;
 - j) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application. This will be required for Tree NO 20 (Council Street Tree). Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- 66 Sub-surface OSD tanks and infiltration trenches are to be located at least 3 metres away from the canopy dripline of any existing tree to be retained and not located where it will limit the planting of trees on the site. Excavation proximate to trees shall be carried out manually using hand tools, or with small machinery to minimise tree root damage, disturbance or soil compaction. If tree roots are encountered Council's Tree Officer must be called for a site inspection. If tree roots cannot be cut without compromising the tree then the OSD will be required to be re-configured or relocated.
- 67 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then

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report on the existing condition of the existing stormwater drainage infrastructure on Robey Street road reserve and the pipes traversing 21 Robey Street between Robey Street and Elizabeth Avenue. The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner;
- b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
- c) Distance from the manholes shall be accurately measured; and
- d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.

- 68 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:
 - (a) The additional load on the system; and
 - (b) The relocation and/or adjustment of the services affected by the construction;
- c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider; and
- d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the 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.

- 69 Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practicing engineer, showing all

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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.

- 70 If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and;
 - ii) Adequate provision must be made for drainage.

DURING WORKS

- 71
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council;
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (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;

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- 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.
- 72 During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, and concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 73 Separate permits are required to be obtained and approved by Bayside Council for all works including but not limited to road and footpath closure, stand and operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land. Note: A permit is required for the construction of Council drainage under section 68 of the local government act and/or the roads act.
- 74 The construction of the Bayside Council pipe diversion shall be inspected by Bayside Council's engineering department prior to backfill as per the instructions of the issued permit. A minimum 5 working day notice shall be given to Council prior to inspection. An inspection fee is required to be paid prior to inspection.
- 75 The approved elements including driveways, stormwater connections, (etc) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicants cost to suit the construction of approved design elements.
- 76 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.
- 77 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

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- 78 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 79 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. All work on site shall cease until the council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant.
- 80 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operations (Waste) Regulation 2014;
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 81 A clearance certificate for the removal of asbestos from the site shall be prepared by a suitably qualified consultant and shall be in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) *State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.*
- The report shall provide a notice of completion of asbestos remediation works at the site and shall be submitted after completion of asbestos removal works and prior to the commencement of building works on the site. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority).
- 82 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 83 To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater

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shall be obtained from Council. Dewatering shall not commence until this is issued by Council.

84 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.

85 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.

86 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

87 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.

88 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.

89 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.

90 The following shall be complied with during construction and demolition:

- (a) Construction Noise
 - (i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
- (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

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- (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (1) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 05:00pm
 - (ii) Saturday 08:00am to 01:00pm
 - (iii) No demolition or construction to take place on Sundays or Public Holidays.
- (d) Silencing
 - (i) All possible steps should be taken to silence construction site equipment.
- 91 During excavation and construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
- 92 During excavation and construction works, the applicant / builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 93 An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

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

- 94 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*.
- 95 The following requirements are to be met:
 - a) Fire booster assemblies and electrical kiosks and the like are to be housed within the building structure or screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.

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- b) Prior to the issue of any Occupation Certificate, a convex mirror shall be installed near the top of the basement ramp, in a position that ensures that vehicles have adequate sight lines both entering and exiting the basement structure at the top of this ramp, to the satisfaction of the Principal Certifier. Additionally, electronic warning signage shall be provided and clearly displayed around the exit of the service bay to warn occupants of a reversing vehicle.***

(Modified by DA-2016/165/02)

- 96 Prior to the issue of the Occupation Certificate, the public footpaths in Robey Street and Elizabeth Avenue shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 97 To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
- 98 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes;
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter;
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil;
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
- 99 The consolidation of all allotments into one allotment must be undertaken. Details demonstrating compliance with this requirement are to be submitted to the satisfaction of the Principal Certifying Authority prior to the release of the Final Occupation

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Certificate. Evidence of registration shall be submitted to Council or the Principal Certifying Authority prior to occupation and use of the building.

- 100 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two and three bedroom apartments.
- 101 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) 111 residential spaces;
 - b) 14 visitors spaces;
 - c) 8 commercial/retail spaces;
 - d) 1 carwash bay located in the basement car park level;
- Any excess parking is to be allocated to an apartment.
- 102 Prior to the issue of the relevant Occupation Certificate, at least 14 bicycle spaces are to be provided in the car park.
- 103 Prior to the issue of any Occupation Certificates:
- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes;
 - b) Prior to the issue of the Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building; and
 - c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 104 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.
- 105 Prior to the issue of any Occupation Certificate, the applicant shall lodge an infrastructure performance bond to safe guard against defective public civil works (associated with the Council pipeline diversion) undertaken by the main contractor for a period of twelve (12) months from the date of completion as agreed by Council. The bond shall be lodged in a form of cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Councils Engineers at the end of the maintenance period. Council will require a cost estimate prepared by a Quantity Surveyor in accordance with Rawlinsons Construction Cost Guide or equivalent. The cost of work shall include, but not limited to, construction of the pipe/pits, filing, excavation, traffic control, reinstatement of landscaping/paving

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and any other associated works with the pipeline diversion. The required bond amount to be lodged with Bayside Council shall be subject to the cost estimate as approved by Council, with consideration for inflation & unexpected costs over the bond period. During this bond period, the contractor is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

- 106 An easement to drain water shall be created over the Council pipe(s) that traverses the site and be to the benefit of Council. The terms of the easement shall be in accordance with the Conveyancing Act, the easement shall be legally registered with the relevant authority. The width of the easement shall be in accordance with Council specifications. All costs involved in the creation, dedication and registration of the easements shall be born entirely by the applicant, and the easements shall be registered with Land and Property Information NSW prior to the issue of the Final Occupation Certificate;
- 407 ***Prior to the issue of any Occupation Certificate, the approved Flood Risk Management Plan and Flood Evacuation Plan shall be permanently fixed and displayed in a prominent location that can be accessed by all residents/occupiers on each level of the development, to the satisfaction of the Principal Certifier. Should the flood risk management report require a flood evacuation plan, The flood evacuation plan shall be located and fixed in a suitable location that can be accessed by all residents/occupiers to the satisfaction of the principal certifier.***
(Modified via DA-2016/165/02)
- 108 Prior to the issue of any Occupation Certificate, a suitably qualified engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification.
- 109 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 principal certifier upon request
- 110 Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property, where applicable:
- a) The car park has been completed, line marked and all signage relating to car parking erected;
 - b) A notice has been clearly displayed at the Robey Street frontage to indicate that visitor parking is available within the property with access from Robey Street.
- 111 A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the condition of the existing and new stormwater drainage infrastructure on **Robey St, Elizabeth Avenue and the site.**

The camera and its operation shall comply with the following:

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- e) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner;
- f) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
- g) Distance from the manholes shall be accurately measured; and
- h) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for review. Any damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

- 112 On completion of the development construction and prior to the issue of the Occupation Certificate, the following asset details shall be submitted to Council for consideration, in Excel format;

For each pit

- Pit code as per the work-as-executed plan.
- Pit type and lintel size.
- Total value to the nearest \$1,000.
- Construction date – month and year.
- Built by (contractor's name).
- Street name where applicable.
- Grate RL (AHD).
- Invert RL (AHD).

For each conduit

- Line code as per the work-as-executed plan.
- Description – type, eg RCP, FRC, RRJ, box culvert, open channel, etc.\
- Size (mm).
- Length (m).
- Total value to the nearest \$1,000.
- Construction date – month and year.
- Built by (contractor's name).
- Street name where applicable.

- 113 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.

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

- a) On Robey St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council Infrastructure

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Specifications. Location of kerb & gutter to be confirmed with Council prior to construction;

- b) On Robey Street and Elizabeth Avenue St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications;
- c) On Robey Street, adjacent to development, construct new stormwater pipe underneath and adjacent to the new kerb & gutter location and repair (where required), at the applicants expense, Council's Stormwater Drainage Infrastructure as per Council's Infrastructure specifications;
- d) On Elizabeth Avenue, adjacent to development, construct kerb and gutter, drainage pits and pipes to be confirmed in accordance with Council Infrastructure Specifications. Location of kerb & gutter to be confirmed with Council prior to construction;
- e) Reconstruct the blind end of Elizabeth Avenue where the road pavement is more damaged as per civil engineering design and in accordance with Council Infrastructure specifications and with the written approval by Council. The road pavement shall be designed for construction vehicle traffic and certified by a suitably qualified pavement engineer.

The Robey Street public footpath shall be constructed in accordance with Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.

Construction hold points and Council inspections are required at the following points:

- (i) after formwork installation and to prior pouring the concrete blinding slab,
- (ii) at the commencement of paving works, and
- (iii) at final completion.

Council approval of public domain works is required prior issue of Occupation Certificate.

Elizabeth Avenue footpath to be constructed to Council standard. This footpath should be accessible and be minimum width of 700mm

- 115 Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
- 116 Prior to the issue of any Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the *Conveyancing Act 1919* and lodged with the NSW Land and Property Information:
 - a) The pathway as indicated on the landscape plan along the northern boundary is to remain private with a public Right of Footway over the path from Elizabeth Avenue to John Curtin Reserve and must be noted as such on any future strata title subdivision. Appropriate access control gates and ambient lighting is required to provide adequate safety for residents outside of daylight hours.

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- b) Restrictions on Use of Land and Positive Covenants for On-site Stormwater Detention systems and Stormwater Quality Improvement Devices (SQIDs). Refer to Appendices B and E of the SMTG for suggested wording.
- a) Waste collection is to be undertaken within the site by a private collection service using a small rigid vehicle until such time as Council vehicles are able to access the site.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

- 117 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to any use or occupation of the premises. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 118 That before entering a lease/occupancy agreement, all tenants and occupiers of the development is to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes. Prior to the issue of the relevant Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.
- 119 Prior to release of the any Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 120 All services (Utility, Council, etc.) within the road reserve (including the footpath) shall be relocated and/or adjusted to match the proposed/existing levels as required by the development.
- 121 Prior to the issue of any Occupation Certificate, an application is to be made to Council for the new street numbers for the development. All street numbers are to be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 122 Prior to the issue of any Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
 - (a) All reduced levels shown upon the approved plans, with relation to the drainage, boundary and road reserve levels, have been strictly adhered to; and
 - (b) A Floor Space Ratio (FSR) of 2:1 and height of RL 27m AHD as approved under this Development Consent No. 16/165, have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.

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Bayside Planning Panel Meeting

- (c) The development as built stands within Lot 15 Sec A DP 4115, Lot 16 Sec A DP 4115, Lot 1 DP 946234, Lot 1 DP 455491, Lot 19 Sec A DP 4115, Lot C DP 418600 and Lot 1 DP 931264.
- 123 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.
- 124 Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development and installed in a manner not be inconsistent with the relevant provisions of the Building Code of Australia (BCA).
- 125 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Bayside Council prior to the Issue of an Occupation Certificate.
- 126 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.
- 127 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.

CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT

- 128 The use of the retail tenancies is subject to a separate approval (DA or complying development certificate).
- 129 Any signage or advertising is subject to a separate approval (DA or complying development certificate).
- 130 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.
- 131 New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 12 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

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- 132 Ongoing maintenance of the road verges and footpaths and nature strips in Robey Street and Elizabeth Avenue shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 133 The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
- 134 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- 135 All intruder alarms shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations (Noise Control) Regulation 2008*, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
- 136 Any air conditioning units (where possible) shall comply with the following requirements:
- (a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
 - (b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - (i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - (ii) Before 7 am or after 10 pm on any other day.

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- 137 All loading and unloading associated with the retail tenancies are to be undertaken within the ground floor loading dock.
- 138 The loading dock shall not be used between the hours of 6pm and 6am Monday to Sunday.
- 139 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 140 The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 141
- (a) The adaptable apartments approved under this development consent are to remain as adaptable units at all times; and
 - (b) The storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces as identified by the NSW Police, shall be monitored by CCTV cameras at all times.
- 142 All parking bays shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
- 143 You are advised that Bayside Council's current adopted flood level for this location is RL 5.99m AHD.
This building includes habitable/non-habitable areas that are below the flood level, the approved floor levels are 5.80m AHD for the commercial tenancies. Use of this development should reflect the flood risk.
- 144 Materials which may be damaged by flood waters shall be stored, or able to be stored at or above 6.50 metres Australian Height Datum, which is 500mm above the 1% Annual Exceedance Probability (AEP) Flood level.
- 145 The operation of the development and movements of vehicles for both the residential apartment and commercial/retail car park uses shall comply with the following requirements:
- a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
 - b) The maximum size of vehicle accessing the loading bay shall be limited to 6.4m long Small Rigid Vehicle (SRV) (as denoted in AS2890.2);
 - c) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading area;
 - d) The maximum number of delivery vehicle on-site at any one time shall be limited to one (1).

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Bayside Planning Panel Meeting

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STATEMENT OF ENVIRONMENTAL EFFECTS

**Mixed Use Development
Section 4.55 (1A)**

19-25 Robey Street and 5- 5A Elizabeth Avenue, Mascot

25 July 2018

Prepared by Chapman Planning



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1. Architectural Plans
2. Correspondence with Ausgrid

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1.0 INTRODUCTION and BACKGROUND

This statement has been prepared for Landmark Group Pty Ltd as part of the supporting documentation for a Section 4.55(1A) application for amendments to the approved plans associated with development consent No. 2016/165 for the construction of a five storey mixed use building at 19-25 Robey Street and 5-5A Elizabeth Avenue, Mascot.

A development application (DA 2016/165) was approved on 17/05/2018 for:

Integrated Development Application for the demolition of existing buildings and associated structures and the construction of a five (5) storey mixed commercial and residential apartment building with two large retail units, 66 residential apartments and two levels of basement car parking.

The Section 4.55(1A) application is for modifications to the development consent plans referred to in Condition 1 of the development consent.

The modifications are summarised as follows:

- Relocation of egress travel path from eastern edge of vehicular crossing to the western edge, adjacent to the building.
- Minor reconfiguration of waste storage area behind retail unit 1.
- Amendment to the ramp entry to ground floor residential units within the western side setback, with new wheelchair lift at the front boundary providing access to the retail units.
- New plant room to be located behind substation chamber adjacent to the western wall of retail unit 2.
- Reconfiguration of bicycle parking.
- Relocation of substation chamber to align with front boundary as required through correspondence with Ausgrid.
- Reconfiguration of retail floor area, with retail unit 1 reduced in floor area by 5m², and retail unit 2 increased in floor area by 5m².

The subject site is located 130m east of Botany Road, which contains the Mascot Town Centre, with Sydney Kingsford Smith Airport being located a short distance to the south-west of the site. Mascot train station is located approximately 1.2km to the north-west, with a bus interchange located within 200m of the site along Botany Road.

In addition to this statement the S4.55 application is accompanied by the following:

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- *Architectural Plans numbered DA201 Revision E and DA301 Revision C dated 12 July 2018 prepared by DKO Architecture (**Annexure 1**)*
- *Annexure 2 – correspondence from Ausgrid dated 18 May 2018*

In this statement, the proposal is assessed in accordance with the relevant planning controls, being:

- *S.4.55(1A) Environmental Planning and Assessment Act, 1979,*
- *Botany Bay Local Environmental Plan 2013,*
- *Botany Bay Development Control Plan,*
- *S.4.15 Environmental Planning and Assessment Act 1979.*

2.0 SITE and LOCALITY

The subject site is known as 19-25 Robey Street and 5 and 5A Elizabeth Avenue Mascot and includes the following allotments: Lot 1 in DP946234, Lot 1 in DP 455491, Lot 1 in DP931264, Lot C in DP 418600, Lots 15-16-19 in DP 4115.

The subject site is located 130m east of Botany Road, which contains the Mascot Town Centre, with Sydney Kingsford Smith Airport being located a short distance to the south-west of the site. Mascot train station is located approximately 1.2km to the north-west, with a bus interchange located within 200m of the site along Botany Road.

The immediate locality is characterized by a mixture of residential, commercial and open space uses. The development to the north of the site includes single and two storey detached dwellings. A three storey residential flat building is located north-east of the site along High Street, with the Mascot Town Centre located further to the east along Botany Road.

The subject site and surrounding development is shown in the following aerial photograph.

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Source: SIX Maps

3.0 PROPOSED MODIFICATIONS

The S4.55(1A) application seeks modifications to the development consent plans of the approved development for a residential flat building.

The modifications are detailed below:

Ground Floor Level

- Relocation of egress travel path from eastern edge of vehicular crossing to the western edge, adjacent to the building.
- Minor reconfiguration of waste storage area behind retail unit 1.
- Amendment to the ramp entry to ground floor residential units within the western side setback, with new wheelchair lift at the front boundary providing access to the retail units.
- New plant room to be located behind substation chamber adjacent to the western wall of retail unit 2.
- Reconfiguration of bicycle parking.
- Relocation of substation chamber to align with front boundary as required through correspondence with Ausgrid.
- Reconfiguration of retail floor area, with retail unit 1 reduced in floor area by 5m², and retail unit 2 increased in floor area by 5m².

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Conditions

- Deletion of Condition 33 of development consent DA 2016/165, which states:

"Prior to the issue of the construction certificate, details shall be provided certifying that the proposed substation chamber is flood proofed/protected up to a level of at least RL 6.50m AHD"

In response to correspondence received from Ausgrid (attached at **Annexure 2**) the substation chamber is required to be located along the front boundary at RL 5.800 before certification for Civil Building can be issued.

4.0 LEGISLATION AND PLANNING CONTROLS**4.1 Section 4.55 Environmental Planning and Assessment Act, 1979**

S.4.55(1A) of the *Environmental Planning and Assessment Act, 1979* (the Act) allows the consent authority (Bayside Council) to modify the development consent. Clause 4.55(1A) states:

(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, and*
- (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*
- (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.*

Subsections (1), (2) and (5) do not apply to such a modification.

The proposed modifications meet the requirements of S.4.55(1A) of the Act, as follows;

- The proposed plan amendments apply to the mixed use development in accordance with development consent No. DA 2016/165.

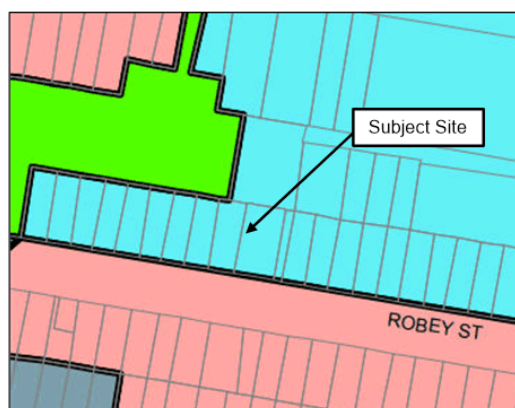
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- The proposed modifications apply to the ground floor level only and do not change the approved number of units, parking or built form of the development. On this basis the modification applies to the same land use with no change to the approved building form and the proposal meets the test of sustainably the same development.
- The proposed modifications located at the ground floor level present no change to the overall scale of the development and will not result in any additional amenity impact. It should be noted that the relocated substation to the front boundary is a requirement of correspondence with Ausgrid, and will be suitably screened with louvres and soft landscaping. As such the modifications are considered to be of a minimum environmental impact.
- The application will be notified in accordance with Council's notification policy and any submission will be considered in the assessment of the application.

In accordance with Section 4.55(1A) this statement addresses the relevant matters prescribed in Section 4.15(1) of the Act.

4.2 Botany Local Environmental Plan 2013

The land subject to the development is zoned B2 – Local Centre under the *Botany Bay Local Environmental Plan 2013*. The zoning of the subject site and surrounding locality is shown in the following map.



Source: Botany Bay LEP 2013

The objectives of the B2 Local Centre zone are:

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- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

The modifications to the approved mixed use development meet the relevant objectives of the zone as it continues to provide for retail use at the ground floor of the development to serve the needs of people within the locality.

Clause 4.3 Height of Buildings is applicable to the subject site containing a height control of 14m. The proposed modifications are at the ground floor and would not result in a change in the originally approved building height.

Clause 4.4 Floor Space Ratio does not apply to the modification application noting the proposal does not seek to alter the approved gross floor area, with the reconfiguration of the retail units at ground floor not resulting in a change in GFA.

Clause 6.1 Acid Sulfate Soils applies to the application being identified as containing Class 4 Acid Sulfate Soils. An Acid Sulfate Soil Screening report was conducted as part of the original application on the subject site and the provisions of Clause 6.1 of the LEP are therefore satisfied.

Clause 6.3 Stormwater Management a stormwater management plan was submitted as part of the original application demonstrating compliance with the drainage requirements of BBLEP 2013. The proposed modifications are minor and would not result in any adverse drainage impacts in this regard.

Clause 6.8 Airspace operations applies to the site as it is within an area defined in the schedules of the Civil Aviation (Building Control) Regulations that limit the height of structures to 50 feet (15.24m) above existing ground height without prior approval of the Civil Aviation Safety Authority. The application does not change the maximum height of the buildings on site.

Clause 6.15 Active Street Frontages applies to the subject site. The proposed modifications present minor reconfiguration to the previously approved ground floor commercial premises and will continue to present an active street frontage to Robey Street.

4.3 Botany Bay Development Control Plan 2013

The relevant sections of the Botany Bay DCP 2013 are addressed below:

Part 3 General Provisions

3A Parking & Access

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The proposed modifications would not affect the existing approved waste collection and servicing at the ground floor level in accordance with the requirements of the DCP, with the relocated egress path being separated from vehicular access paths.

3C Access & Mobility

The proposed modifications include changes in disabled access ramps within the western side setback and the provision of a wheelchair lift in front of retail unit 1. The development continues to ensure the dignified, equitable and safe access to and within the building for people with a disability.

3I Crime Prevention Safety & Security

Sightlines around the communal open spaces and pathways throughout the site are not obscured as a result of the proposed modifications, and the orientation of the units towards a central open space allows for the passive surveillance of this space.

3N Waste Minimisation & Management

The modifications continue to provide separate waste storage areas for the residential and commercial components on the ground floor, with sufficient room for the required bin storage provided.

5.0 ENVIRONMENTAL ASSESSMENT**5.1 Building Design and Streetscape**

The proposed modifications are consistent with the approved building form and scale, with the modifications located on the ground floor level and confined to service elements only with no change in the general presentation of the building. The relocation of the substation chamber to the front boundary as a result of concurrence with Ausgrid is considered to be acceptable noting the substation will be screened with louvres and softened through the provision of planter boxes to the west. The proposed modifications to not alter approved dwelling mix, parking or gross floor area.

6.0 CONCLUSION

In conclusion it is considered that the modifications to the development consent plans are acceptable under the considerations of S4.55(1A) of the *EP&A Act 1979*. The following conclusions are made:

- *The modifications meet the provisions of Section 4.55(1A) of the Act noting the modifications meet the test of substantially the same development as the modifications do not result in significant change to the approved built form.*

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- *The proposed modifications are minor and are located at the ground floor level only, noting there is no change to the height of the building and overall form and scale.*
- *The modifications do not alter the previously approved gross floor area;*
- *The proposed modifications retain approved dwelling mix, parking, and landscaping.*

For reasons outlined in this Statement of Environmental Effects, it is my opinion that the Section 4.55(1A) application for modifications to the development consent plans for the mixed use development at 19-25 Robey Street and 5-5A Elizabeth Avenue should be granted development consent.

Chapman Planning Pty Ltd
Certified Practising Planners



Chapman Planning Pty Ltd

LIST OF ANNEXURES

1. Architectural Plans
2. Correspondence with Ausgrid



Client Details
Landmark Group
Joseph Scuderi

T +612 8221 0436
E joseph@landmarkgr.com

BCA - Paul Aramini Consulting
Paul Aramini
paul@araminiconsulting.com.au

SGC Stormwater & Flood - SGCE
Sam Haddad
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Senica
consultants

Solar & Cross Vent - Steve King
Steve King
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Traffic - TRAFFIX
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ABN: 81956706590

Drawn By	
Checked By	
Date	25/02/19
Scale	1:100 @A1

Drawing Series	Elevations and Sections
Drawing Name	South Elevation

Drawing Number **DA301**
Revision **D.1**

- | | |
|---|--------------------------------------|
|  | EF-01: Light Render |
|  | EF-02: Dark Grey Render |
|  | EF-03: Metal - Mid Grey |
|  | EF-04: Glass |
|  | EF-05: Powdercoat
"Monument Matt" |

7/4/2018

aa power engineering pty ltd Mail - Fwd: Comments RE: SC12934 Design Submission 01 19 - 25 Robey Street Mascot



Ali Alaouie <aalaouie@aapowereng.com>

Fwd: Comments RE: SC12934 Design Submission 01 19 - 25 Robey Street Mascot

1 message

Hassan Nour <h.nour@aapowereng.com>
To: Ali Alaouie <aalaouie@aapowereng.com>

Tue, Jul 3, 2018 at 3:59 PM

FYI

Hassan Nouredine

BE(Hons) (Electrical) | (MIEAust)



Address: Suite 4, 15-17 Forest Rd, Hurstville, NSW, 2220

Postal Address: PO BOX 910, Hurstville, NSW, 1481

☎: 02 9553 1857 ✉: H.nour@aapowereng.com

----- Forwarded message -----

From: Joe Marcon <jmarcon@ausgrid.com.au>
Date: Fri, May 18, 2018 at 8:23 AM
Subject: Comments RE: SC12934 Design Submission 01 19 - 25 Robey Street Mascot
To: Hassan Nour <h.nour@aapowereng.com>

Thanks Hassan for your submission.

There are several issues that need further attention before this design can be certified-

1) Sheet 1

a) The asset number for the double link pillar is KO-15660.

b) The AFC has requested a 630A supply. Please amend the substation schematic for the direct distributor from 600A to 630A.

c) Chamber detail table -

- the chamber detail table for the direct distributor from 600A to 630A.

- Tap setting to be 10505 / 433

https://mail.google.com/mail/ca/u/2/?ui=2&ik=4b2f70193e&jsver=H8yF-bO9HWE.en.&cbj=gmail_fe_180626.14_p5&view=pt&as_query=josh%40incagr... 1/6

7/4/2018

aa power engineering Pty Ltd Mail - Fwd: Comments RE: SC12934 Design Submission 01 19 - 25 Robey Street Mascot

- Tx link rating is 1600A

2) Sheet 2 - Please alter the asset number for the double link pillar is KO-15660.

3) Sheet 3 (Underground Construction Table)

- Why is a jointing hole at 'C'? Can the new cables be all jointed at 'D'? This could avoid trenching between B - C and some 300 CU Triplex being laid - is there a reason I'm not aware of?

- I don't understand why you've included a 'Transition T-joint' is required at 'D'. Isn't the joint a Straight Through Joint from 185 CU triplex to 97 CU3 PL cable? FYI - the ASP/1 needs to be careful about bending / disturbing the old PL cable as the cable is fragile.

- Is 'A - G' correct, or should it be 'A - D'?

- UG Construction Table (Last line). Please confirm of the DD to 19 - 25 Robey St will be in Dist Panel No.4 or No.1 (in sheet 1)???

4) Sheet 6 - Please alter the asset number for the double link pillar is KO-15660.

5) CIVIL Comments

a) the engineers letter needs to refer to the requirements of Ausgrid NS113, and the FRL 180/180/180 (not just 180)

b) The standard layout drawing already has the transformer 2 metres back from the open air which is one metre over the optimal location in respect to ventilation. This design pushes the transformer back into the building a further 2.9 metres and so is not acceptable.

I.E the centre line position of the Transformer must be located no more than 5.2m from the edge of the roadway kerb, Refer to NS113 Section 8.4.3.3b)

c) Sheet 13 - please add further detail to the basement earthing detail -

"Area and cover to be readily accessible to Ausgrid personnel. This area is to remain open space & cannot be located in a closed room or enclosure for future Ausgrid inspection and testing and protecting the earthing from mechanical damage"

These items need to be rectified before certification for Civil Building can be issued.

Best regards,

Joe Marcon | Contestability Project Co-Ordinator | Network Services | AUSGRID
Level 1, BLDG 4, 130 Joynton Avenue Zetland NSW 2017 AUSTRALIA
☎: 02 9663 9498 (Extn 39498) | 📠: 02 9663 9499 (Extn 39499) | ✉: jmarcon@ausgrid.com.au |

https://mail.google.com/mail/ca/u/2/?ui=2&ik=4b2f70193e&jsver=H8yF-bO9hWE.en.&cbl=gmail_fe_180626.14_p5&view=pt&as_query=josh%40incagr... 2/8

Monday, February 18, 2019 at 1:37:10 PM Australian Eastern Daylight Time

Subject: Fwd: 1:100 Year Flood level RE: SC12934 DESIGN CERTIFICATION - New Surface Chamber Substation at 19 - 25 Robey St Mascot

Date: Monday, 18 February 2019 at 1:27:38 pm Australian Eastern Daylight Time

From: Ali Alaouie <aalaouie@aapowereng.com>

To: Josh Thompson <josh@incagroup.com.au>, John Chudleigh <john@incagroup.com.au>

Hi Josh/John,

Please see response email below from Ausgrid

Regards,

Ali Alaouie - Director



Email: aalaouie@aapowereng.com

Ph: (02) 9553 1857 Mob: 0410492757

Address: Suite 4, 15-17 Forest Rd, Hurstville, NSW 2220

Postal Address: PO BOX 910, Hurstville, NSW 1481

----- Forwarded message -----

From: Joe Marcon <jmarcon@ausgrid.com.au>

Date: Mon, Feb 18, 2019 at 1:07 PM

Subject: 1:100 Year Flood level RE: SC12934 DESIGN CERTIFICATION - New Surface Chamber Substation at 19 - 25 Robey St Mascot

To: Ali Alaouie <aalaouie@aapowereng.com>

Hi Ali,

Section 6 from Ausgrid's Network Engineering Guideline (NEG-SD14) states that "*chamber should be incorporated in the overall development flood mitigation strategy at an elevated level above the 1% AEP level*".

However, when the single transformer standard layout drawings are used (as is the case for this project), the elevated substation chamber floor level will result in the lifting transformers and then pushing them back into the building to achieve transformer access.

This is unacceptable as it results in adverse ventilation issues that will impact on the performance (output rating), reliability (reduced asset life) of the transformer overall.

Regards,

Joe Marcon | Contestability Project Co-Ordinator | Network Services | AUSGRID

Level 1, BLDG 4, 130 Joynton Avenue Zetland NSW 2017 AUSTRALIA

☎: 02 9663 9498 (Extn 39498) | 📠: 02 9663 9499 (Extn 39499) | ✉: jmarcon@ausgrid.com.au |

From: Ali Alaouie <aalaouie@aapowereng.com>

Sent: Monday, 18 February 2019 10:39 AM

To: Joe Marcon <jmarcon@ausgrid.com.au>

Subject: Re: Re-Certification SC12934 DESIGN CERTIFICATION - New Surface Chamber Substation at 19 - 25 Robey St Mascot

Hi Joe,

Hope your well. For this job council are asking the developer for commentary from Ausgrid regarding the substation floor level. With this standard surface chamber sub the base is within the 1:100 year flood level and council are asking for something direct from that they accept this. I have sent them the details you forwarded me for this issue for the Darlinghurst project however they want is specific for this job. Can you please respond to this email confirming the chamber is acceptable to Ausgrid to be in the 1:100 Year Flood Level.

Regards,

Ali Alaouie - Director



Email: aalaouie@aapowereng.com

Ph: (02) 9553 1857 Mob: 0410492757

Address: Suite 4, 15-17 Forest Rd, Hurstville, NSW 2220

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Bayside Local Planning Panel

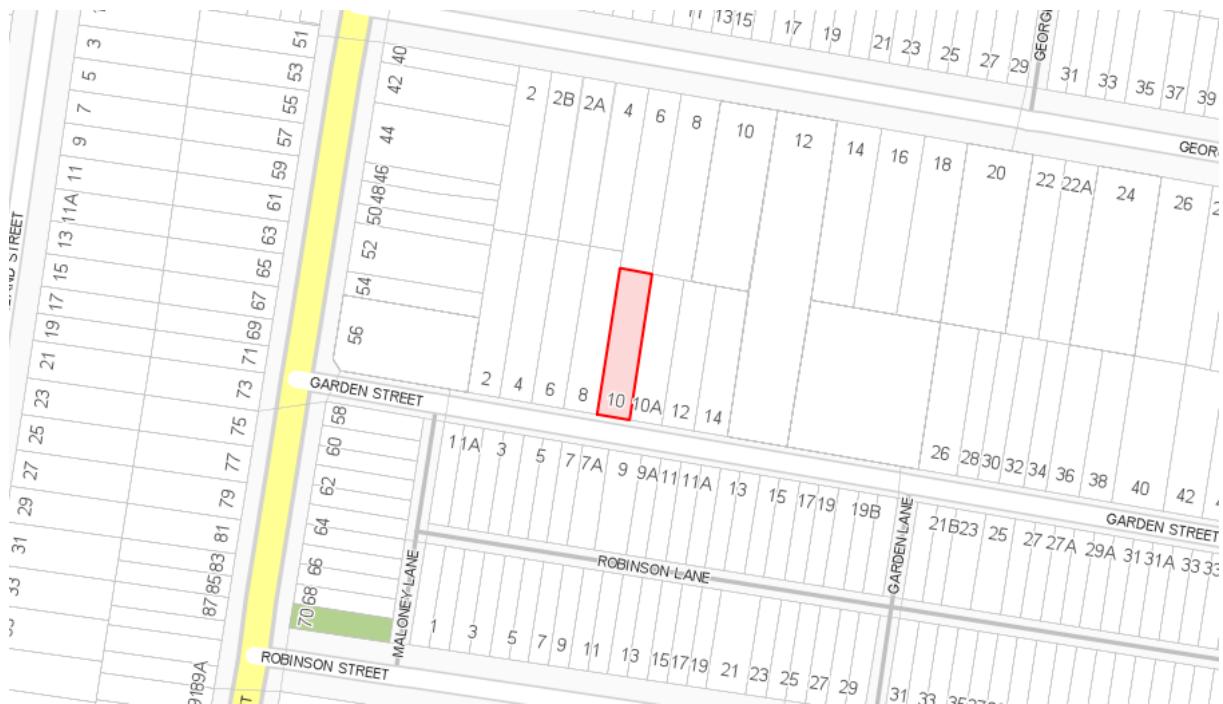
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Item No	6.5
Application Type	Development Application
Application No	SF19/299
Lodgement Date	25/10/2018
Property	DA-2018/1192 - 10 Garden Street, Eastlakes
Ward	Botany Bay
Owner	Aneres Capital Pty Ltd
Applicant	Rodney Albert Yannakis & Associates
Proposal	Demolition of existing structures and construction of two (2) semi-detached dwellings and Torrens Title subdivision into two (2) lots
No. of Submissions	Two (2) Submissions
Cost of Development	\$794,954.00
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Bayside Planning Panel considers the Clause 4.6 request to vary the FSR standard contained in Clause 4.4 of the BBLEP 2013 and be satisfied that the variation will result in consistency with the objectives of the FSR standard and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.
 - 2 That the Development Application No. DA-2018/1192 for the proposed demolition of existing structures and construction of two semi-detached dwellings and Torrens Title subdivision into 2 lots, at 10 Garden Street, Eastlakes 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 objectors be advised of the Bayside Local Planning Panel's decision.
-

Location Plan



Attachments

- 1 Statement of Environmental Effects and Clause 4.6 Variation Statement [↓](#)
- 2 Planning Assessment Report [↓](#)
- 3 Site Plan [↓](#)
- 4 Elevations 1 [↓](#)
- 5 Elevations 2 [↓](#)
- 6 Landscape Plan [↓](#)
- 7 Subdivision Plan [↓](#)



STATEMENT OF ENVIRONMENTAL EFFECTS TO BAYSIDE COUNCIL

Demolition, subdivision and two terrace houses

10 Garden Street, Eastlakes

Prepared on behalf of

Ben Au c/- Eddie Gittany (Skyjaid Pty Ltd)

23 OCTOBER 2018

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1.0 INTRODUCTION

This Statement of Environmental Effects (**SEE**) is submitted to Bayside Council (the **Council**). It describes a Development Application (**DA**) seeking development consent pursuant to Section 4.16(1) of the Environmental Planning and Assessment, Act, 1979 (the **Act**) for demolition, torrens title subdivision and the construction of two terrace houses, landscaping and other required site works at 10 Garden Street, Eastlakes (the **site**). A detailed description of the proposal is provided at Section 3 of this report.

Lockrey Planning and Development Solutions Pty Ltd (**LPDS**) has prepared this report on behalf of Ben Au c/- Eddie Gittany (Skyjaid Pty Ltd). It is based on plans and information by Rodney Yannakis & Associates, the accredited building designer and technical documents as referenced below.

This report:

- provides a description of the site context, including site identification, constraints, its existing development and that neighbouring;
- provides a detailed description of the proposed development;
- undertakes an assessment of the proposed development in terms of the matters for consideration as listed under Section 4.15 of the Act; and
- identifies and assesses the issues relevant to the proposed development.

This report should be read in conjunction with the following supporting information submitted separately:

- Survey Plan, by Ballenden Surveyors;
- Building Designer Drawings, including Site Analysis, Shadow Diagrams, Demolition Plan, Concept Subdivision Plan, Soil and Water Management Plan and Waste Management Plan, all by Rodney Yannakis & Associates;
- Landscape Plan and Certification, by The Creative Practice;
- Stormwater Drainage and Sediment Control Plans, by AKT Engineering & Consulting;
- Aircraft Noise Intrusion Assessment, by Acoustic Logic;
- BASIX Certificate and NatHERS, by Australian Energy Efficiency Certificate.

Application for Construction Certificate (**CC**) will be sought separately. Landowners consent will be submitted separately.

1.1 Referral authorities

It is our understanding that only 'standard' referrals to Council's internal departments are required.

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2.0 SITE DESCRIPTION AND ANALYSIS

Rodney Yannakis & Associates has undertaken a detailed site analysis within the Building Designer Drawings submitted separately. The key characteristics of the site are summarised below:

Location	<ul style="list-style-type: none"> – 10 Garden Street, Eastlakes. – The site is located on the northern side of Garden Street between St Helena Parade to the east and Maloney Street to the west.
Legal property description	– Lot W in DP 162891. A Survey Plan by Ballenden Surveyors is submitted separately.
Site area	– 453.8m ²
Shape / dimensions	– Rectangular with a 10.06m frontage to Garden Street (southern boundary).
Easements	<ul style="list-style-type: none"> – There are no known easements that affect the site. – Numerous utility pits are located within the Garden Street footpath/carriageway and verge.
Zoning	– R2 Low Density Residential pursuant to the provisions of Botany Bay Local Environmental Plan 2013 (LEP 2013).
Heritage	– The site is not an identified heritage item, is not within the visual catchment of identified heritage items and is not within a heritage conservation area.
Topography	– The site and its surrounds are relatively flat with an approximate average RL of 12.9.
Acid sulfate soils	– The site and surrounds are Class 5 acid sulfate soils.
Flooding	– The site and its surrounds are not floodprone.
Bushfire	– The site and its surrounds are not bushfire prone.
ANEF contour	– Based on the Sydney Airport 2033 ANEF Contour Map, the site is located between the ANEF 20-25 contours.
Vegetation	<ul style="list-style-type: none"> – The site contains established lawn areas within the front and backyards. Two larger trees are found near the rear boundary. Neighbouring properties are provided with plantings in their front and backyards. – Garden Street does not contain any street vegetation / plantings within the site's vicinity.
Existing improvements	<ul style="list-style-type: none"> – Currently existing on the site is a pitched tile and metal roof single storey (front roof ridge RL 17.4 and rear roof ridge RL 16.1) brick dwelling house with a small front verandah. – The front yard comprises grass, a centrally located vehicular crossing and hardstand car space and a low brick wall to the site's front boundary. Concrete pathways along each side boundary enable access

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to the backyard.

- The backyard comprises grassed areas set within large areas of concrete pathways. The pathways lead to a single storey stand alone (within the middle of the backyard) fibro garage with a pitched metal roof (ridge RL 15.9). Beyond the garage and adjacent to the rear boundary is a single storey fibro shed with a metal roof (ridge RL 15.7).
- Colorbond fencing is provided to the side and rear boundaries.

Surrounding context

- Garden Street is a relatively narrow two way carriageway with verge and limited footpath planting. Due to its relative narrowness, vehicles are typically parked straddling the carriageway and footpath.
- The surrounding locality is characterised by a regular grid street pattern befitting its residential zoning with varying allotment sizes, adjusted to the natural topography and orientated to relevant street frontages.
- The integrity of the building stock varies considerably and demonstrates a range of architectural form ranging from low set traditional single storey dwellings traditional two storey dwellings, large contemporary two storey dwellings and single and two storey townhouses, including townhouses within internal cul-de-sacs.
- The locality's subdivision pattern is varied and which provides for the varied built form typology.
- The locality does not contain any aesthetic, design, cultural or historical significance in terms of its built form.

An aerial location plan follows at **Figure 1**. A site analysis plan prepared by Rodney Yannakis & Associates is submitted separately. Photographs of the site and its neighbouring built form context are shown at **Figures 2 to 5** (inclusive).

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Figure 1 – Aerial photo of the site (shown outlined approximately in red) and its adjacent context

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Figure 2 – The site's Garden Street frontage



Figure 3 – The site's backyard

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Figure 4 – Built form adjacent the site (central in the image) to its east and west



Figure 5 – Built form to the site's south (opposite side of Garden Street)

3.0 DESCRIPTION OF THE PROPOSAL

3.1 Overview

Building Designer Drawings of the proposal by Rodney Yannakis & Associates are submitted separately. Calculations have been provided by Rodney Yannakis & Associates and are based on the referenced definition in Council's planning documents.

Pursuant to Section 41.6 of the Act, development consent at 10 Garden Street, Eastlakes is being sought for:

- demolition of the existing dwelling house and all associated structures;
- torrens title subdivision of the site into two allotments;
- construction of two dwelling (terrace) houses¹;
- landscaping and required site works.

3.2 Demolition

Demolition of the dwelling house and all associated structures within the backyard is proposed. A Demolition Plan by Rodney Yannakis & Associates is submitted separately.

3.3 Subdivision

Torrens title subdivision of the site into two allotments is proposed. Currently the site as a single allotment has an area of 453.8m². Following the subdivision, each lot will have the same area, 226m² and each will be provided with a frontage of 5.030m to Garden Street. A draft Subdivision Plan by Rodney Yannakis & Associates is submitted separately.

3.4 The terrace houses

Two mirror image two storey terrace houses are proposed. Essentially each will be provided with the following accommodation:

- Ground floor (FFL 13.325):
 - integrated single vehicle garage (FFL 13.2);
 - front entry;
 - powder room;
 - laundry;
 - dining;
 - 3m x 2.615m internal courtyard;
 - open plan kitchen and living room with direct access to an alfresco area;
 - stair connecting to the level above;

¹ Pursuant to the Dictionary in LEP 2013, **dwelling house** means a building containing only one dwelling.

- First floor (FFL 16.575):
 - master bedroom with walk in robe, ensuite and 1.5m x 2.1m balcony;
 - bedrooms 2, 3 and 4, each with built in robes; and
 - bathroom.

Beyond each dwelling's 3.5m x 5.03m alfresco area is their respective backyard. This principal area of private open space is 62.8m² per dwelling.

3.5 External materials and finishes

Rodney Yannakis & Associates has nominated the proposed external materials and finishes on the Building Designer Drawing submitted separately. The proposed external materials and finishes complement the locality's eclectic built form character.

3.6 Building height

Each terrace has a maximum building height² of 6.913m (parapet RL 19.813), as measured from ground level existing³ (RL 12.9).

3.7 Gross floor area (GFA) and Floor space ratio (FSR)

The proposed development has an GFA⁴ of 324.82m² (162.41m² per dwelling) which equates to an overall FSR⁵ of 0.72:1.

Following the site's torrens title subdivision (each lot being 226m²), the GFA / FSR per dwelling is:

- 162.41m² GFA and an FSR of 0.72:1 for terrace 1; and
- 162.41m² GFA and an FSR of 0.72:1 for terrace 2.

² Pursuant to the Dictionary in LEP 2013, **building height** (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

³ Pursuant to the Dictionary in LEP 2013, **ground level (existing)** means the existing level of a site at any point.

⁴ Pursuant to the Dictionary in LEP 2013, **gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
 - (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
 - (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

⁵ Pursuant to Clause 4.5(2) of LEP 2013, **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

3.8 Parking

Each terrace is to be provided with 2 car parking spaces in the form of a 2.7m x 5.5m integrated single vehicle garage and a 5.5m x 3m hardstand space (effectively a tandem space). Two vehicular crossings enable access to each driveway and car parking area.

The surrounding locality and road network is provided with plentiful and generally unrestricted on street parking.

3.9 Landscaped area, site coverage and private open space

A Landscape Plan and Checklist by The Creative Space is submitted separately and is shown below at **Figure 6**. A total of 157.5m² of landscaped area⁶ and a site coverage⁷ of 292.5m² (or 65%) is proposed.

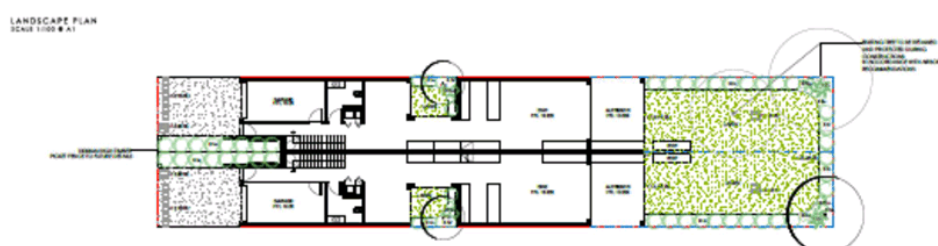


Figure 6 – Proposed landscape plan

Each dwelling is provided with a 3.5m x 5.03m alfresco area. Beyond this is the 62.82m² backyard or principal area of private open space. Each dwelling is also provided with a 2.1m x 1.5m balcony accessible from the master bedroom at the first floor level.

The key landscape and private open space features and design principles are:

- the integration of the development's landscape to respect the surrounding locality's landscape identity, whilst responding to the site's context and the building's function and character;
- to create an appropriate scale and bulk of built form set in a comprehensive landscape setting, and as an appropriate response to the site setting;
- a mixture of trees (feature, groundcovers, hedges and planters) has been detailed to enhance the habitat values, as well as increasing visual interest and suitability for the various landscape uses, and associated microclimates;

⁶ Pursuant to Part 3L of DCP 2013, **Landscaped area** includes all of the parts of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. This refers to soft landscaping only.

⁷ Pursuant to Part 3L of DCP 2013, **Site coverage** is the proportion of a site area covered by buildings.

The following are not included for the purpose of calculating site coverage:

- (i) any basement,
- (ii) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (iii) any eaves,
- (iv) unenclosed balconies, decks, pergolas and the like.

- the proposed plant material has been selected for hardiness, ease of maintenance and proven ability in the area;
- removal of existing non-significant vegetation within the backyard area;
- most of the landscaped areas comprise natural/soft landscaping allowing infiltration and absorption rather than runoff;
- perimeter boundary planting;
- the provision of a central planted courtyard for each dwelling;
- the provision of private open space directly accessible from primary living rooms.

3.10 Setbacks

Each terrace is to be built with a typical zero building alignment to its side boundaries (eastern and western). Each terrace has a 5.5m setback from the Garden Street (southern) boundary and an approximate 16m setback to their rear (northern) boundary.

3.11 Stormwater

Stormwater Drainage Plans, by AKT Engineering & Consulting (submitted separately) have been prepared in accordance with Council's standard guidelines. The key features of the stormwater design include:

- 1 x 2,000 litre rainwater tank (RWT) for each dwelling and located in the backyard;
- 450mm x 450mm grated drain for each dwelling in the backyard and front yard;
- reconnection to existing Council infrastructure; and
- 100mm diameter pipes.

3.12 Utilities

The utility services available to the site including electricity, telecommunications, sewer, gas and stormwater may require some augmentation following the site's torrens title subdivision. It is not anticipated that the proposal will have an adverse impact on the provision or availability of these services.

3.13 BCA compliance

Rodney Yannakis & Associates has prepared the Building Designer drawings in compliance with the relevant performance criteria and deemed to satisfy provisions of the Building Code of Australia. Subject to detailed design as part of the CC process, the proposal is capable of compliance with the relevant requirements of the BCA.

3.14 Waste management

Rodney Yannakis & Associates has prepared a Waste Management Plan (submitted separately) for the proposed development in accordance with Council's standard guidelines and practices relating to demolition, construction and on-going waste management.

Should Council consider it necessary, conditions of development consent in relation to waste and construction management can be imposed to ensure appropriate levels of amenity are maintained for adjoining and adjacent properties during and post construction.

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On going waste management will be in accordance with Council's standard requirements. Collection of garbage from the site will continue in the same manner (via Garden Street) which is by Council's contractors on the designated day(s).

4.0 STATEMENT OF ENVIRONMENTAL EFFECTS

The following is our assessment of the environmental effects of the proposed development as described in the preceding sections of this report. The assessment includes only those matters under Section 4.15 that are relevant to the proposal as identified in **Table 1**.

Table 1 – Section 4.15 Checklist

Matter for Consideration	Comment
– Provisions of relevant Environmental Planning Instruments	– Refer to Sections 4.1.1, 4.1.2 and 4.1.3.
– Provisions of relevant Draft Environmental Planning Instruments	– NA
– Provision of relevant Development Control Plans	– Refer to Section 4.1.4 and 4.1.5.
– Provisions of relevant Planning Agreements	– N/A
– Any matters pursuant to the Environmental Planning and Assessment Regulations 2000 (the Regulations)	– N/A
– Provisions of any relevant Coastal Management Plans	– N/A
– The likely impacts of the development	– Refer to Section 4.2.
– The suitability of the site for the development	– Refer to Section 4.3.
– Any submission made in accordance with the Act or the Regulations	– Refer to Section 4.4.
– The public interest	– Refer to Section 4.5.

4.1 S4.15(1)(a) Statutory considerations

The following environmental planning instruments and development control plan are relevant to the proposal:

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (**BASIX**);
- State Environmental Planning Policy No. 55: Remediation of Land (**SEPP 55**);
- City of Botany Local Environmental Plan 2013 (**LEP 2013**);
- Botany Bay Comprehensive Development Control Plan 2013 (**DCP 2013**); and
- City of Botany Bay S94 Contributions Plan 2016 (**S94 Plan 2016**).

An assessment of the proposal's compliance with the relevant provisions of these plans follows overleaf.

4.1.1 **BASIX**

BASIX applies to the proposal[■], therefore the Regulations 2000 requires a BASIX Certificate to accompany the DA. A BASIX and NatHERS Certificate by Australian Energy Efficiency Certificate is submitted separately. The certificate demonstrates the proposal's compliance with the relevant thermal, water and energy requirements of BASIX as follows:

- 40 for water (target 40);
- pass for thermal comfort (target pass); and
- 51 for energy (target 50).

4.1.2 **SEPP 55**

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether it is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

Generally, land contamination is most often the result of past uses. A planning authority is to consider the possibility that a previous land use has caused contamination of the site as well as the potential risk to health or the environment from that contamination. Decisions must then be made as to whether the land should be remediated or use of the land restricted to reduce the risk.

The SEPP 55 guidelines state that as an indicator of potential contamination, an initial evaluation of the history of land use of a site is essential to determine whether contamination is an issue. The initial evaluation can be based on readily available information. Where there is no reason to suspect contamination after acting substantially in accordance with the guidelines, the proposal may be processed in the usual way.

The following assessment has been undertaken substantially in accordance with the initial evaluation process contained in the SEPP 55 guidelines. To our knowledge, no previous investigations of contamination on the land have been undertaken. Also, to our knowledge:

- the land is currently occupied by a single dwelling house. It has not in the past, been regulated through licensing or other mechanisms in relation to any activity listed in Table 1 of the SEPP 55 guidelines;
- there are no land use restrictions on the site relating to possible contamination, such as notices issued by any regulatory authority.
- the site is zoned R2 Low Density Residential pursuant to the provisions of LEP 2013 and has been zoned for the same, or similar purpose for many years. Although a range of development is permissible with consent in the R2 Low Density Residential zone, to our knowledge, the land has not at any time been specifically zoned for an industrial or agricultural purpose. Furthermore, properties to the site's north, south, east and west have also been zoned for similar purposes for many years.

[■] Pursuant to the Environmental Planning and Assessment Regulation 2000, a **BASIX affected building** means any building that contains one or more dwellings but does not include a hotel or motel.

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It has long been agreed that the issue of contamination can adequately addressed (rectified) at an appropriate time. It is not an impediment to the redevelopment of a property other than for economic grounds. However, as the economic impact to an owner/developer is not a relevant consideration for Council, and having regard to the above, it is assessed that the site is suitable for its intended construction of two terrace houses and further site investigations are not warranted.

4.1.3 LEP 2013

The relevant provisions of LEP 2013 specifically relating to the proposal are addressed below at **Table 2**.

Table 2 – Compliance with LEP 2013

Clause	Requirement	Proposal/Compliance
Cl. 2.1 – Land use zones and Cl. 2.2 - Zoning of land to which this plan applies	– Pursuant to the zoning map, the site is located within the R2 Low Density Residential Zone.	✓ Noted.
Cl. 2.3 – Zone objectives and land use table	<p>– The following development is permissible with development consent:</p> <p><i>Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Child care centres; Community facilities; Dwelling houses; Environmental protection works; Flood mitigation works; Group homes; Health consulting rooms; Hospitals; Multi dwelling housing; Neighbourhood shops; Office premises; Places of public worship; Recreation areas; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings (my emphasis)</i></p> <p>– The objectives of the R2 Low Density Residential Zone are:</p> <ul style="list-style-type: none"> - 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. 	<p>✓ The proposed development comprising demolition, subdivision and dwelling (terrace) house(s) is specifically permissible with development consent in the R2 zone.</p> <p>✓ The proposal is consistent with the objectives of the R2 Low Density Residential zone as it:</p> <ul style="list-style-type: none"> - provides residential accommodation on an existing residential allotment of land; - provides a terrace house built form which is consistent with the established and likely future built form context of the locality; - provides parking in accordance with Council's policy and therefore promotes the use of public transport, walking and cycling; - will not adversely reduce existing residential amenity levels of neighbouring properties; - continues use of existing services and amenities within nearby villages; and - provides the opportunity to be able to work from home as/if required.
Cl. 2.6 – Subdivision – consent requirements	– Subdivision requires development consent.	✓ Torrens title subdivision of the site into two separate allotments is proposed.

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Clause	Requirement	Proposal/Compliance
Cl. 2.7 – Demolition requires development consent	– Demolition works require development consent.	✓ Demolition of the existing dwelling and its associated / ancillary structures is proposed.
Cl. 4.3 – Height of buildings	– 10m maximum building height.	✓ Each terrace has a height of 6.913m.
Cl.4.4A– Exceptions to FSR for residential accommodation	– Applies to site's in Area 3 on the FSR Map. – 0.8:1 maximum FSR for lots with an area of 200m ² to 250m ² (each lot has an area of 226m ²).	✓ Following the site's subdivision, each terrace house will have an FSR of 0.72:1.
Cl. 6.1 - Acid sulfate soils	– The site is located within the Class 5 acid sulfate soils zone.	✓ Noted. Excavation is not proposed other than for standard pierings and footings.
Cl. 6.2 - Earthworks	– Council is to consider the following: (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality, (b) the effect of the proposed development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the proposed development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.	✓ The amount of excavation is consistent with the requirements of Clause 6.1 as: - the site's existing topography is generally respected; - it is typically sited away from the site's boundaries; - any cut will be reused as fill; - the impact on existing vegetation is minimal; - the site's permeability is increased from that existing; and - new planting is proposed. ✓ Council can impose appropriate conditions of development consent to ensure the integrity of adjoining properties including: - a soil and erosion sediment control plan; - structural certificates; - dilapidation report; and - construction management plan.
Cl. 6.3 – Stormwater management	– Council prior to issuing a development consent, is to be satisfied the development: (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.	✓ Appropriate at grade permeable landscaping is proposed which will promote infiltration and absorption as opposed to runoff. Refer to Section 3.11 for further information in relation to the management of stormwater and its design.

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Clause	Requirement	Proposal/Compliance
Cl. 6.9 – Development in areas subject to aircraft noise	<ul style="list-style-type: none"> – The site is aircraft noise affected. – Prior to determination the following is to be considered: <ul style="list-style-type: none"> (a) whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and (b) consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and (c) the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000. 	<p>✓ The site is located within the 20-25 ANEF contour. Despite technically increasing the number of residents on the site, the proposal is specifically permissible and is located within an existing residential zone containing a variety of residential built forms. As detailed within the Aircraft Noise Intrusion Report, by Acoustic Logic (submitted separately), the internal design of each dwelling will comply with the relevant noise intrusion criteria in the Australian Standard. Council can impose appropriate conditions in this regard. The site is located some distance from the airport with many low, medium and high density dwellings in closer proximity.</p>

4.1.4 DCP 2013

An assessment of the proposal's compliance or otherwise with the **specifically relevant** controls/guidelines within DCP 2013 is undertaken overleaf at **Table 3**.

Section 4.15(3A) of the Act states:

If a development control plan contains provisions that relate to the development that is subject of a development application, the consent authority:

- (a) if those provision set standards with respect to an aspect of the development and the development application complies with those standards – is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development does not strictly comply with those standards – **is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and***
- (c) may consider those provisions only in connection with the assessment of that development application. (our emphasis)*

The proposal relies on some minor variations to DCP 2016. The proposal is consistent with development already permitted on adjacent land and under the circumstances, dispensation from strict adherence to the controls will enable a better outcome for the site.

We note that Sections 3.42 and 4.15(3A) of the Act clarify that a DCP is only to act as a guideline, and that Council's are to be flexible and allow for alternative solutions where an application does not meet the applicable guidelines in a DCP.

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Table 3 – Compliance with DCP 2013

Element	Control	Proposal/Compliance
Part 3 – General Provisions		
Parking and access	– All required car and bicycle park must be provided on site.	✓ Each dwelling is provided with two on site car parking spaces.
	– Where tandem or stack parking is proposed, the following shall be complied with: (i) a maximum of two (2) spaces will be permitted for each tandem or stacked parking arrangement. No small car spaces defined in AS2890.1 shall be used as tandem or stacked parking.	✓ Each dwelling is provided with an integrated single vehicle garage and a hardstand tandem space directly in front of the garage. The design of each car space complies with the relevant requirements of AS 2890.
	– Minimum 1 space per dwelling house.	✓ Each dwelling is provided with two on site car parking spaces.
	– All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities).	✓ The design of each car space complies with the relevant requirements of AS 2890.
	– Off-street parking facilities are not permitted within the front setbacks.	✓ Each dwelling is provided with an integrated single vehicle garage and a hardstand tandem space on the concrete driveway directly in front of the garage.
	– Pedestrian entrances and exits shall be separated from vehicular access paths.	✓ Vehicular and pedestrian access is separated to reduce the potential for conflict.
	– A maximum of one vehicle access point is permitted per property.	✓ A single driveway per dwelling (post subdivision) is proposed.
	– Tandem or stacking of car parking spaces are permitted where the spaces are only allocated to same single dwelling.	✓ Each dwelling is provided with an integrated single vehicle garage and a hardstand tandem space on the concrete driveway directly in front of the garage.
	– 3m driveway width.	✓ Each driveway has a width of 3m.

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Element	Control	Proposal/Compliance
Subdivision and amalgamation	– Development Applications shall demonstrate that the proposed subdivision or amalgamation is consistent with the Desired Future Character of the area.	<p>✓ The surrounding locality is characterised by a regular grid street pattern befitting its residential zoning with varying allotment sizes, adjusted to the natural topography and orientated to relevant street frontages. The proposed subdivision maintains this consistency.</p> <p>✓ The locality's subdivision pattern is varied and which provides for the varied built form typology from low set traditional single storey dwellings traditional two storey dwellings, large contemporary two storey dwellings and single and two storey townhouses, including townhouses within internal cul-de-sacs. The site's torrens title subdivision into two allotments will not be inconsistent with the mixed lot size within the surrounding locality.</p> <p>✓ The general north south orientation of lots is maintained. In this regard the proposal provides for two terrace house dwellings which are permissible within the R2 zone, comply with the development standards of the LEP and meet the objectives of the zone. The site is within the visual catchment of numerous townhouse and infill dwellings, including terrace houses. There are numerous properties with similar lot sizes and dimensions within the surrounding street network.</p> <p>✓ Refer to Section 4.2 for further information.</p>
	– Proposed subdivision or amalgamation must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area; dimensions, shape and orientation.	<p>✓ Refer to the above comment and Section 4.2 for further information.</p>
	– Development Applications shall demonstrate that future development for the site can comply with all Parts of the DCP.	<p>✓ Noted, the proposal is consistent with the key built form guidelines within LEP 2013 and DCP 2013. The built form is generally expected.</p>
	– AS2021 requires for sites between 25 to 30 ANEF Contour that the external environment be considered for aircraft noise impacts.	<p>✓ The site is located within the 20-25 ANEF contour. Despite technically increasing the number of residents on the site, the proposal is specifically permissible and is located within an existing residential zone containing a variety of residential built forms. As detailed within the Aircraft Noise Intrusion Report, by Acoustic Logic (submitted separately), the internal design of each dwelling will comply with the relevant noise intrusion criteria in the Australian Standard. Council can impose appropriate conditions in this regard. The site is located some distance from the airport with many low, medium and high density dwellings in closer proximity.</p>
	– Land within Area H1 and H2 may have a minimum lot width of 5m.	<p>✓ The site is within Area H2. Each new lot has a width of 5.03m and an area of 226m².</p>

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Element	Control	Proposal/Compliance
	<ul style="list-style-type: none"> Proposed lots must be of a size and have dimensions to enable the siting and construction of a dwelling and ancillary structures that: <ul style="list-style-type: none"> (i) Acknowledge site constraints; (ii) Address the street; (iii) Minimise impacts on adjoining properties including access to sunlight, daylight, privacy and views; (iv) Provide usable private open space; (v) Provide vehicle access. (vi) Protect existing vegetation; (vii) Mitigate potential flood affectation and stormwater management requirements; (viii) Acknowledge contamination of the land; and (ix) Protect Heritage Items, Conservation Areas and land adjoining Heritage Items. 	<ul style="list-style-type: none"> ✓ The site's subdivision is consistent with the design guidelines as: <ul style="list-style-type: none"> each lot has a frontage of 5.03m to Garden Street (as permitted); each dwelling appropriately addresses its Garden Street frontage. Passive surveillance of the surrounding public domain is improved from that existing; the front entrance to each dwelling is readily visible from Garden Street; each dwelling is provided with private open space that exceeds that required. Private open space is also directly accessible from open plan primary living rooms and acts as an extension to these rooms; each dwelling is provided with a single vehicle integrated garage and an additional hardstand space on the concrete driveway; residential amenity to neighbouring dwellings is maintained. Refer to Section 4.2 for further information; each lot is provided with a north south orientation; each lot is provided with a single vehicular crossing; the site (overall) has been used for residential purposes for many years. It is unlikely to be contaminated and further investigations are not warranted; the site and its surrounds is not floodprone and appropriate stormwater management procedures are proposed; vegetation within the backyard is retained and appropriate new plantings are proposed; and the site is not an identified heritage item, is not within the visual catchment of identified heritage items and is not within a heritage conservation area.
	<ul style="list-style-type: none"> All lots created shall have at least one (1) frontage to the street. 	<ul style="list-style-type: none"> ✓ Each lot has a frontage to Garden Street. The north south subdivision pattern is maintained.
	<ul style="list-style-type: none"> Corner buildings are to reflect the architecture, hierarchy and characteristics of the streets they address. 	<ul style="list-style-type: none"> ✓ Refer to the above comment.
Stormwater management	<ul style="list-style-type: none"> Stormwater management plan required. 	<ul style="list-style-type: none"> ✓ Stormwater Drainage Plans, by AKT Engineering & Consulting (submitted separately) have been prepared in accordance with Council's standard guidelines.
Sustainable design	<ul style="list-style-type: none"> BASIX compliance required. 	<ul style="list-style-type: none"> ✓ The proposal is BASIX compliant. In addition to the BASIX requirements, ESD initiatives are addressed at Section 4.2.
Crime prevention, safety and security	<ul style="list-style-type: none"> Development is to have regard to CPTED principles. 	<ul style="list-style-type: none"> ✓ Refer to Section 4.2 for further information.

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Element	Control	Proposal/Compliance
Aircraft noise & OLS	– AS2021 requires for sites between 25 to 30 ANEF Contour that the external environment be considered for aircraft noise impacts.	✓ The site is located within the 20-25 ANEF contour. Despite technically increasing the number of residents on the site, the proposal is specifically permissible and is located within an existing residential zone containing a variety of residential built forms. As detailed within the Aircraft Noise Intrusion Report, by Acoustic Logic (submitted separately), the internal design of each dwelling will comply with the relevant noise intrusion criteria in the Australian Standard. Council can impose appropriate conditions in this regard. The site is located some distance from the airport with many low, medium and high density dwellings in closer proximity.
Landscaping and tree management	– Landscape plan required.	✓ A Landscape Plan by The Creative Space is submitted separately.
	– Existing trees including street trees must be preserved. The arrangement of buildings, secondary dwellings, pods, car parks, driveways, ancillary building and paved vehicle/other circulation spaces must consider existing trees and incorporate them into the site layout.	✓ Existing vegetation within the backyard is retained where practical. Appropriate new plantings for each lot are proposed. They will complement the locality's landscape and scenic quality. Street trees are not provided within the site's Garden Street public domain visual catchment. The site's permeability has been maintained.
	– Landscaping will be designed to reduce the bulk, scale and size of buildings, to shade and soften hard paved areas, to create a comfortably scaled environment for pedestrians in the public domain, or from within the site, and to screen utility and vehicle circulation or parking areas. Emphasis is to be placed upon landscaped setbacks.	✓ Refer to the above comment. Appropriate landscaping is proposed within the front and rear yards of each lot.
Waste minimisation and management	– Waste management plan required.	✓ A Waste Management Plan by Rodney Yannakis & Associates is submitted separately. ✓ On going waste management will be in accordance with Council's guidelines with collection of garbage via Garden Street by Council's contractors on the nominated day(s).
Part 4 Residential Development (4A Dwelling Houses)		
Site design	– Site analysis plan required.	✓ A Site Analysis Plan by Rodney Yannakis & Associates is submitted separately. In addition a written and photographic site analysis is undertaken at Section 2 of this report.

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Element	Control	Proposal/Compliance
Design excellence	<p>– To achieve excellence in urban design, development should:</p> <ul style="list-style-type: none"> (i) take into consideration the characteristics of the site and adjoining development by undertaking a thorough site analysis; (ii) utilise innovative design which positively responds to the character and context of its locality; (iii) provide a design which utilises Environmentally Sustainable Design strategies; (iv) enhance the streetscape character of the locality; (v) Ensure development is consistent in height and scale with surrounding development; (vi) Maintain established setbacks; (vii) Design buildings to minimise impacts on neighbours by maintaining appropriate levels of solar access and privacy; (viii) Ensure any development utilises materials and finishes which complement the locality and provides visual impact; (ix) Incorporate architectural relief and modulation of façades to avoid a bulky appearance; (ix) Incorporate entries, verandas and balconies to add visual interest to building forms and break up the bulkiness of a dwelling when viewed from the street. (x) Design for acoustic and visual privacy; (xi) Ensure dwellings and open space areas achieve good solar access, and are energy efficient; (xii) Ensure building entries address the street and are clearly visible from the street or footpaths; (xiii) Provide good quality landscaping; (xiv) Consider the relationship of private open space to the layout of the dwelling; (xv) Use design techniques which promote safety and discourage crime; and (xvi) Ensure garages and carports are not the dominant feature of the building façade. They must be subservient in scale to the dwelling and compatible with the overall design of the dwelling. 	<p>✓ The proposal exhibits design excellence as:</p> <ul style="list-style-type: none"> - a detailed site analysis has been undertaken; - the proposed built form sits comfortably within its established and likely future built form context; - incorporates appropriate ESD initiatives (refer Section 4.2 for further information); - provides a built form which appropriately addresses its Garden Street frontage and increases passive surveillance of the surrounding public domain; - provides a subdivision pattern, lot size and width which is consistent with that of properties within the site's visual catchment; - two storey built form is proposed which is consistent with the prevailing height of built form within the site's visual catchment; <p>provides for a zero building alignment to the side boundaries which is consistent for the dwelling type (terrace houses);</p> <ul style="list-style-type: none"> - provides for a consistent front and rear setback; - quality and durable external materials and finishes are proposed which complement the locality's character are proposed; - an articulated built form is provided and which still maintains a human scale; - the height, bulk and scale (FSR) of each dwelling complies with the LEP 2013 standards; - the front entrance to each dwelling is readily visible from Garden Street; - a first floor level balcony is provided to the Garden Street frontage of each dwelling; - each dwelling is provided with private open space that exceeds that required. Private open space is also directly accessible from open plan primary living rooms and acts as an extension to these rooms; - each dwelling is provided with a single vehicle integrated garage and an additional hardstand space on the concrete driveway; - residential amenity to neighbouring dwellings is maintained. Refer to Section 4.2 for further information; - each lot is provided with a north south orientation; - each lot is provided with a single vehicular crossing; - the built form has been designed having regard to CPTED principles (refer to Section

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Element	Control	Proposal/Compliance
		4.2 for further information); - vegetation within the backyard is retained and appropriate new plantings are proposed; and - the site is not an identified heritage item, is not within the visual catchment of identified heritage items and is not within a heritage conservation area.
Local character	- Development must comply with the relevant desired future character statements.	✓ Noted, see later.
Streetscape presentation	- 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.	✓ Noted, see later.
	- Development must be designed to reinforce and maintain the existing character of the streetscape.	✓ The proposed built form sits comfortably within its established and likely future built form context.
	- Buildings must appropriately address the street. Buildings that are intrusive or inconsistent with the established development pattern will not be permitted.	✓ Each dwelling appropriately addresses its Garden Street frontage.
	- The entrance to a dwelling must be readily apparent from the street.	✓ The front entrance to each dwelling house is readily apparent and visible from Garden Street.
	- Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.	✓ Ground floor and first floor level openings to Garden Street are provided for each dwelling increasing passive surveillance of the surrounding public domain.
	- Skylights are to be flush with the roof surface and located to the rear of a building.	✓ Skylights (x 2 each dwelling) are provided behind the front parapet over bathrooms of each dwelling. They are not visible from the surrounding public domain.
	- A street number for the property is to be clearly identifiable from the street.	✓ Noted, each dwelling will be provided a readily visible street number.
	- Development must retain characteristic design features prevalent in houses in the street including, verandas, front gables, window awnings, bay windows, face brickwork or stone details.	✓ Durable, high quality and complementary external materials and finishes are proposed. Refer to the Building Designer Drawings by Rodney Yannakis & Associates submitted separately.
Two storey dwellings	- A two storey dwelling house is not considered appropriate where the majority of surrounding dwelling houses in a street are single storey.	✓ Two storey dwellings are proposed. Their height complies with that permitted under LEP 2013. The surrounding locality contains a variety of single and two storey built form (dwellings and townhouses).
Terrace houses – special areas	- There are three areas (identified as H1, H2 and H3) within which a height limit of either 9 or 10 metres is permitted (refer to Part 4A.2.4 - Height). These areas are unique and allow for a different form of housing than is characteristic to other parts of the City.	✓ The site has a height standard of 10m and is within H2. The proposed terrace house built form as proposed is acceptable within the H2 area.
	- New dwellings within Special Height Area H2 can take the form of a terrace house	✓ Noted, refer to the above comment. Two terrace houses are proposed.

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Element	Control	Proposal/Compliance
	<ul style="list-style-type: none"> – Terrace house development in Special Area H2 can have a maximum height of 9 metres (two stories, plus a third attic level) to minimise impacts on the streetscape). – A minimum allotment frontage of 5 metres is permitted in Special Area H2A. – New development must comply with the minimum parking requirements in Part 3A - Car Parking. – Setbacks for new dwellings in Special Area H2 are to be determined following a detailed site analysis at DA stage and must satisfy Council that the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access, privacy and visual amenity. Applicants must therefore demonstrate with the development application that impacts on the surrounding residential area are minimised. 	<ul style="list-style-type: none"> ✓ The site has a height standard of 10m and is within H2. The proposed terrace house built form as proposed is acceptable within the H2 area and each has a height of 6.913m. ✓ The site is within Area H2. Each new lot has a width of 5.03m and an area of 226m². ✓ Two off street car parking spaces for each dwelling are proposed. ✓ The proposed terraces are provided with zero building alignment to their side boundaries. This is typical of terrace house development. Their front and rear building alignment is consistent with that neighbouring. Existing amenity levels will not be adversely affected. Refer to Section 4.2 for further information.
Height	<ul style="list-style-type: none"> – The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013 (10m) 	<ul style="list-style-type: none"> ✓ The site has a height standard of 10m. Each terrace is two storeys and 6.913m in height. Their height maintains a human scale and is consistent with varied single and two storey development along both sides of Garden Street within the site's visual catchment.
FSR	<ul style="list-style-type: none"> – The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the Botany Bay Local Environmental Plan 2013 (0.8:1). 	<ul style="list-style-type: none"> ✓ Following subdivision each terrace has an FSR of 0.72:1.
Site coverage	<ul style="list-style-type: none"> – 65% site coverage for lots 200m²-250m². 	<ul style="list-style-type: none"> ✓ An overall site coverage (split 50/50) of 292.5m² or 65% overall site area (453m²) is proposed. Following subdivision each lot will have an area of 226m². Half of the overall site coverage at 146.25m² per lot equates to a lot site coverage of 65%.
Building setbacks	<ul style="list-style-type: none"> – 6m front setback. 	<ul style="list-style-type: none"> X A setback of 5.5m to Garden Street for each dwelling is proposed. Whilst technically departing from the guideline, the proposed front building alignment is consistent with that established on neighbouring and adjacent dwellings. There is no perception of visual built form dominance. The site's overall built form complies with the key built form development guidelines and the terrace house built form is encouraged by the DCP. An additional 500mm setback could be undertaken as/if required.
	<ul style="list-style-type: none"> – 4m rear setback. 	<ul style="list-style-type: none"> ✓ Each dwelling has a rear boundary setback of 16m.

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Element	Control	Proposal/Compliance
	– Side boundary setback assessed on merit.	<p>✓ As a terrace house built form is proposed (and which is encouraged in the H2 area), each has been built with a typical zero side boundary setback. The zero building alignment is acceptable as:</p> <ul style="list-style-type: none"> - the overall built form complies with the height and FSR standard in LEP 2012; - the overall provision of landscaped area and site coverage complies with that required; - articulated facades are proposed; - a consistent front and rear building alignment is proposed; - principal areas of private open space face north and their minimum dimensions meet that required; - the side building alignment does not provide for adverse environmental impacts to adjacent properties. Refer to Section 4.2 for further information in this regard; - the rear building alignment is not visible from the surrounding public domain; - clear sight lines are provided over the proposed built form and to the side of the site; and - the building alignment does not have any identifiable impact on the use and amenity of the private open spaces or primary living rooms of neighbouring dwellings; - the subdivision pattern is consistent; - it provides a built form that is appropriate to its context as a basis for innovative and imaginative design and furthermore encourages housing diversity rather than reproduction in design; and - the side building alignment does not preclude maintenance of neighbouring dwellings. <p>✓ Refer to Section 4.2 for further information.</p>
	– 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, or a variation in materials.	<p>✓ Each terrace is provided with articulated front, rear and side (via the central courtyard) elevations. Quality, durable and complementary external materials and finishes are proposed.</p>
Landscaped area	– Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes.	<p>✓ A Landscape Plan and Checklist by The Creative Space is submitted separately. A total of 157.5m² of landscaped area and a site coverage of 292.5m² (or 65%) is proposed.</p>
	– 15% site area (<250m ²) required as landscaped area.	<p>✓ 157.5m² or 35% of the overall site area is provided as landscaped area. Following subdivision, this equates to 78.75m² or 35% of the 226m² new lot area.</p>
	– Front setback is to contain at least 1 tree.	<p>✓ The central accessway to each terrace is provided with landscaping.</p>

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Element	Control	Proposal/Compliance
Roof form	– A variety of roof forms will be considered, provided that they relate appropriately to the architectural style of the proposed house and respect the scale and character of adjoining dwellings.	✓ A parapet roof form is proposed. This roof form is typical of terrace house built form.
Fences	– Front fences (1m in height) are to compliment the period or architectural style of the existing dwelling house. – Where a fence is to be erected on or adjacent to the common allotment boundary, the written consent of the adjacent property owner/s is required. 1.8m height of side and rear fencing.	✓ A 1m high timber picket fence is proposed to the site's pedestrian entrance. ✓ Noted. Can be undertaken as part of exempt development as/if required.
Voids	– 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.	✓ Noted. A void is proposed adjacent to the hallway and the central courtyard of each dwelling. Voids are excluded from GFA as per its definition. The central courtyard for each dwelling is an external type of void, however, as each is not roofed, they can be excluded from GFA calculations.
Visual privacy	– The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling. Windows are to be located so they do not provide direct or close views into the windows of other dwellings, particularly those of living areas.	✓ Refer to Section 4.2 for further information.
Balconies	– First floor balconies are only permitted when adjacent to a bedroom. – Balconies are to be designed to minimise overlooking to other properties.	✓ Each dwelling is provided with a small useable first floor level balcony accessed via the master bedroom. ✓ The 2.1m x 1.5 first floor level balcony for each dwelling is oriented to Garden Street. It is provided with solid blade walls to each side to preclude overlooking of neighbouring dwellings to each side. The balconies enable increased passive surveillance of the Garden Street public domain.
Acoustic privacy	– Dwellings close to high noise sources such as busy roads, railway lines and airports should be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques. – New dwellings on land within the Australian Noise Exposure Forecast (ANEF) Contour 20 or higher shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).	✓ The site is located within the 20-25 ANEF contour. Despite technically increasing the number of residents on the site, the proposal is specifically permissible and is located within an existing residential zone containing a variety of residential built forms. As detailed within the Aircraft Noise Intrusion Report, by Acoustic Logic (submitted separately), the internal design of each dwelling will comply with the relevant noise intrusion criteria in the Australian Standard. Council can impose appropriate conditions in this regard. The site is located some distance from the airport with many low, medium and high density dwellings in closer proximity.
Solar access	– Shadow diagrams required.	✓ Shadow Diagrams by Rodney Yannakis & Associated are submitted separately.

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Element	Control	Proposal/Compliance
	<ul style="list-style-type: none"> 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 to 50% of the primary private open space areas of both the subject site and adjoining properties. 	<ul style="list-style-type: none"> Refer to Section 4.2 for further information.
Private open space	<ul style="list-style-type: none"> Each dwelling is to have a private open space that: <ul style="list-style-type: none"> (i) has at least one area with a minimum area of 36m² (25m² for site's less than 250m²); (ii) is located at ground level with direct access to the internal living areas of the dwelling; (iii) maximises solar access; (iv) Is visible from a living room door or window of the subject development; (iv) Minimises overlooking from adjacent properties; (v) Is generally level; (vi) Is oriented to provide for optimal year round use; (vii) Is appropriately landscaped; and (viii) Is located or screened to ensure privacy; 	<ul style="list-style-type: none"> Each dwelling has private open space as follows: <ul style="list-style-type: none"> a total contiguous area of 62.8m² within the level backyard (i.e. at the rear of each lot); is provided with an additional 3.5m x 5m alfresco area directly accessible from the open plan primary living rooms; all private open space is oriented north; is provided with perimeter planting to side and rear boundaries to reduce the opportunity for overlooking; is contained within a landscape setting and is capable of both passive and active recreation; and secondary open space in the form of the first floor level balcony accessed via the master bedroom is proposed.
Safety and security	<ul style="list-style-type: none"> Dwellings must be designed to encourage passive surveillance of the street and comply with Part 31 - Crime Prevention, Safety and Security. 	<ul style="list-style-type: none"> The proposal has been designed having regard to CPTED principles. Refer to Section 4.2 for further information.
Excavation	<ul style="list-style-type: none"> Buildings must not dominate or detract from the natural landform. The siting of buildings should relate to the site's natural context and topographical features. 	<ul style="list-style-type: none"> The amount of excavation (pierings and footings for each dwelling) is consistent with the requirements of Clause 6.1 as: <ul style="list-style-type: none"> the site's existing topography is generally respected; it is typically sited away from the site's boundaries; any cut will be reused as fill; the impact on existing vegetation is minimal; the site's permeability is increased from that existing; and new planting is proposed. Council can impose appropriate conditions of development consent to ensure the integrity of adjoining properties including: <ul style="list-style-type: none"> a soil and erosion sediment control plan; structural certificates; dilapidation report; and construction management plan.
Vehicle access	<ul style="list-style-type: none"> Driveways within a property shall have a minimum width of 3 metres and are to comply with AS 2890. The width of the vehicular crossing over the Council's road reserve shall be a minimum of 3 metres for a single garage. One per allotment. 	<ul style="list-style-type: none"> Each driveway is 3m and its design will comply with the relevant requirements of AS 2890. Each vehicular crossing (one per lot following subdivision) via Garden Street is 3m in width.

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Element	Control	Proposal/Compliance
Car parking	– Development must comply with Part 3A – Car Parking.	✓ Each dwelling is provided with an integrated single vehicle garage and a hardstand tandem space directly in front of the garage. The design of each car space complies with the relevant requirements of AS 2890.
	– In new development the garage/carport is to be setback 5.5 metres from the front boundary.	✓ Each dwelling's integrated garage is setback 5.5m from the Garden Street frontage of each lot post subdivision.
	– Garages, parking structures (i.e. carports & car spaces) and driveways are not to dominate the street.	✓ As the garage is integrated into the design of each dwelling, it does not sit forward of the proposed building line to Garden Street. Each garage has been integrated into the design of the dwelling so that it reads an integral part of its design, not a separate stand alone element. It is recessed well under the floor above to remain recessive and not visually dominant when viewed from the street.
	– Reflective or smooth materials are not permitted for garage doors. Materials that complement the design and materials of the house are to be used.	✓ Each dwelling's integrated garage has a panel lift garage door. It is setback from the face of the surrounding wall to provide a recess and reduce the perception of apparent bulk and scale.
	– Garage doors, gates, shutters or grilles shall be setback from the face of the surrounding wall or pier by at least 100mm so that they are not flush with the wall. The colour should be dark and/or complement the colour of the dwelling façade.	
	– Double garages (flushed or stepped) will not generally be permitted for development on sites with less than a 12.5 metres frontage due to the impact on the streetscape. Single fronted garages or single carports or a tandem garage only, is to be provided.	✓ Each dwelling is provided with an integrated single vehicle garage and a hardstand (on the concrete driveway) tandem space directly in front of the garage.
Part 8 – Character Precincts (Eastlakes – Desired Future Character only those relevant stated)		
Function and diversity	– Enhance the public domain and streetscapes within the Precinct.	✓ Appropriate public domain improvements are proposed to each site's Garden Street frontage.
	– Maintain the Eastlakes Precinct as a residential area that is characterised by predominately dwelling houses, with attached houses and residential flat buildings in the areas surrounding Eastlakes Shopping Centre.	✓ Provides for a two storey terrace house form in the H2 area. The height of each terrace is 6.913m, well below the 10m permitted by LEP 2013.
	– Encourage an increased height (to a maximum of 9 metres) and density in the form of terrace style housing in Special Area H2.	

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Element	Control	Proposal/Compliance
Form, massing, scale and streetscape	<ul style="list-style-type: none"> – Encourage development to follow the topography of the land. – Encourage development with two storeys or 2 storeys with attic to a maximum height of 9 metres, characteristic of the scale of the area and significant landscaping in the front setbacks in the land bounded Universal Street, St Helena Parade, Garden Street and Maloney Street. The maximum ridge height of such development to be consistent with adjoining two (2) storey buildings. – Promote site access and parking facilities that do not dominate the streetscape. – Encourage new development or alterations and additions to existing development which complements the height and architectural style found in the immediate vicinity, particularly where there is an established character. 	<ul style="list-style-type: none"> ✓ Provides for a two storey terrace house form in the H2 area. The height of each terrace is 6.913m, well below the 10m permitted by LEP 2013. Built form typically ranges in height from single to two storeys. The proposed two storey built form sits comfortably within its established and likely future built form context. ✓ The site's topographical characteristics are largely unaltered. ✓ Provides for an integrated single vehicle garage with tandem hardstand space in from. As the garage is integrated into the design of each dwelling, it does not sit forward of the proposed building line to Garden Street. Each garage has been integrated into the design of the dwelling so that it reads an integral part of its design, not a separate stand alone element. It is recessed well under the floor above to remain recessive and not visually dominant when viewed from the street.
Setbacks	<ul style="list-style-type: none"> – Retain front setbacks which are consistent within a street and promote landscaping to soften the built form. – Side setbacks, where they are consistent within a street are to be retained unless the development is for subdivision within the block bounded by Universal Street, St Helena Parade, Garden Street and Maloney Street where 6m wide allotments are encouraged. Nil setbacks will be considered on merit, depending on side setbacks of adjoining development and orientation of allotments. 	<ul style="list-style-type: none"> ✓ A setback of 5.5m to Garden Street for each dwelling is proposed. The proposed front building alignment is consistent with that established on neighbouring and adjacent dwellings. There is no perception of visual built form dominance. The site's overall built form complies with the key built form development guidelines and the terrace house built form is encouraged by the DCP. ✓ As a terrace house built form is proposed, each has been built with a typical zero side boundary setback. The zero building alignment is acceptable as: <ul style="list-style-type: none"> - the overall built form complies with the height and FSR standard in LEP 2013; - the overall provision of landscaped area and site coverage complies with that required; - articulated facades are proposed; - a consistent front and rear building alignment is proposed; - principal areas of private open space face north and their minimum dimensions meet that required; - the side building alignment does not provide for adverse environmental impacts to adjacent properties. Refer to Section 4.2 for further information in this regard; - the rear building alignment is not visible from the surrounding public domain; - clear sight lines are provided over the proposed built form and to the side of the site; and - the building alignment does not have any identifiable impact on the use and amenity of the private open spaces or primary living

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Element	Control	Proposal/Compliance
		rooms of neighbouring dwellings; - the subdivision pattern is consistent; - it provides a built form that is appropriate to its context as a basis for innovative and imaginative design and furthermore encourages housing diversity rather than reproduction in design; and - the side building alignment does not preclude maintenance of neighbouring dwellings.
Landscaping	<ul style="list-style-type: none"> – Encourage landscaping within the front and side setback to soften the built form particularly in high density terraces, units and residential flat buildings. – Promote landscaping in rear private open space areas to provide privacy to adjoining properties. – Maintain street trees. 	<ul style="list-style-type: none"> ✓ Street trees are not provided along Garden Street within the site's visual catchment. ✓ Appropriate central landscaping is provided to each dwelling's front yard. ✓ Quality landscaping within the backyard of each lot will provide privacy, utility and amenity for the private open space areas.
Fencing	<ul style="list-style-type: none"> – Encourage and retain fencing character, styles and height for each street which may in some circumstances include no fences. 	<ul style="list-style-type: none"> ✓ A 1m high timber picket fence is proposed to the site's pedestrian entrance.
Noise	<ul style="list-style-type: none"> – Ensure that development is designed to minimise aircraft noise transmission in accordance with AS 2021. 	<ul style="list-style-type: none"> ✓ The site is located within the 20-25 ANEF contour. As detailed within the Aircraft Noise Intrusion Report, by Acoustic Logic (submitted separately), the internal design of each dwelling will comply with the relevant noise intrusion criteria in the Australian Standard.
Subdivision	<ul style="list-style-type: none"> – Retain and preserve the rectilinear grid pattern within the Precinct. – Encourage 5 metre wide frontage allotments in the block bounded by Universal Street, St Helena Parade, Garden Street and Maloney Street (known as Special Area H2) (refer to Figure 2 and Part 4A - Dwelling Houses). (Note: Building height is restricted to a maximum of 9 metres.) 	<ul style="list-style-type: none"> ✓ The rectilinear subdivision pattern is maintained. The overall site is to be subdivided into two allotments of the same size (226m²) and width. ✓ The site is within Area H2. Each new lot has a width of 5.03m. ✓ Two x two storey terrace houses in the H2 area are proposed. The height of each terrace is only 6.913m.
Solar access	<ul style="list-style-type: none"> – Encourage buildings to maximise solar access to surrounding residential properties and to public and private open spaces. – Preserve solar access to adjoining properties. – Encourage efficient and effective design of development on north-south facing allotments to maximise solar access. 	<ul style="list-style-type: none"> ✓ Refer to Section 4.2 for further information. Appropriate (complying) levels of solar access will be maintained to the site and its neighbouring dwellings and their open space areas which benefit from a northerly orientation.
Traffic and access	<ul style="list-style-type: none"> – Encourage new development to have a minimal impact on traffic flow and demand for on street parking spaces. – Encourage development to provide adequate on-site parking to assist in reducing traffic congestion on local road networks. 	<ul style="list-style-type: none"> ✓ Each dwelling is provided with two off street car parking spaces in accordance with DCP 2013 requirements. This reduces pressure for on street parking along the narrow carriageway of Garden Street.
Views	<ul style="list-style-type: none"> – Retain existing views. 	<ul style="list-style-type: none"> ✓ Refer to Section 4.2 for further information.

4.1.5 S94 Plan 2016

As dwelling (terraces) houses are proposed, the S94 Plan 2016 applies to the proposal. Each dwelling (terrace) house comprises 4 bedrooms. The S94 rate for a 4+ bedroom dwelling is \$21,981.87 (indexed to the relevant CPI).

4.2 S4.15(1)(b) Impact on the environment

4.2.1 Streetscape and neighbourhood character

DCP 2013 provides an existing character statement for the Eastlakes Precinct. Relevant to the site and the proposal are the following statements:

- *The built form dominates the streetscape with landscaping within allotments varying within the Precinct;*
- *However, the existing landscaping and vegetation in lower density areas tends to enhance the built form, creating a pleasant environment. The presence of mature street trees and established plantings in the private domain softens the built form through screening the buildings, providing shade and creating a pleasant contrast to the monotonous similarity of the building styles.*
- *The use of setbacks and the placement of open spaces within the development also assist in softening the streetscape. The setbacks and open space areas within a development and the presence of low scale fencing promotes a strong relationship between the public and private domain.*
- *A portion of medium density residential townhouses and terrace style development exist along Universal Street, George Street and Robinson Street. This concentrated cluster of medium density residential developments have resulted in a unique housing style with the Precinct. The front setbacks range from 4m to 6m for one and two storey dwellings and to 8m to 9m for the townhouse developments. This area is generally landscaped with lawns and planted with a range of vegetation types. Garden Street is characterised by hard surfaces such as pavers and concrete.*
- *The subdivision pattern is mixed within the Precinct. The block bounded by Universal Street, St Helena Parade, Robinson Street and Maloney Street contains small allotments of generally 180m² in area which reflects the historical subdivision pattern of the area. The remainder of the Precinct contains larger allotments of between 400m² to 450m² with a majority of these allotments having a north-south orientation.*

The proposal responds and contributes to its context by engaging its desired future character as envisaged by the proposed land uses and densities permissible in the surrounding locality. The surrounding area is undergoing a period of regeneration. The future character is critical. The appropriate redevelopment of properties will enable the realisation of Council's strategic direction for the locality's redevelopment.

The scale of the proposal is characterised by the desired future character for the area. The proposed rectilinear subdivision pattern and lot size is consistent with the existing and desired future subdivision pattern in the surrounding locality. The lot width of 5m is specifically encouraged by DCP 2013 (the site is within area H2) as is the terrace house land use. Each dwelling's height, bulk and scale, site coverage, landscaped area, setbacks, car parking and provision of private open space complies with Council's key built form standards and guidelines.

The built form is consistent with the intent of Council's key planning controls and will help the future building grouping within Garden Street. Each dwelling's massing responds accordingly as well as considering the existing built form adjacent. The scale is also broken down by the articulation of facades with the use of different materials and elements which helps reduce the perception of any apparent bulk. The proposal has been conservatively redesigned so that it maintains a level of symmetry at the street front elevation. Each dwelling's height is only 6.913m. The proposal is a modest redevelopment and which maintains a human scale. The proposed FSR at 0.72:1 is less than that technically permitted (0.8:1).

The building volume has been designed to be articulated, and to facilitate a contextually appropriate massing. The elevations are articulated in response to the form and size of each dwelling to mediate to the human scale of the streetscape. In terms of architecture, urban design and streetscape, the proposal will have a positive impact on the built environment in that:

- the expression of the built form is adjusted to respond to:
 - solar access and the site's northerly orientation;
 - the site and surrounding locality's topographical characteristics;
 - the design and character of existing adjacent development;
 - maintaining the amenity of the neighbouring dwellings;
 - internal and external amenity for the future occupants;
- the new built form has been designed having regard to the urban design parameters determined by the existing built context and the context of the neighbouring dwellings, site constraints and compliance with the relevant and key Council density planning controls. The proposed design is re-interpreting established roof shapes and slopes, whilst integrating contemporary materials and an architectural aesthetic;
- the resultant bulk and scale of each dwelling is comparable to adjacent built form and will not set an undue precedent;
- each dwelling does not cause any material impacts to the neighbouring properties or the public domain in respect of overshadowing, visual impact, view loss, aural and visual privacy and access to daylight and ventilation and the like;
- high quality and durable external materials and finishes are proposed;
- a high level of design is proposed ensuring an excellent standard of residential amenity for the occupants;
- each dwelling is appropriately oriented to the north and at the same time provides a physical built form address to Garden Street.

4.2.2 Environmental amenity

In addition to the standard BASIX requirements (refer Section 4.1.1), the design intent is to create an open plan terrace house built form that has excellent access to natural light and ventilation.

The site organisation and the building form have been designed to respond to, not only with urban design rationale, but also to make the overall development efficient in terms of its energy use. Considering the above, the following is noted:

- the overall site and each lot and each dwelling is north facing;

- generous floor to ceiling heights internally;
- the proposal provides significant natural light penetration throughout each dwelling through the introduction of an open plan floor plan, voids, and two skylights for each dwelling and each dwelling's central courtyard;
- windows, openings and the internal open floor plan ensures appropriate levels of solar exposure to all areas of each dwelling;
- shading devices will serve to protect the dwelling and its occupants from heating effect of solar radiation;
- primary living areas are connected to the external facades and glazing. These areas will benefit from the ability to make use of trapped solar heat gain through its glazing during the winter months;
- openings on northern and southern facades allow direct solar access to primary living rooms and private open spaces; and
- the engagement with the outdoors, the natural ventilation, the increase in natural light and the passive solar controls will reduce energy consumption;
- all outdoor private spaces are designed as extension of the living room to enhance and encourage outdoor and indoor living, while at same time acting as a transition space to modulate temperature in each dwelling;
- the design minimises reliance on artificial lighting and mechanical ventilation as follows:
 - an open floor plan is provided;
 - each dwelling benefits from cross flow and stack effect ventilation, which results in enhanced thermal comfort and reduced reliance on artificial/mechanical cooling in the summer months; and
 - provision of operable doors and windows enables the use of natural ventilation for summer month cooling and at the same time, the opportunity to close these openings will allow adequate control to moderate the impact of higher than normal winds.
- rain water storage and re-use for irrigation (each dwelling is provided with a 2,000 litre RWT);
- water overflows from the RWT will be channeled into Council's existing stormwater system;
- large areas of soft landscaping will allow for infiltration/absorption and re-use rather than runoff;
- the construction materials proposed provide high thermal mass to minimise heating and cooling loads; and
- the use of water and energy efficient fixtures and finishes.

4.2.3 Overshadowing

Rodney Yannakis & Associates has prepared plan Shadow Diagrams (submitted separately) for the existing and proposed development at 9am, 12 noon and 3pm during the winter solstice. In summary, the proposed development will have the following overshadowing impacts:

- as the site has a northerly orientation, appropriate (complying) levels of solar access is provided to each terrace (internally and to open space areas);
- existing levels of solar access to the north facing ground level and open space areas of the neighbouring dwellings to the east and west remain unaffected;

- there is no impact on adjacent properties to the site's north and south during the winter solstice;
- most additional shadows that are cast to the south fall over the verge and carriageway of Garden Street;
- other than at 9am, the new terraces do not additionally overshadow the neighbouring property to the west. Additional shadows fall onto its synthetic grass front yard and concrete driveway. The useability of these spaces is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain unaffected;
- other than at 3pm, the new terraces do not additional overshadow the neighbouring property to the east. Additional shadows fall onto the small front yard and the concrete driveway. Their relative useability is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain unaffected;
- the proposal casts minor additional shadows at various times over the neighbouring properties, however, in this instance and the given circumstances of the case, this minor additional overshadowing is acceptable for the following reasons:
 - future higher density development of the surrounding locality will increase overshadowing of the public domain. This is a consequence of urban consolidation and should be expected given the locality's zoning, land uses, subdivision pattern, density and heights permitted;
 - each terrace has a height of only 6.913m. Technically a building height of 10m is permissible;
 - the overall FSR is only 0.72:1. Technically an FSR of 0.8:1 is permissible;
 - compliance is achieved with the landscaped area, site coverage and private open space guidelines;
 - the shadow cast by the built form is generally expected (less than that permitted by the planning controls and the site's zoning) and typical of existing development and its relationship with neighbouring properties that are not provided with the same built form potential;
 - openings are provided to more than one elevation on neighbouring properties;
 - appropriate curtilage to neighbouring dwellings is maintained, given the potential built form as desired within the Eastlakes precinct;
 - the existing under-utilised built form on the site has resulted in borrowed amenity to neighbouring dwellings, particularly given the permissible building envelope;
 - a consistent front building alignment to Garden Street is maintained;
 - additional shadows fall onto roof areas. It is noted the neighbouring dwelling to the east has rooftop solar panels, however, they are only affected by the proposal at 3pm;
 - the design is consistent with the objectives of the control as it ensures the built form's bulk and scale is not excessive. By this the proposal exhibits a height, bulk and scale which is less than expected by the planning controls;
 - small areas of land are affected and their relative useability is not compromised;
 - primary living rooms generally remain unaffected;
 - development (including boundary fencing) on adjacent properties overshadows itself; and
 - the proposal's resultant overshadowing impact is unlikely to preclude an appropriate redevelopment or the redevelopment potential of the neighbouring properties.

The limited overshadowing of the proposal is acceptable in the circumstances of the case as it occurs for short periods of time and in the winter arc of the sun. Overshadowing within a relatively dense locality is inevitable due to the closeness and type of built form. An appropriate curtilage to the neighbouring properties is maintained.

4.2.4 Landscaping and scenic quality

Each dwelling is set within landscaped areas that comprise high quality perimeter screen planting that soften and screen the built form and its private gardens and add to the locality's landscape and scenic quality. The central landscaping within the front yard reinforces the site's entry and at the rear that proposed creates a microclimate for each dwelling's private gardens. Existing vegetation is to be retained where practical.

Private open space is predominantly provided in the form of the grassed backyard for each lot and the alfresco area directly accessible from the ground floor level open plan primary living rooms and which serves as an extension to these areas and has a purposeful functionality.

The provision of landscaped area on the site is considered to add to the site's landscape and scenic quality in the following manner:

- the provision of landscaping on the site (external and internal to the built form) reduces any perception of visual built form dominance over landscaping. Each dwelling sits comfortably within the established and likely future streetscape and therefore is considered to maintain a general dominance of landscape over buildings;
- the proposed landscaping complements the existing scenic and landscape quality of Garden Street;
- the site's relative permeability is increased promoting infiltration and absorption;
- the proposed landscaping (and built form location) does not result in the loss of any mature vegetation (worthy of retention). Additional new plantings are proposed which will positively contribute to the site's landscape and scenic quality;
- the proposed development exhibits a high quality and ESD through compliance with the BASIX requirements and represents an imaginative and innovative landscape design;
- substantial private open space is proposed; and
- the site is near significant public open spaces which are capable of both passive and active recreation.

4.2.5 Privacy

The site sits within an established but evolving low density precinct within Eastlakes. It contains a mixture of land uses and built form, which is typically reflective of its R2 Low Density Residential zoning. The locality has varying height and FSR standards, most of which provide opportunities for site's to be redeveloped and their use intensified.

Given the existing built form and that permitted there are limited (albeit typical for dwelling house land use) buffers and setbacks between built form. A typical subdivision pattern is provided on the surrounding network.

Relative to the proposed terraces, the site's relationship and that with properties to the east and west are the critical element in relation to the retention of aural and visual privacy. The specific design measures

proposed to provide an appropriate aural and visual privacy relationship between the site and the neighbouring dwellings includes:

- future higher density development of the surrounding locality will increase built form and urban consolidation, which is expected given the locality's zoning, land use, density and heights permitted;
- each dwelling is only 6.913m in height. Technically a building height of 10m is permissible;
- the overall FSR is only 0.72:1. Technically an FSR of 0.8:1 is permissible;
- compliance is achieved with the landscaped area, site coverage and private open space guidelines;
- the built form of each terrace is generally expected (less than that permitted by the planning controls and the site's zoning) and typical of existing development and its relationship with neighbouring properties that are not provided with the same built form potential;
- the site's existing under-utilised built form has resulted in borrowed amenity to neighbouring dwellings, particularly given the permissible building envelope;
- existing property levels are not altered;
- FFL's are consistent with those on neighbouring dwellings;
- consistent building alignment and retention of the garden character with an appropriate landscaped curtilage between the site and its adjacent properties;
- location, orientation and design of openings to avoid the incidence of direct overlooking between the site and those neighbouring. Additional treatments to openings can be provided as/if necessary;
- provision of fixed glazing and privacy screening;
- provision of architectural elements such as blade walls to the elevated secondary open space;
- appropriate orientation of primary living rooms of each infill terrace to the north facing backyard areas;
- new boundary fencing and perimeter screening landscaping; and
- internalisation of all plant and equipment.

The privacy impacts are created primarily by the building proximity and the relative densities (building envelopes) permitted. Given the built form proposed there will be a degree of mutual overlooking, however, due to the above design measures, it is considered the proposal will not increase this mutual overlooking to an unacceptable level.

The nature of such an urban environment is that all future development will seek to maximise amenity and density through design. Furthermore, privacy concerns have not impacted on the redevelopment of other neighbouring properties and it is not considered the proposal will materially increase privacy concerns to unacceptable levels that would be fatal to the DA.

4.2.6 Views

The site and immediate surrounding locality does not contain any significant identified or iconic views/vistas. Views and vistas are generally available because of the historical low density built form, not the desired future built form. Ground level views and vistas are currently not provided. As the principal/predominant building envelope/form is generally consistent with that anticipated by Council's controls, its impact on any existing and filtered long distance vistas is acceptable.

The site is within a targeted precinct that permits increased heights and densities. Therefore, the future built forms in the surrounding locality are and will be like that (or greater) proposed on the site. Accordingly, it is considered the impacts of the development in terms of views and vistas is acceptable given the circumstances of the case and the expected future built form which is permissible on adjoining and adjacent properties.

4.2.7 Traffic and parking

A total of four (two each dwelling) car parking spaces will be provided in the form of a single vehicle integrated garage and a tandem hardstand space. Two new vehicular crossings and driveways will be required for each dwelling. Only one on street car parking space will be lost, however, the cumulative impact is two additional cars off the street.

The near negligible level of additional traffic will have no adverse effect on any nearby intersection and can be readily accommodated within the existing road network with minimal impact in terms of traffic flow efficiency, residential amenity and road safety considerations.

Restricted and unrestricted car parking spaces are also available on the surrounding local street network. The site is highly accessible given that is within walking distance to bus routes and the Eastlakes shopping village. The site has excellent access to amenities, services and facilities. The site is ideally located to encourage alternative means of transport.

4.2.8 Acoustics

The site is located within the 20-25 ANEF contour. Despite technically increasing the number of residents on the site, the proposal is specifically permissible and is located within an existing residential zone containing a variety of residential built forms. It is noted the site is located some distance from the airport with many low, medium and high density dwellings in closer proximity. As such an Aircraft Noise Intrusion Report, by Acoustic Logic is submitted separately. The report makes recommendations in relation to:

- glazing construction;
- external wall construction;
- external roof and ceiling construction;
- plasterboard corner details; and
- ventilation and air conditioning.

The conclusion of the report states:

Aircraft noise intrusions from flights landing at the Sydney Airport into the proposed two storey dual-occupancy terraces development at 10 Garden St Eastlakes have been assessed to determine the required acoustic treatment that will result in internal noise levels fully complying with the internal noise level recommendations given in AS 2021:2015.

Provided that the acoustic recommended treatments set out in Section 3 of this report are adopted, noise impacts in the proposed residential development will be fully compliant with the Australian Standard AS2021:2015.

In addition, each dwelling has been designed to ensure appropriate levels of noise/sound transmission in accordance with relevant BCA requirements and Australian Standards. This will maintain existing levels of amenity for neighbouring dwellings. Adverse acoustic impacts are therefore not anticipated.

4.2.9 Amenity, safety and security

Amenity

Relative to amenity:

- all built form benefits from cross flow and stack effect ventilation;
- four skylights (2 each terrace) are provided;
- each terrace is provided with a central courtyard;
- each dwelling receives at least three hours of direct solar access between 9am and 3pm during the winter solstice; and
- kitchens are naturally ventilated.

A level of comfort has been provided which strictly does not require the provision of air conditioning to maintain thermal comfort.

Each new dwelling has been designed to have their private open space as an extension of the open plan living room creating a much more efficient spatial quality. Kitchens are designed as extensions of the living or dining. Although the kitchen is an autonomous area defined by a clear boundary provided by the benchtop, the visual space created by the visual linkage of the combined living-dining-kitchen areas creates a much larger space. With the private open space on one side and kitchen on the other side, there is a perceived sense of additional living space. All the bedrooms are generous in size with each easily being able to accommodate a queen size bed. The bathrooms are also generous in size. All external private spaces offer good views, passive solar shade, are well proportioned and designed to act as outdoor rooms for dining and living.

To get good access to light and ventilation, the quality of spaces around and between them must be good. Appropriate building setbacks are provided. Each dwelling has north facing living areas and ground level north facing outdoor private open space.

The built form is appropriate to the site with the design of the development positively contributing to the future character of the streetscape and providing internal amenity and outlook. The design:

- offers excellent amenity to its occupants and users. Each dwelling is provided with excellent solar access;
- ensures each dwelling will enjoy good amenity through the separation of living, sleeping, and service zones;
- provides the opportunity for views and vistas;
- demonstrates satisfactory results for BASIX targets;
- provides direct solar access to all apartments more than that required;
- separation between the development and surrounding buildings achieves the required separation on all floors, ensuring high levels of aural and visual privacy;
- provides dedicated storage space;

- ensures that private open space is generous in size, appropriately oriented and directly accessible from primary living rooms with secondary open space at upper levels; and
- provides generous floor to ceiling heights which enable good amenity and daylight to all rooms.

Safety and security

Crime prevention through environmental design (CPTED) seeks to influence the design of buildings and places by:

- increasing the perception of risk to criminals by increasing the possibility of detection, challenge and capture;
- increasing the effort required to commit crime by increasing the time, energy or resources which need to be expended;
- reducing the potential rewards of crime by minimising, removing or concealing 'crime benefits';
- removing conditions that create confusion about required norms of behaviour;

There are four principles that need to be used in the assessment of DA's to minimise the opportunity for crime and promote safety and security:

- surveillance;
- access control;
- territorial reinforcement; and
- space management.

The proposal is consistent with CPTED principle of surveillance as follows:

- the entry to each dwelling provides architectural, landscape and spatial interest and a clear address. The clear definition of the private and public domain and the sequences of the landscaped areas positively contribute to the future occupants' levels of amenity;
- the design and placement of physical features, activities and people to maximise visibility and foster positive social interaction among legitimate users of the private and public domain;
- appropriate lighting;
- secure and separate access points (vehicular and pedestrian);
- appropriate curtilage to neighbouring properties;
- adequate sight distances;
- passing vehicular traffic can be used as a surveillance asset;
- the landscape design provides surveillance, especially in proximity to the site's designated entry points;
- the landscape design precludes opportunities for concealment;
- appropriate fencing is proposed / maintained; and
- changes to the street or pedestrian network are not proposed.

The proposal is consistent with the CPTED principle of access as follows:

- public and private spaces are clearly differentiated;

- entrances and exits, fencing, lighting and landscape has been selectively placed to limit access and control flow. In this regard natural access control occurs;
- pedestrian routes and spaces within the site are clearly defined and have clear and direct sightlines for users and
- clearly identifiable, points of entry to the site are proposed.

The proposal is consistent with the CPTED principle of territorial reinforcement and space management as follows:

- public and private spaces are clearly differentiated;
- high quality landscaping is proposed;
- regular maintenance or upgrade of facilities as/when required; and
- natural surveillance by the users is casual.

4.2.10 Waste management and demolition

On-going waste management will be in accordance with Council's standard requirements. A secure garbage area is provided within the integrated single vehicle garage. Collection of garbage from the site will continue in the same manner, which is by Council's contractors via Garden Street on the designated day(s).

All demolition works will be undertaken in accordance with the requirements of AS2601 – The Demolition of Structures. Civil construction works associated with the proposed built form will utilise normal (standard) site management practices to ensure that waste material is minimised and that excess material generated by the works is re-used on site, or disposed of suitably.

A Waste Management Plan by Rodney Yannakis & Associates is submitted separately

4.2.11 Social and economic issues

The proposed development will have several positive social and economic impacts, including:

- the provision of a varied dwelling type;
- the supply of a contribution towards housing in an area of high demand and low supply means a greater variety of housing is available for all;
- commercial opportunities also assist in contributing to a social focus for the development. This will help provide casual interactions and meeting places for the local community and emphasise the desired future character of Randwick;
- construction will provide temporary employment opportunities;
- development of the site to facilitate a use which is consistent with both the site's planning controls and community expectations;
- it retains vistas from the surrounding public domain;
- the promotion of the locality as a desirable place to live and work;
- the population on the site will continue patronage to the facilities within the nearby shopping villages, a desired outcome; and

- it provides terrace houses on a low density residential allotment within the Bayside LGA.

In addition to the above, the provision of two well-designed terraces, close to public transport, employment opportunities and services, will provide good quality accommodation that is suitable for the intended occupants encouraging equal access to public amenities. A well-designed and socially responsive development will always attract a socially diverse mix of people and in turn improve and enhance for a much richer community life in the area.

4.3 S4.15(1)(c) The suitability of the site for the proposed development

Having regard to the characteristics of the site and its location, the proposed development is considered appropriate in that:

- the site is zoned to accommodate the proposal;
- the size and dimensions of the land area appropriate for the accommodation of the proposal, including the proposed torrens title subdivision;
- it will not result in any material environmental impacts to the neighbouring properties or surrounding public domain particularly in relation to overshadowing, views, aural and visual privacy and access to natural daylight and ventilation;
- the site has good access to amenities, facilities and services;
- the site is fully serviced and existing services can be extended to accommodate the demand generated by the proposal (i.e. new infrastructure for the additional allotment of land); and
- the proposed use, density and scale is generally consistent with that of the surrounding context and is consistent with that permitted by Council's key planning controls.

As detailed throughout this SEE, the proposed development will have several positive impacts whilst not resulting in any material environmental impacts and it is therefore considered that the site is suitable to accommodate the proposal in its current form.

4.4 S4.15 79C(1)(d) Any submissions made in accordance with the Act or Regulations

It is expected that Council will notify the proposal in accordance with its notification policy and will consider submissions (if any) made during the period of public exhibition and will afford the applicant to respond to such submissions as/if required.

4.5 S4.15(1)(e) The public interest

The public interest is an overarching concept. Approval of the proposal will result in a built form that has a high level of architectural design (including environmental design initiatives) and which will sit comfortably within its locational (built form, landscape and scenic) context.

There are no other reasons as to why the proposal is not in the public interest.

5.0 CONCLUSION

Through the demonstration of a quality and innovative architectural design solution, the internal amenity afforded to each new dwelling's future occupants will be more than satisfactory. Furthermore, the technical studies of the site's capacity for redevelopment do not indicate any significant obstacles to development of the site for the purposes proposed. The proposed height, bulk and scale is entirely consistent with that permitted. The built form is expected.

Council can approve the development with confidence that its merits are sound. The Council as the determining authority unquestionably has the power to approve the proposal as it is empowered to approve a development that complies with all development standards in LEP 2013. Where it departs from development guidelines in DCP 2013, the departure is not unreasonable and unnecessary and there are sufficient merit based planning grounds to justify the departure. An appropriate (equitable) planning outcome is provided, given the presented circumstances.

Considering the above and the detailed assessment herein, it is considered that the proposal is worthy of Council's consent.



15 January 2019

1848

The General Manager
Bayside Council
PO Box 21
ROCKDALE NSW 2216

Attention: Ms Ana Trifunovska

**RE: DEVELOPMENT APPLICATION 2018/1192
10 GARDEN STREET, EASTLAKES**

Dear Ana

This submission is written on behalf of Rodney Albert Yannakis & Associates (the **applicant**) in respect of the above Development Application (**DA**) at 10 Garden Street, Eastlakes (the **site**) proposing demolition, torrens title subdivision and two new semi detached dwellings.

This submission provides a response to the issues raised by the Bayside Council (the **Council**) to the originally lodged plans in its letter dated 6 December 2018 and follows our productive meeting on 10 December 2018. In response to these issues, the submission describes the proposed amendments to the proposal and should be read in conjunction with the following information submitted separately:

- Amended Building Designer Drawings, including comparison Elevational Shadow Diagrams, by Rodney Yannakis & Associates;
- Amended Stormwater Drainage and Sediment Control Plans, by AKT Engineering & Consulting; and
- Clause 4.6 Exception to Development Standards submission relative to FSR at Clause 4.4A(a) of Botany Local Environmental Plan 2013 (**LEP 2013**), by LPDS.

This submission supersedes - where relevant - documentation originally lodged with Council.

Proposed amendments

The amended Building Designer Drawings by Rodney Yannakis & Associates (submitted separately) provide demonstrate the following amendments to the proposal:

- a reduction in overall gross floor area (**GFA**) from 324.82m² to 315.24m²;
- a reduction in the overall floor space ratio (**FSR**) from 0.72:1 to 0.69:1;
- an increase in landscaped area to 159m² or 35% overall site area;
- a reduction in the size of each dwelling's alfresco area – now 3m x 4.615m
- the provision of a 3,000 litre rainwater tank (**RWT**) within the backyard of each lot;
- the provision of a below ground absorption trench within the backyard of each lot;
- the provision of a screened (timber or metal) waste storage area within the front yard of each lot with landscaping provided between each dwelling's pedestrian accessway;
- the provision of a 1.8m high side boundary fence to each dwelling's central courtyard; and
- the provision of an internal sliding door to each dwelling's garage.

Response to issues**1. Clause 4.6 Variation to FSR**

The overall built form has been amended. The amendments result in a GFA and FSR as follows:

- 157.62m² GFA and an FSR of 0.69:1 for dwelling 1 based on the subdivided site area of 226.9m²;
- 157.62m² GFA and an FSR of 0.69:1 for dwelling 2 based on the subdivided site area of 226.9m²; and
- an overall GFA of 315.24m² which equates to an overall FSR of 0.69:1.

Despite the proposal being consistent with the LEP 2013 definitional requirements of a dwelling house and a resultant permissible FSR of 0.8:1 pursuant to Clause 4.4(3)(a) of LEP 2013, Council has advised that they interpret the proposal to comprise semi detached dwellings. Based on this interpretation a maximum FSR of 0.5:1 applies to the proposal pursuant to the provisions of Clause 4.4A(3)(d) of LEP 2013.

An overall FSR of 0.69:1 is proposed and as such the proposal departs from Clause 4.4A(3)(d) of LEP 2013. Justification for the departure is contained in the Exception to Development Standards submission by LPDS submitted separately and which demonstrates that:

- compliance with the standard is unreasonable and unnecessary;
- the proposal does not result in any material environmental impacts to adjoining and adjacent properties and the surrounding public domain;
- the proposal is in the public interest;
- the proposal is consistent with the relevant zone objectives; and
- the proposal is consistent with the stated objectives of the standard.

2. Stormwater

Amended Stormwater Drainage Plans demonstrating compliance with Council's relevant stormwater technical guidelines by AKT Engineering & Consulting are submitted separately. They essentially provide for an absorption pit within the backyard of each lot. Additionally, and as required each dwelling has been provided with a 3,000 litre RWT, which is provided within the backyard area adjacent to the common boundary fence (refer to the amended Building Designer Drawings submitted separately).

3. Nil side boundary setbacks, solar access and amenity

Botany Bay Comprehensive Development Control Plan 2013 (**DCP 2013**) and Part 8 – Character Precincts (Eastlakes and Special Area H2) provides the following key built form guidelines:

- 5m wide allotments;
- 9m maximum height, notwithstanding that LEP 2013 permits 10m;
- two storeys;
- nil side boundary setback to be considered on merit;
- 6m front boundary setback;
- 4m rear boundary setback;
- 35% site area as landscaped area; and
- 25m² of private open space per dwelling.

In addition, Clause 4.4A of LEP 2013 permits:

- an FSR of 0.8:1 for a dwelling house;
- 0.5:1 for a semi detached dwelling (and other forms of permissible residential accommodation).

Other than the acknowledged departure from the FSR standard at Clause 4.4A of LEP 2013, the proposal is consistent with all other guidelines expressed above. The built form is therefore generally expected. It is also noted, the resultant FSR and overall built form is less than that technically permitted for a single dwelling house. The impacts of the proposed built form are like those anticipated by a dwelling house.

Notwithstanding the proposal's overall consistency with the relevant planning controls, an assessment of its consistency against the questions of the NSW Land and Environment Planning Principle – *Galea v Marrickville Council (11425 of 2004)* has been undertaken overleaf.

Is the street characterised by terrace housing?

The surrounding locality is characterised by a regular grid street pattern befitting its residential zoning with varying allotment sizes, adjusted to the natural topography and orientated to relevant street frontages. The integrity of the building stock varies considerably and demonstrates a range of architectural form ranging from low set traditional single storey dwellings traditional two storey dwellings, large contemporary two storey dwellings and single and two storey townhouses, including townhouses within internal cul-de-sacs. The locality's subdivision pattern is varied and which provides for the varied built form typology.

The scale of the proposal is characterised by the desired future character for the area. The proposed rectilinear subdivision pattern and lot size is consistent with the existing and desired future subdivision pattern in the surrounding locality. The lot width of 5m is specifically encouraged by DCP 2013 (the site is within area H2) as is the semi detached dwelling land use. Similar built forms are provided throughout the H2 precinct as desired by the planning controls and the precinct's desired future character objectives.

What is the height and length of the wall on the boundary?

Each dwelling has a maximum height of 6.913m, well below that technically permitted by LEP 2013 (10m) and encouraged by DCP 2013 (9m).

Each dwelling's side elevation is articulated with built and visual relief provided by the 3m wide central courtyard. A wall length of only 11.44m from the front of each dwelling to the central courtyard and 8.5m from the rear of each dwelling to the central courtyard is proposed. The overall height and length of each dwelling's side elevation is relatively modest and is less than that existing on the neighbouring properties.

Has the applicant control over the adjoining site(s) or the agreement of their owners?

The applicant does not have control over the neighbouring properties, nor is there an agreement in place with these owners. However, the proposed subdivision pattern, land use and zero building alignment to the side boundary is encouraged within DCP 2013 and the H2 precinct within Eastlakes. Similar built forms already exist or have been approved in the surrounding locality, Garden Street and specifically within the H2 precinct.

What are the impacts on the amenity and/or development potential of adjoining sites?

The site's redevelopment for the purposes of two semi detached dwellings does not in any way preclude the appropriate redevelopment of the neighbouring properties. These neighbouring properties are within the H2 precinct where terrace house, semi detached dwellings and 5m wide allotments are specifically encouraged. These properties are provided with similar lot size and orientation as that of the site. Alternatively the neighbouring properties can also be redeveloped for the purposes of single dwelling houses which could potentially be 10m in height with an FSR of 0.8:1 (i.e. greater than that proposed on the site).

As demonstrated at Section 4.2 of the originally lodged SEE each dwelling does not cause any material impacts to the neighbouring properties or the public domain in respect of overshadowing, visual impact, view loss, aural and visual privacy and access to daylight and ventilation and the like. Based on the relevant planning controls and the desired future character of the H2 precinct, the size and dimensions of the land are appropriate for the accommodation of the proposal, including the proposed torrens title subdivision.

It is noted the overall impacts of the amended built form are reduced slightly from that originally lodged.

Are there arrangements in place for the maintenance of the wall or gutters?

Side walls of each dwelling are to be constructed of solid rendered brickwork. Negligible maintenance of these walls will therefore be required. This is a typical characteristic of zero lot line built form.

Maintenance of gutters can be undertaken as required from either front or rear elevation of each dwelling or if required within the middle of each dwelling, from the central courtyard.

A response to other issues follows:

Side boundary setbacks

A zero building alignment is proposed to each side boundary. This building alignment results from the permitted and desired future character of 5m wide allotments within the H2 precinct. Each lot will have

a width of 5.03m. A merit based assessment of the proposed zero building alignment provides for the following appropriate planning outcome:

- an overall built form that is less in height, bulk and scale that would otherwise be provided if a single dwelling house was proposed;
- a built form that is encouraged by the H2 precinct guidelines;
- a subdivision pattern that is encouraged by the H2 precinct guidelines;
- a built form and subdivision pattern that is not inconsistent with that existing or approved within the H2 precinct;
- a built form that is only 6.913m in height;
- a non-complying FSR of 0.69:1 for semi detached dwellings, but which is significantly less than that permitted for a dwelling house (0.8:1);
- articulated side elevations are proposed;
- the overshadowing impact of the non-complying proposal is essentially the same as that for a complying dwelling house with a height of 9m, FSR of 0.8:1 and a 900mm side boundary setback;
- the overall provision of landscaped area and site coverage complies with that required;
- a consistent front and rear building alignment is proposed;
- principal areas of private open space face north and their minimum dimensions meet that required;
- the rear building alignment is not visible from the surrounding public domain;
- the building alignment does not have any identifiable impact on the use and amenity of the private open spaces or primary living rooms of neighbouring dwellings;
- the subdivision pattern is consistent with that expected within the H2 precinct;
- it provides a built form that is appropriate to its context as a basis for innovative and imaginative design and furthermore encourages housing diversity rather than reproduction in design; and
- the side building alignment does not preclude maintenance and / or redevelopment of the neighbouring dwellings.

Solar access and overshadowing of solar panels

Additional shadow diagrams by Rodney Yannakis & Associates are submitted separately. In summary, the proposed development will have the following overshadowing impacts:

- as the site has a northerly orientation, appropriate (complying) levels of solar access is provided to each dwelling (internally and to open space areas);
- existing levels of solar access to the north facing ground level and open space areas of the neighbouring dwellings to the east and west remain unaffected;
- a comparison of the shadows cast by a complying scheme against the proposal reveals no demonstrable difference relative to unacceptable impacts. The neighbouring dwellings are provided with a north south orientation. Solar access is generally maintained to appropriate portions of openings where additionally impacted;
- there is no impact on adjacent properties to the site's north and south during the winter solstice;
- most additional shadows that are cast to the south fall over the verge and carriageway of Garden Street;
- other than at 9am, the new built form does not additionally overshadow the neighbouring property to the west. Additional shadows fall onto its synthetic grass front yard and concrete driveway and a side small window. The useability of these spaces is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain completely unaffected;
- other than at 3pm, the new terraces do not additional overshadow the neighbouring property to the east. Additional shadows fall onto the small front yard and the concrete driveway. Their relative useability is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain unaffected;
- the impact on the solar panels at 10A Garden Street is negligible. The solar panels are completely unaffected from 9am to 12 noon. Most of the solar panel remains free of shadow at 12 noon and are

approximately 50% in shade at 1pm and overshadowed at 2pm (as expected by any two storey built form to the west). It is noted the solar panels are contained on an undeveloped single storey dwelling house. The impact would be even less if this dwelling was two storeys with a similar building alignment;

- the shadow cast by the built form is generally expected given the desired future character as expressed for the H2 precinct and is typical of existing similar development and its relationship with its neighbouring properties;
- openings are provided to more than one elevation on neighbouring properties;
- the site's existing under-utilised built form has enabled borrowed amenity to neighbouring dwellings, particularly given the permissible building envelope;
- small areas of land are affected and their relative useability is not compromised;
- development (including boundary fencing) on adjacent properties overshadows itself; and
- the proposal's resultant overshadowing impact is unlikely to preclude an appropriate redevelopment or the redevelopment potential of the neighbouring properties.

The limited overshadowing of the proposal is acceptable in the circumstances of the case as it occurs for short periods of time and in the winter arc of the sun. Overshadowing within a relatively dense locality is inevitable due to the closeness and type of built form permitted and desired by Council's relevant planning controls.

Waste management

The provision of a screened (timber or metal) waste storage area (for the 3 types of waste bins) within the front yard of each lot with landscaping provided between each dwelling's pedestrian accessway is proposed.

Conclusion

The amended proposal responds and contributes to its context by engaging the planning controls desired future character. The proposed rectilinear subdivision pattern and lot size is consistent with that anticipated. The lot width of 5m is specifically encouraged by DCP 2013 as is the semi detached dwelling land use.

Each dwelling's height, bulk and scale, site coverage, landscaped area, setbacks, car parking and provision of private open space is consistent with Council's key built form standards and guidelines. Where the amended proposal departs from a standard (FSR), the departure is acceptable given the presented circumstances of the case. The resultant built form is less than that permitted as a single dwelling house redevelopment.

The surrounding area is undergoing a period of regeneration. The future character is more critical than that existing. The appropriate redevelopment of the site will enable the realisation of Council's strategic direction for the locality's redevelopment as expressed in the relevant planning controls. Each dwelling's massing responds accordingly as well as considering the existing built form adjacent without any adverse impacts to these properties.

Considering the above, the amended proposal is worthy of Council's favourable determination. Should Council require further information, please do not hesitate to contact the applicant.

Yours Faithfully



Scott Lockrey
Director

Exception to Development Standards Submission

This Exception to Development Standards Submission accompanies Development Application (DA) 2018/1192 proposing demolition, torrens title subdivision and two new semi detached dwellings at 10 Garden Street, Eastlakes (the **site**). Calculations in this submission are based on the amended Building Designer Drawings by Rodney Yannakis & Associates.

As required pursuant to Clause 4.6(3) of Botany Bay Local Environmental Plan 2013, this submission provides a written request to the Bayside Council that seeks to justify the proposal's departure from the floorspace ratio (FSR) development standard is acceptable from an environmental planning point of view and that compliance with the standard is both unreasonable and unnecessary given the circumstances of the case. This submission takes into consideration relevant judgements.

Description of the planning instrument, development standard and proposed variation

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

Botany Bay Local Environmental Plan 2013 (LEP 2013).

What is the zoning of the land?

The land is zoned R2 Low Density Residential.

What are the objectives of the zone?

The objectives of the R2 Low Density Residential zone are:

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

What is the development standard being varied?

Development Standards' are defined under Section 1.4 of the Environmental Planning and Assessment Act, 1979 (the **Act**) as follows:

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of: ...

- (a) *the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) *the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) *the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) *the cubic content or floor space of a building,*
- (e) *the intensity or density of the use of any land, building or work,*
- (f) *the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*

- (g) *the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) *the volume, nature and type of traffic generated by the development,*
- (i) *road patterns,*
- (j) *drainage,*
- (k) *the carrying out of earthworks,*
- (l) *the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) *the provision of services, facilities and amenities demanded by development,*
- (n) *the emission of pollution and means for its prevention or control or mitigation, and*
- (o) ***such other matters as may be prescribed. (my emphasis)***

The FSR control at Clause 4.4A of LEP 2013 is clearly a development standard as it relates to the:

- percentage or proportion of a site that a building may occupy as specified in subclause (b);
- density of a building or work as specified in subclause (c);
- cubic content of floor space of a building as specified by subclause (d); and
- intensity of any building or work as specified by subclause (e).

Is the development standard a performance based control? Give details.

No.

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

The development standard is listed under Clause 4.4A(3)(d) of LEP 2013.

What are the objectives of the development standard?

The objectives of the development standard stated at Clause 4.4A(1) of LEP 2012 and are:

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

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

Clause 4.4A(3)(d) of LEP 2013 establishes a maximum 0.5:1 FSR for the site.

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

The proposal's GFA/FSR is as follows:

- 157.62m² GFA and an FSR of 0.69:1 for dwelling 1 based on the subdivided site area of 226.9m²;
- 157.62m² GFA and an FSR of 0.69:1 for dwelling 2 based on the subdivided site area of 226.9m²; and
- an overall GFA of 315.24m² which equates to an overall FSR of 0.69:1 based on the overall site area of 453.8m².

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

The percentage variation is 38% (88.34m² GFA) to the overall FSR of 0.69:1.

Assessment of the proposed variation**Is the proposed development in the public interest because it is consistent with the objectives for development in the zone and the objectives of the particular standard?*****Objectives of the zone***

As stated at Clause 2.3 of LEP 2012, the objectives of the R2 Low Density Residential zone are:

- *to provide for the housing needs of the community within a low density residential environment.*
 - o *The proposal will provide for a low density dwelling house replacing the existing low density dwelling house;*
- *to enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - o *Not applicable for this site.*
- *to encourage development that promotes walking and cycling*
 - o *Appropriate car parking is provided on site. The site is well located to encourage alternative means of transport including walking and cycling.*

The site may be developed with the stated variations to the overall FSR standard. Consistency is not readily quantifiable in absolute numerical terms. The proposed development despite its departure from the FSR development standard is consistent with the objectives of the R2 Low Density Residential zone and is therefore a suitable and appropriate redevelopment of the site as:

- provides residential accommodation on an existing residential allotment of land;
- provides a semi detached dwelling built form which is not consistent with the locality's established and/or likely future built form context;
- provides parking in accordance with Council's policy and therefore promotes the use of public transport, walking and cycling;
- will not adversely reduce existing residential amenity levels of neighbouring properties;
- continues use of existing services and amenities within nearby villages; and
- enables the opportunity to be able to work from home as/if required.

Objectives of the FSR standard

The proposal despite the departure from the FSR standard is nonetheless consistent with **objective (a)** and its subclauses and therefore provides an appropriate planning outcome for the following reasons:

- (a) to ensure that the bulk and scale of development is compatible with the character of the locality,*
- the primary objective of an FSR control is to ensure that the intensity of development respects and reflects the overall built form of a locality and does not detrimentally affect the amenity of the area. The maximum FSR that a site can achieve is determined by its environmental constraints, specifically overshadowing, privacy, streetscape, parking, landscaping, visual impact and views and the capacity of the community infrastructure. The proposal clearly meets or surpasses these criteria. It has been designed to minimise impacts and has had regard to site users and neighbours in terms of visual appearance, overshadowing, traffic generation, parking and streetscape;

- the surrounding locality is characterised by a regular grid street pattern befitting its residential zoning with varying allotment sizes, adjusted to the natural topography and orientated to relevant street frontages. The integrity of the building stock varies considerably and demonstrates a range of architectural form ranging from low set traditional single storey dwellings traditional two storey dwellings, large contemporary two storey dwellings and single and two storey townhouses, including townhouses within internal cul-de-sacs. The locality's subdivision pattern is varied and which provides for the varied built form typology. The scale of the proposal is characterised by the desired future character for the area. The proposed rectilinear subdivision pattern and lot size is consistent with the existing and desired future subdivision pattern in the surrounding locality. The lot width of 5m is specifically encouraged by DCP 2013 (the site is within area H2) as is the semi detached dwelling land use. Similar built forms are provided throughout the H2 precinct as desired by the planning controls and the precinct's desired future character objectives. Consequently, the non-compliance with the standard does not result in a scale of building that is out of character with the surrounding development;
- the proposed built form provides a consistent vertical and horizontal modulation. The proposed height, bulk and scale of the dwelling sits comfortably within this established built form context. There is an appropriate height relationship and transition with adjacent built form along both sides of Garden Street;
- despite the departure from the FSR standard, it is inconsequential from a planning perspective as it does not materially add to the bulk and scale of the dwellings. The two storey dwellings sit comfortably within their established and likely future locational context;
- the overall built form is less than that permitted on the site for a dwelling house (0.8:1);
- the overall built form is anticipated by the planning controls as each dwelling complies with the following standards/guidelines:
 - height;
 - front and rear setbacks;
 - a merit based side boundary setback;
 - landscaped area and site coverage;
 - private open space;
 - parking;
 - allotment width;
- the expression of the built form is adjusted to respond to:
 - the site's locational context;
 - the site's topography;
 - an improved connection to external areas;
 - the design and built form character of the adjoining and adjacent development;
 - solar access and the site's orientation; and
 - internal and external amenity for the occupants;

- each dwelling's massing responds accordingly and considers neighbouring built form. The scale is broken down by the articulation of facades (continuous blank or unarticulated walls are not provided) with the use of different materials and elements which helps reduce the perception of any apparent bulk. The resultant built form is expected and maintains visual interest;
- it provides a roof form that complements the mixed character of roofscapes in the surrounding locality and enables views over and across the site from the neighbouring properties to the rear;
- a low scale residential dwelling house land use is maintained / proposed;
- it develops a built form that defines and addresses the street character and positively contributes to the quality of the public domain; and
- quality and durable external materials and finishes are proposed. They will positively contribute to the locality's built form character and visual amenity.

(b) to promote good residential amenity.

- through the demonstration of a quality and innovative architectural design solution, the internal amenity afforded to each new dwelling's future occupants will be more than satisfactory. Furthermore, the technical studies of the site's capacity for redevelopment do not indicate any significant obstacles to development of the site for the purposes proposed. The proposed height, bulk and scale is entirely consistent with that permitted. The built form is anticipated by the relevant planning controls;
- The proposed built form has a high level of design (including environmental design initiatives) and sits comfortably within its locational (built form, landscape and scenic) context. As demonstrated at Section 4.2 of the originally lodged SEE and within the Response to Council Issues submission, the overall proposal will not result in any material environmental impacts to the neighbouring properties or surrounding public domain in relation to overshadowing, views, aural and visual privacy and access to natural daylight and ventilation. An appropriate planning outcome is provided as there is an equitable retention of residential amenity for the neighbouring properties. Furthermore the proposal, does not in any way preclude the appropriate redevelopment of any neighbouring property;
- Appropriate levels of residential amenity will be provided / maintained as:
 - the overall site and each lot and each dwelling is north facing;
 - generous floor to ceiling heights internally;
 - the proposal provides significant natural light penetration throughout each dwelling through the introduction of an open plan floor plan, voids, and two skylights for each dwelling and each dwelling's central courtyard;
 - windows, openings and the internal open floor plan ensures appropriate levels of solar exposure to all areas of each dwelling;
 - all outdoor private spaces are designed as extension of the living room to enhance and encourage outdoor and indoor living;
 - the provision of landscaping on the site (external and internal to the built form) reduces any perception of visual built form dominance over landscaping. Each dwelling sits comfortably within the established and likely future streetscape and therefore is considered to maintain a general dominance of landscape over buildings;

- specific design measures have been proposed to provide an appropriate aural and visual privacy relationship between the site and the neighbouring dwellings. The nature of such an urban environment is that all future development will seek to maximise amenity and density through design. Furthermore, privacy concerns have not impacted on the redevelopment of other neighbouring properties;
- ground level views and vistas are not available. As the principal/predominant building envelope/form is generally anticipated by Council's controls, its impact on any existing and filtered long distance vistas is acceptable. The site is within a targeted precinct that permits increased heights and densities;
- existing levels of solar access to the north facing ground level and open space areas of the neighbouring dwellings to the east and west remain unaffected;
- the shadow cast by the built form is generally expected given the desired future character as expressed for the H2 precinct and is typical of existing similar development and its relationship with its neighbouring properties;
- other than at 9am, the new built form does not additionally overshadow the neighbouring property at 8 Garden Street. Additional shadows fall onto its synthetic grass front yard and concrete driveway and a side small window. The useability of these spaces is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain completely unaffected;
- other than at 3pm, the new terraces do not additional overshadow the neighbouring property at 10A Garden Street. Additional shadows fall onto the small front yard and the concrete driveway. Their relative useability is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain unaffected. The impact on the solar panels is negligible as they are only impacted from 1pm during winter; and
- although an on street car parking space is lost, the cumulative impact is two additional vehicles of the street. The near negligible level of additional traffic will have no adverse effect on any nearby intersection and can be readily accommodated within the existing road network with minimal impact in terms of traffic flow efficiency, residential amenity and road safety considerations.

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

A development that strictly complies with the 0.5:1 FSR standard is unreasonable or unnecessary given the following presented circumstances:

- despite the departure from the FSR standard, it is inconsequential from a planning perspective as it does not materially add to the bulk and scale of each dwelling. Each dwelling sits comfortably within its established and likely future locational context;
- the overall built form is less than that permitted if the proposal was for a single dwelling house;
- the primary objective of an FSR control is to ensure that the intensity of development respects and reflects the overall built form of a locality and does not detrimentally affect the amenity of the area. The maximum FSR that a site can achieve is determined by its environmental constraints, specifically overshadowing, privacy, streetscape, parking, landscaping, visual impact and views and the capacity of the community infrastructure. The proposal clearly meets or surpasses these criteria. It has been

designed to minimise impacts and has had regard to site users and neighbours in terms of visual appearance, overshadowing, traffic generation, parking and streetscape;

- approval of the FSR as proposed on the site for a building envelope that has an acceptable environmental performance but which at the same time exceeds that prescribed for a semi detached dwelling house, but which less than that permitted for a dwelling house in LEP 2013 will not set a precedent for other non-conforming applications; and
- each dwelling is surrounded by substantial private gardens/landscaped areas reducing its visual impact or visual connection with the surrounding public domain;
- the site is well located to provide additional floorspace above that technically permitted. It is within walking distance of existing infrastructure. The proposal will not result in any adverse traffic or pedestrian generation impact that would lead to the unacceptable performance of the surrounding road network;
- the dwelling's actual bulk and scale when viewed from the surrounding public domain is a built form expected given the prevailing built form context;
- the density proposed produces a building of similar scale and appearance (improved architectural quality) of nearby development;
- it provides a built form that is appropriate to its locational context as a basis for innovative and imaginative design and is encouraged by Council's planning controls and specifically those within the H2 precinct;
- it has been demonstrated that the proposal will not result in any material environmental impacts to the adjoining and adjacent properties, particularly in terms of overshadowing, aural and visual privacy, solar access and natural ventilation, and views and vistas;
- the site is proportioned to allow the efficient internalisation of the impacts of the floor space without an adverse visual impact or perceived built form dominance; and
- each dwelling's FSR (and that overall) does not preclude (and hasn't done so in the past) redevelopment of neighbouring properties.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. Those tests have been considered below.

Are the objectives of the standard achieved notwithstanding non-compliance with the standard?

The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is not necessary?

The objectives of the development standard have been addressed above. Those objectives have been achieved notwithstanding non-compliance with the standard.

Would the underlying objective or purpose of the standard be defeated or thwarted if compliance was required?

Compliance with the stated objectives of the FSR standard would be thwarted if strict compliance with the standard was required in the circumstances as the quality of the residential outcome would be compromised for no sound planning reason. The resultant built form includes appropriate environmental initiatives and has a positive built form relationship with its neighbouring built form.

Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

The development standard cannot said to be abandoned.

Notwithstanding and following a review of Council's online Development Standard Variations Register and Local Planning Panel Agenda / Minutes there are relatively recent examples of approved built form that is within the R2 Low Density Residential zone that depart from the FSR standard (and others) within LEP 2013, including:

- DA 2017/1114 at 244 Wentworth Avenue, Eastgardens (14.5% departure);
- DA 2017/1127 at 9 Cranbrook Street, Botany (32% departure);
- DA 2017/1023 at 79 Middlemiss Street, Mascot (17% each dwelling);
- DA 2017/1175 at 26 Wellington Street, Rosebery (9.6% departure);
- DA 2017/1219 at 20 Tramway Street, Rosebery (1% departure);
- DA 2017/1120 at 63 Dougherty Street, Rosebery (16% departure);
- DA 2017/1235 at 18A Cowper Avenue, Pagewood (5.5% departure);
- DA 2016/189 at 12-14 Herford Street, Botany (11% departure for two dwellings);
- DA 2017/1246 at 127 Bay Street, Botany (30% departure for each dwelling). It is noted the approved FSR for this property is similar to other approvals on neighbouring properties at 125 and 125A Bay Street and 62 and 62A Bay Street;
- DA 2017/1188 at 72-74 High Street, Mascot (18% departure);
- DA 2017/1085 at 49 George Street, Eastlakes (68.88% departure). It is noted the approved FSR is similar to other approvals at 19 and 51 George Street; and
- DA 2018/1084 at 57 Middlemiss Street (34.5% departure).

Is the zoning of the land unreasonable or inappropriate?

The zoning of the land is reasonable and appropriate given the site's location.

Are there sufficient environmental planning grounds to justify contravening the development standard?

The primary issue in this DA is whether there are sufficient environmental planning grounds to allow the variation to the standard. Accordingly, and regarding the proposed development at 10 Garden Street, Eastlakes, there are sufficient environmental planning grounds to justify contravening the FSR development standard being:

- it has been demonstrated within the SEE and the response to Council issues submission that the overall FSR will not result in material environmental impacts to neighbouring properties and the surrounding public domain. In this regard the resultant built form provides for an acceptable and equitable planning outcome in relation to:
 - solar access and overshadowing;
 - access to natural daylight and ventilation;
 - aural and visual privacy;

- views and vistas; and
 - visual impact;
- the development provides for an appropriate environmental planning outcome and is not an overdevelopment of the site as follows:
 - the proposal satisfies the objectives of the R2 Low Density Residential zone;
 - the proposal satisfies the objectives of the FSR development standard;
 - the proposal complies with the LEP 2013 height of buildings standard at Clause 4.3;
 - the proposal complies with the DCP 2013 performance based guidelines in relation to landscaped area, boundary setbacks, private open space, car parking and allotment width;
 - the overall height, bulk and scale of the built form is generally consistent with that existing on adjacent properties on both sides of Garden Street;
 - the nature of such an urban environment is that all future development will seek to maximise amenity and density through design. In this regard, the proposal represents an appropriate planning outcome with any adverse environmental impacts;
- appropriate environmental initiatives are proposed, including:
 - BASIX compliance;
 - substantial areas of deep soil landscaping and permeable areas. The site is highly permeable and encourages infiltration and absorption;
 - the provision of a 3,000 litre RWT for each lot;
 - the provision of a stormwater absorption trench within the backyard of each lot;
 - increased useability of landscaped areas and substantial new landscaping works generally
 - the proposal provides significant natural light penetration throughout each dwelling through an open plan floor plan, voids, side elevation cutouts, central courtyards and skylights;
 - windows, openings and the reconfigured internal open floor plan ensures appropriate levels of solar exposure;
 - the outdoor private spaces have been designed as an extension of the open plan primary living room to enhance and encourage outdoor and indoor living, while at same time acting as a transition space to modulate temperature within each dwelling;
 - each dwelling benefits from both cross flow and stack effect ventilation;
 - higher latitude winter solar rays will reach the facades for periods during the early afternoon permitting solar heat gain. Similarly higher latitude winter solar rays will also reach the façades for periods during the morning permitting solar heat gain;
 - the use of energy efficient fixtures;
 - the engagement with the outdoors, the natural ventilation, the increase in natural light and the passive solar controls will reduce energy consumption;
 - the proposed landscape design minimises the discharge of stormwater (by drainage or overland flow) from the site;
- the proposal exhibits a high quality architectural, urban design and landscape design solution;

- the proposal generally is of an intensity and scale commensurate with the locality's established and likely future urban conditions;
- each dwelling and its surrounds will be a positive contribution to the streetscape character; and
- each dwelling provides visual interest whilst still maintaining a human scale relative to the adjacent built form.

Whether contravention of the development standard raises any matter of significance for the State or regional Environmental Planning?

The contravention of the development standard in this case does not raise an issue of State or regional planning significance as it relates to local and contextual conditions. The proposed FSR is typical of similar type development within the site's vicinity. The retention of improved housing for a family will assist in meeting housing and locational context demand. The site also has excellent access to services, facilities and amenities.

How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Act?

The relevant objects of the Act as specified in Section 1.3, are in our opinion, achieved by the proposed development in that it:

- promotes the social and economic welfare of the community;
- facilitates ESD;
- promotes the orderly and economic use and development of land;
- promotes the sustainable management of built and cultural heritage;
- promotes good design and amenity of the built environment; and
- promotes the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

A strictly complying development would result in a poorer urban design response to the overall site and the area generally and in that sense it may be said that compliance with the standard would hinder the attainment of the objects of section 1.3 of the Act as the resultant built form is similar to that already considered acceptable on neighbouring properties. In addition:

- compliance may encourage reproduction in design, rather than allowing architectural expression that has significant planning merits;
- the overall FSR is less than that technically permitted for a single dwelling house;
- the proposed FSR supports high quality residential dwelling development that responds to demand for high quality residential accommodation in locations with excellent access to public transport, services, amenities and other facilities;
- the overall FSR does not result in material environmental impacts to neighbouring properties and the surrounding public domain; and
- it would preclude redevelopment of the site in the manner proposed and which would not offer the level of amenity currently expected.

The site's redevelopment and subsequent departure from the FSR standard does not preclude or isolate an adjacent property(s) from being appropriately redeveloped. The development as proposed is consistent with the provisions of orderly and economic development and would not hinder the objects of the Act in Section 1.3.

Is there public benefit in maintaining the development standard?

Generally, there is a public benefit in maintaining standards. However, there is public interest in maintaining a degree of flexibility in specific circumstances. In the current case, strict compliance with the FSR standard would serve no purpose other than to impose numerical inflexibility that would achieve no planning purpose. A rigid and inflexible compliance based approach to the development standard forgoes the opportunity to provide a desired as expressed by the DCP 2013 guidelines built form and land use solution for the site.

Following a review of other DA's (see earlier) it has been demonstrated that Council has considered applications favourably which depart from the FSR standard (and others) subject to a satisfactory environmental performance. There are no other reasons as to why it is not in the public interest and its refusal based on the standard's departure is not warranted. Therefore, it is argued that there is no public benefit in maintaining the adopted FSR planning control.

On balance, the variation to the FSR standard is an appropriate use of the provisions of Clause 4.6. Accordingly, there is in the specific circumstances of the case, no public benefit in strictly maintaining the development standard.

Is the objection well founded?

For the reasons outlined in previous sections and having regard to relevant case law, this objection is well founded and granting an exception to the development can be supported given the presented circumstances of the case. The development does not contravene the objects specified at Section 1.3 of the Act.

Conclusion

The proposed variation to the FSR standard is based on the reasons contained within this formal request for an exception to the standard. A development strictly complying with the FSR standard would not significantly alter the development's environmental impacts and therefore impacts to neighbouring properties and the surrounding public domain as:

- the proposal satisfies the objectives of the R2 Low Density Residential zone;
- the proposal satisfies the objectives of the FSR standard;
- the proposal complies with the LEP 2013 height of buildings standard;
- the proposal complies with the DCP 2013 performance based guidelines in relation to landscaped area, boundary setbacks, private open space, car parking and allotment width;
- the proposed FSR and therefore overall built form relative to bulk and scale is less than that technically permitted as a single dwelling house; and
- the resultant built form sits comfortably within its established and likely future built form context.

It is concluded that the objection:

- is well founded;
- demonstrates that compliance with the standard is both unnecessary and unreasonable; and
- demonstrates that there are sufficient environmental planning grounds in which to support the proposal.

On that basis, the consent authority can be satisfied that the proposed development is in the public interest because it is consistent with the objectives for development in the zone and the objectives of the FSR standard.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2018/1192
Date of Receipt:	25 October 2018
Property:	10 Garden Street, EASTLAKES Lot W DP 162891
Owners:	Aneres Capital Pty Ltd
Applicant:	Rodney Albert Yannakis & Associates
Proposal:	Demolition of existing structures and construction of two semi-detached dwellings and Torrens Title subdivision into 2 lots.
Recommendation:	Approve the development, subject to conditions
Value:	\$794,954.00
No. of submissions:	Two (2) Submissions
Author:	Ana Trifunovska, Development Assessment Planner
Date of Report:	04 March 2019

Key Issues

Bayside Council received Development Application No. 2018/1192 on the 25th October 2018, seeking consent for the demolition of all existing structures on site and the construction of two (2) semi-detached dwellings and the Torrens Title subdivision into two (2) lots.

The application was placed on public exhibition for a 14 day period from the 29th October 2018 until the 14th November 2018. Two (2) submissions were received in response.

Key issues in the assessment of the proposal relate to varying the floor space ratio (FSR) control, setback controls, overshadowing and visual amenity. The proposal exhibits compliance with the BBLEP2013 height standard and the key controls of the BBDCP2013 being landscaped area, site coverage, private open space and car parking. The applicant has submitted a Clause 4.6 Variation Statement for the proposed variation to the FSR control, and the variation is supported for reasons outlined in this report.

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

Item

Bayside Planning Panel Meeting
11/12/2018

Recommendation

It is RECOMMENDED that the Bayside Planning Panel resolve:

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

Background

History – Approved Development

There is no recent town planning history on the site.

Council requested additional information on the 6th of December 2018 relating to the submission of a Clause 4.6 Variation Statement, stormwater amendments and addressing of the nil side boundary setbacks, overshadowing and amenity concerns. The information was provided on the 1 February 2019.

Description of Proposal

The development application seeks consent for the demolition of all existing structures on site, the construction of two double storey semi-detached dwellings, and the Torrens title subdivision into two (2) lots.

The specifics of the proposal are as follows:

- Demolition of all structures on the site including the existing single storey brick dwelling, the fibro garage and the fibro shed in the rear yard of the site;
- The removal of two (2) trees in the rear yard of the subject site;
- Subdivision into two (2) lots to create Lot 700 and Lot 701 with a site area of 226 sqm each. Each lot will have a street frontage width of 5.03m.
- Construction of two x two storey semi-detached dwellings with internal arrangements as follows:

Ground Floor

- Attached garage with provision for one (1) car parking space;
- Powder Room;
- Dining Room;
- Outdoor Courtyard;
- Open plan kitchen, meals and living room; and
- Outdoor alfresco.

First Floor

- Bedroom 1 with front facing balcony, W.I.R. and ensuite;
- Bedroom 2;
- Bedroom 3;
- Bathroom; and
- Rear facing Bedroom 4.

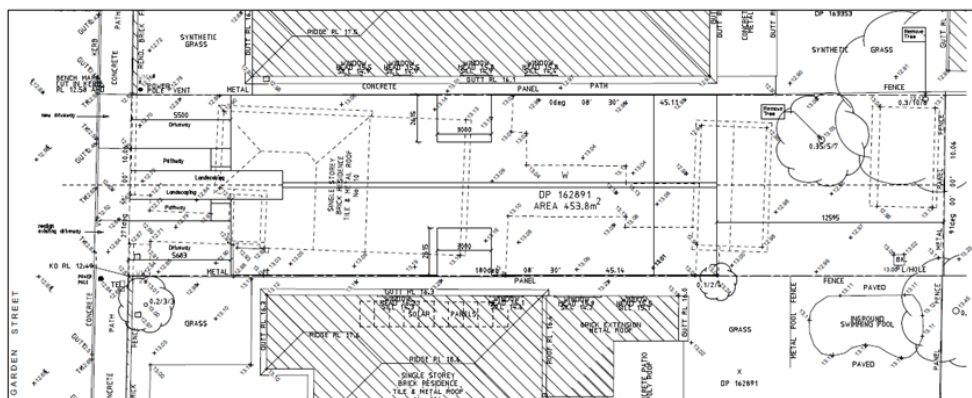


Figure 1: Proposed Site Plan

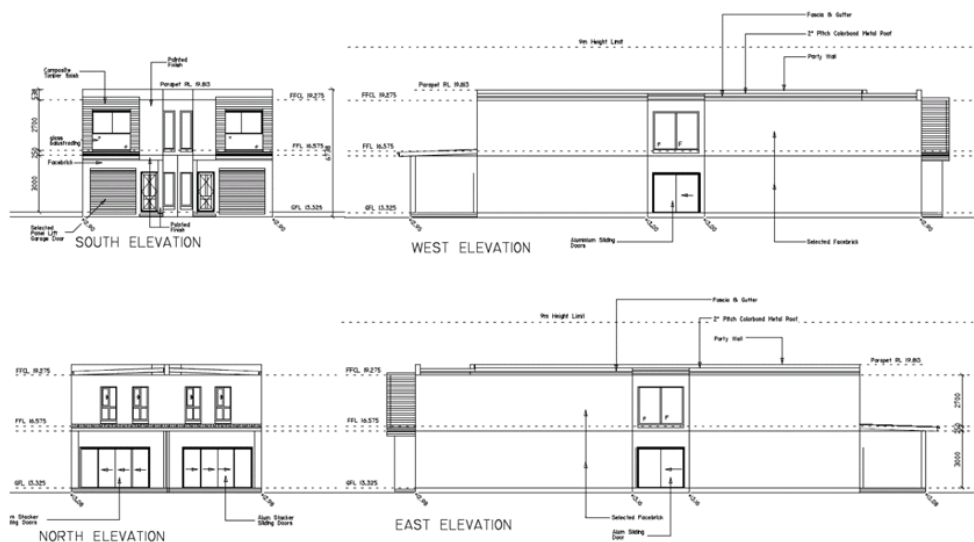


Figure 2: Proposed Elevations

Site Description

The site is legally known as Lot W in DP 162891. The subject site is located on the northern side of Garden Street between St Helena Parade to the east and Maloney Street to the west. The lot has a north to south orientation with the southern side facing the street frontage and the northern side facing the rear boundary. The site is located in the R2 Low Density Residential Zone.

The subject site is rectangular in shape with a total site area of 453.8 sqm and has a street frontage and rear boundary width of 10.06m, an eastern boundary length of 45.14m, and a western boundary length of 45.11m. The site has a gradual slope of 1.1m from the rear of the site to the front of the site.

Existing development on the site comprises of a single storey brick detached dwelling house with tile and metal roof, and a detached fibro garage and detached fibro shed at the rear of the site. There are two (2) trees located in the rear yard which are proposed to be removed. The adjoining site at 10A Garden Street contains a single storey detached dwelling, and the adjoining site at 8 Garden Street contains a rendered single storey detached dwelling. Development surrounding the site consists of single and double storey detached, semi-detached dwelling houses, and multi-dwelling units (Figures 8,9, 10 and 11). The subject site is also located within *Special Area H2 – Two Storeys plus attic terrace style dwellings*, under the provisions of BBDP2013.



Figure 3: Subject Site highlighted in red



Figure 4: Street frontage view of the subject property



Figure 5: Aerial view of the subject site, highlighted in red



Figure 6: 8 Garden Street Eastlakes – adjoining property to the west



Figure 7: 10A Garden Street Eastlakes – adjoining dwelling to the east

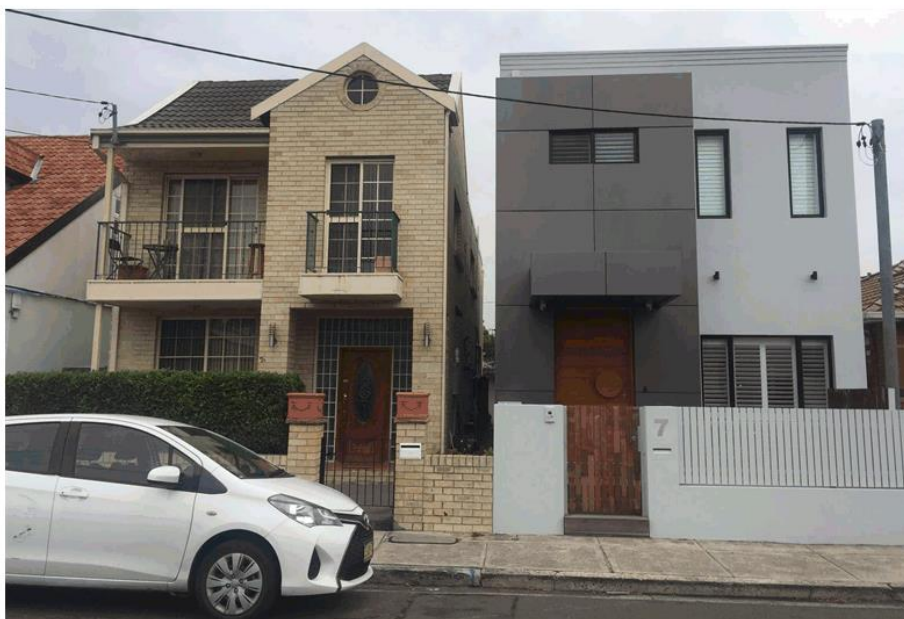


Figure 8: 7 & 7A Garden Street across the street from subject site. Examples of narrow lot widths



Figure 9: 19B and 21 Garden Street Eastlakes – Terraced development on the street



Figure 10: 52, 54, and 56 Garden Street Eastlakes – Nil boundary setback to three terraces on the street



Figure 11: 27 Garden Street Eastlakes – Semi-detached development along the street



Figure 12: View towards rear fibro garage of the property



Figure 13: View towards rear fibro shed of the property

Statutory Considerations

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 969430M dated 17 October 2018 prepared by Australian Energy Efficiency Certificate committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K- Contamination of the Botany Bay

Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

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

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

Botany Bay Local Environmental Plan 2013

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

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned R2 Low Density Residential zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use is semi-detached dwelling houses which is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the R2 Low Density Residential Zone: <ul style="list-style-type: none"> • 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.
Does Schedule 1 – Additional Permitted Uses apply to the site? If so what additional uses are permitted on the site?	N/A	Schedule 1 does not apply to the site.
Does the proposed use/works require development consent for demolition?	Yes	The proposed development seeks consent for the demolition of all existing structures on site and hence satisfies the provisions of this Clause.
What is the height of the building? Does the height of the building comply with the maximum building height?	Yes	A maximum height of 10 metres applies to the subject site. Both dwellings have a maximum height of 7.1 metres from the NGL. This complies with the provisions of the BBLEP 2013.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<p>What is the proposed Floor Space Ratio?</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p>	No- Refer to Note 1 below	<p>The maximum Floor Space Ratio requirement is 0.5:1 for semi-detached dwelling houses.</p> <p>Both lots have a site area of 226 sqm (based on the concept subdivision plan submitted with the application).</p> <p>The Floor Space Ratio of the development has been calculated as 0.72:1 and therefore does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A clause 4.6 variation has been submitted with the proposal and assessed in Note 1 below.</p>
<p>Is the site within land marked "Area 3" on the Floor Space Ratio Map?</p> <p>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?</p>	No – Refer to Note 1 below	The site is located in an Area 3 zone. The proposal does not comply with the maximum FSR.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area.
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 	Yes	The site is located in a Class 5 Acid Sulfate Soils Area. As excavation is not proposed below 5 metres AHD, an Acid Sulfate Soils assessment is not required in this instance.
<ul style="list-style-type: none"> 6.2 – Earthworks 	Yes	The proposal does not involve extensive excavation other than earthworks associated with foundations and footings. Appropriate conditions have been imposed in the consent.
<ul style="list-style-type: none"> 6.3 – Stormwater Management 	Yes	The proposed development will utilise an absorption system. Each site will also provide a rainwater tank in accordance with the DCP. The application was reviewed by Council's Development Engineer who has no objection to the proposal.
<ul style="list-style-type: none"> 6.8 – Airspace Operations 	Yes	The subject site is affected by the 51m OLS height limit. However, the maximum RL height of the building sits at 19.813m AHD and will therefore not penetrate the maximum height limit.
<ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise 	Yes	The site falls within the 20-25 ANEF Contour. An acoustic report prepared by Acoustic Logic was provided with the application and

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		appropriate conditions have been included within the consent.

Note 1 – Clause 4.6 Variation relating to FSR Variance

The development seeks an FSR of 0.72:1 for each site, which results in a total GFA of 162.6 sqm for each lot (Lot 700 & 701). The site is located within 'Area 3' on the FSR map and therefore is subject to Clause 4.4A of the BBLEP2013. 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. As such a '*semi-detached dwelling*' would fall under the category of '*all other development for the purpose of residential accommodation*'. Given the above, the maximum permitted FSR for the subject site is 0.5:1. It should be noted that the FSR for a detached dwelling house on the subdivided land is 0.80:1.

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

(2) 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...

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

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

The Applicant has provided a Clause 4.6 variation statement to justify contravening the height standard. Their justification is provided below:

4.6(3) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and there are environmental planning grounds to justify the contravention of the standard

Applicant's Comment:

'A development that strictly complies with the 0.5:1 FSR standard is unreasonable or unnecessary given the following presented circumstances:

- *Despite the departure from the FSR standard, it is inconsequential from a planning perspective as it does not materially add to the bulk and scale of each dwelling. Each dwelling sits comfortably within its established and likely future locational context;*
- *The overall built form is less than that permitted if the proposal was for a single detached dwelling house;*
- *The primary objective of an FSR control is to ensure that the intensity of the development respects and reflects the overall built form of a locality and does not detrimentally affect the amenity of the area. The maximum FSR that a site can achieve is determined by its environmental constraints, specifically overshadowing, privacy, streetscape, parking, landscaping, visual impact and views and the capacity of community infrastructure. The proposal clearly meets or surpasses this criteria. It has been designed to minimise impacts and has had regard to site users and neighbours in terms of visual appearance, overshadowing, traffic generation, parking and streetscape;*
- *The density proposed produces a building of similar scale and appearance of nearby development;*
- *It provides a built form that is appropriate to its locational context as a basis for innovative and imaginative design and is encourage by Council's planning controls specifically those within the H2 precinct;*
- *Each dwelling's FSR (and that overall) does not preclude (and hasn't done so in the past) redevelopment of neighbouring properties).*

In Wehbe v Pittwater Council [2007] NSWLEC 827, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. Those tests have been considered below.

Are the objectives of the standard achieved notwithstanding non-compliance with the standard?

The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is not necessary?

The objectives of the development standard have been addressed below. Those objectives have been achieved notwithstanding non-compliance with the standard.

Would the underlying objective or purpose of the standard be defeated or thwarted if compliance was required?

Compliance with the stated objectives of the FSR standard would be thwarted if strict compliance with the standard was required in the circumstances as the quality of the residential outcome would be compromised for no sound planning reason. The resultant built form includes appropriate environmental initiatives and has a positive built form relationship with its neighbouring built form.

Has the development standard been virtually abandoned or destroyed by the Council's own actions in departing from the standard?

The development standard cannot said to be abandoned. Notwithstanding and following a review of Council's online Development Standards Variations Register and Local Planning Panel Agenda/Minutes there are relatively recent examples of approved built form that is within the R2 Low Density Residential Zone that depart from the FSR standard (and others) within LEP2013, including:

- *DA-2017/1127 at 9 Cranbrook Street, Botany (32% departure);*
- *DA-2017/110 at 63 Dougherty Street, Rosebery (16% departure);*

- DA-2017/1085 at 49 George Street, Eastlakes (68.88% departure).

Is the zoning of the land unreasonable or inappropriate?

The zoning of the land is reasonable and appropriate given the site's location.'

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

Applicant's Comment:

'Objectives of the zone

As stated in Clause 2.3 of LEP2013, the objectives of the R2 Low Density Residential Zone are:

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

The site may be developed with the stated variations to the overall FSR standard. Consistency is not readily quantifiable in absolute numerical terms. The proposed development despite its departure from the FSR development standard is consistent with the objectives of the R2 Low Density Residential zone and is therefore a suitable and appropriate redevelopment of the site as:

- *It provides residential accommodation on an existing residential allotment of land;*
- *Provides a semi-detached dwelling built form which is consistent with the locality's established and/or likely future built form context;*
- *Provides parking in accordance with Council's policy and therefore promotes the use of public transport, walking and cycling;*
- *Will not adversely reduce existing residential amenity levels of neighbouring properties;*
- *Continues use of existing services and amenities within nearby villages; and*
- *Enables the opportunity to be able to work from home as/if required.*

Objectives of the FSR standard

The proposal despite the departure from the FSR standard is nonetheless consistent with objective (a) and its subclauses and therefore provides an appropriate planning outcome for the following reasons:

(a) to ensure that the bulk and scale of development is compatible with the character of the locality

- *The primary objective of an FSR control is to ensure that the intensity of development respects and reflects the overall built form of a locality and does not detrimentally affect the amenity of the area. The maximum FSR that a site can achieve is determined by its environmental constraints, specifically the community infrastructure. The proposal clearly meets or surpasses these criteria. It has been designed to minimise impacts and has had regards to site users and neighbours in terms of visual appearance, overshadowing, traffic generation, parking and streetscape;*

- *The surrounding locality is characterised by a regular grid street pattern befitting its residential zoning with varying allotment sizes, adjusted to the natural topography and orientated the relevant street frontages. The integrity of the building stock varies considerably and demonstrates a range of architectural form ranging from low set traditional single storey dwellings, traditional two storey dwellings, large contemporary two storey dwellings and single and two storey townhouses, including townhouses with internal cul-de-sacs. The locality's subdivision pattern is varied and provides for the varied built form typology. The scale of the proposal is characterised by the desired future character of the area. The proposed rectilinear subdivision pattern and lot size is consistent with the existing and future subdivision pattern in the surrounding locality. The lot width of 5m is specifically encouraged by DCP2013 (the site is within Area H2) as is the semi-detached dwelling land use. Similar built forms are provided throughout the H2 precinct as desired by the planning controls and the precinct's desired future character objectives. Consequently, the non-compliance with the standard does not result in a scale of building that is out of character with the surrounding development;*
- *The proposed built form provides a consistent vertical and horizontal modulation. The proposed height, bulk and scale of the dwelling sits comfortably within this established built form context. There is an appropriate height relationship and transition with adjacent built form along both sides of Garden Street;*
- *Despite the departure from the FSR standard, it is inconsequential from a planning perspective as it does not materially add to the bulk and scale of the dwellings. The two storey dwelling sit comfortably within their established and likely future locational context;*
- *The overall built form is less than that permitted on the site for a dwelling house (0.8:1);*
- *The overall built form is anticipated by the planning controls as each dwelling complies with the following standards/guidelines:*
 - *Height;*
 - *Front and rear setbacks;*
 - *A merit based side boundary setback;*
 - *Landscaped area and site coverage;*
 - *Private open space;*
 - *Parking;*
 - *Allotment width.*
- *The expression of the built form is adjusted to respond to:*
 - *The site's locational context;*
 - *The site's topography;*
 - *An improved connection to external areas;*
 - *The design and built form character of the adjoining and adjacent development;*
 - *Solar access and the site's orientation; and*
 - *Internal and external amenity for the occupants;*
- *Each dwelling's massing responds accordingly and considers neighbouring built form. The scale is broken down by the articulation of facades (continuous blank or unarticulated walls are not provided) with the use of different materials and elements which helps reduce the perception of any apparent bulk. The resultant built form is expected and maintains visual interest;*
- *It provides a roof form that complements the mixed character of roofscapes in the surrounding locality and enables views over and across the site from the neighbouring properties to the rear;*
- *A low scale residential dwelling house land use is maintained / proposed;*
- *It develops a built form that defines and addresses the street character and positively contributes to the quality of the public domain; and*
- *Quality and durable external materials and finishes are proposed. They will positively contribute to the locality's built form character and visual amenity.*

(b) to promote good residential amenity.

- *Through the demonstration of a quality and innovative architectural design solution, the internal amenity afforded to each new dwelling's future occupants will be more than satisfactory. Furthermore, the technical studies of the site's capacity for redevelopment do not indicate any significant obstacles to development of the site for the purposes proposed. The proposed height, bulk and scale is entirely consistent with that permitted. The built form is anticipated by the relevant planning controls;*
- *The proposed built form has a high level of design (including environmental design initiatives) and sits comfortably within its locational (built form, landscape and scenic) context. As demonstrated at Section 4.2 of the originally lodged SEE and within the Response to Council Issues submission, the overall proposal will not result in any material environmental impacts to the neighbouring properties or surrounding public domain in relation to overshadowing, views, aural and visual privacy and access to natural daylight and ventilation. An appropriate planning outcome is provided as there is an equitable retention of residential amenity for the neighbouring properties. Furthermore the proposal, does not it any way preclude the appropriate redevelopment of any neighbouring property;*
- *Appropriate levels of residential amenity will be provided / maintained as:*
 - *The overall site and each lot and each dwelling is north facing;*
 - *Generous floor to ceiling heights internally;*
 - *The proposal provides significant natural light penetration throughout each dwelling through the introduction of an open plan floor plan, voids, and two skylights for each dwelling and each dwelling's central courtyard;*
 - *Windows, openings and the internal open floor plan ensures appropriate levels of solar exposure to all areas of each dwelling;*
 - *all outdoor private spaces are designed as extension of the living room to enhance and encourage outdoor and indoor living;*
 - *The provision of landscaping on the site (external and internal to the built form) reduces any perception of visual built form dominance over landscaping. Each dwelling sits comfortably within the established and likely future streetscape and therefore is considered to maintain a general dominance of landscape over buildings;*
 - *Specific design measures have been proposed to provide an appropriate aural and visual privacy relationship between the site and the neighbouring dwellings. The nature of such an urban environment is that all future development will seek to maximise amenity and density through design. Furthermore, privacy concerns have not impacted on the redevelopment of other neighbouring properties;*
 - *Ground level views and vistas are not available. As the principal/predominant building envelope/form is generally anticipated by Council's controls, its impact on any existing and filtered long distance vistas is acceptable. The site is within a targeted precinct that permits increased heights and densities;*
 - *Existing levels of solar access to the north facing ground level and open space areas of the neighbouring dwellings to the east and west remain unaffected;*
 - *The shadow cast by the built form is generally expected given the desired future character as expressed for the H2 precinct and is typical of existing similar development and its relationship with its neighbouring properties;*
 - *Other than at 9am, the new built form does not additionally overshadow the neighbouring property at 8 Garden Street. Additional shadows fall onto its synthetic grass front yard and concrete driveway and a side small window. The useability of these spaces is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain completely unaffected;*

- *Other than at 3pm, the new terraces do not additional overshadow the neighbouring property at 10A Garden Street. Additional shadows fall onto the small front yard and the concrete driveway. Their relative useability is not materially compromised. This property's principal area of private open space (i.e. the backyard) and northern openings remain unaffected. The impact on the solar panels is negligible as they are only impacted from 1pm during winter; and*
- *Although an on street car parking space is lost, the cumulative impact is two additional vehicles of the street. The near negligible level of additional traffic will have no adverse effect on any nearby intersection and can be readily accommodated within the existing road network with minimal impact in terms of traffic flow efficiency, residential amenity and road safety considerations.*

Planners Comments:

The Clause 4.6 variation to the FSR development standard has been assessed in accordance with the BBLEP2013.

The proposal:

- Will create an appropriate built form which is consistent with surrounding low density residential developments whilst not exceeding Council's height control;
- Will enhance the streetscape of Garden Street via the incorporation of quality façade treatment and an articulated form through the use of balconies and windows, roof form and a range of different materials within the façades. This creates an aesthetically pleasing alternative to the existing conditions on site;
- Will comprise of high internal amenity with moderate sized rooms, sufficient solar access, natural ventilation and visual privacy;
- Will not result in any significant adverse amenity impacts such as overshadowing as the site has a north to south orientation, and the privacy impacts or any significant view loss to the surrounding neighbours have been addressed through building design and conditions;
- Would comply with the maximum FSR of 0.8:1 for a single detached dwelling house on the site with subdivision and is similar in bulk and scale to other developments fronting Garden Street;
- Will provide the minimum one (1) off-street car parking space for each dwelling. This number will not generate significant traffic impact;
- Complies with all other standards and planning controls including height, setbacks, landscaped area, private open space and stormwater management.

The proposed FSR is consistent with the FSR approved at the attached dwellings at 52, 54, and 56 Garden Street (0.72:1, DA-2005/430/01) and a number of other semi-detached dwellings along the street including 19B and 21 Garden Street (0.7:1, DA-2000/435), and 27 Garden Street.

Other properties of note in the surrounding streets within the *Special Area H2* precinct also incorporate higher variations to the FSR of the semi-detached dwellings, illustrating a consistent precedent. Some examples include:

- 15 & 15A George Street (0.84:1)
- 40 & 40A Universal Street (0.85:1)
- 19 George Street (0.8:1 & 0.84:1)
- 51 & 51A George Street (1.07:1)

The bulk and scale of both lots are compatible with the criteria listed within the desired future character statement for the Eastlakes Precinct. The dwellings comply with the 10 metre maximum height limit and are consistent with the setbacks approved in other developments in the street. The dwellings are articulated on the front and side elevations (via internal courtyards), thereby minimising visible bulk and maintaining an appropriate visual relationship along the streetscape. The proposal is also compliant with regards to all other aspects including solar access, visual privacy, landscaped area and private open space.

The proposal is consistent with the objectives of the standard and the applicant has established that the proposed variation is appropriate in maintaining and enforcing the development standard in this case would be unreasonable and unnecessary.

The Clause 4.6 request is considered to be well-founded and the departure to the development standards is not contrary to the public interest. On this basis, it is recommended that the development standard relating to the building height for the site be varied as discussed above.

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

There are no current Draft EPIs applicable to this development

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

Botany Bay Development Control Plan 2013

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

Part 3A – Parking & Access

Control	Proposed	Complies
3A.2 Parking Provisions of Specific Uses		
C2 Car parking provision shall be provided in accordance with Table 1.	Each dwelling provides two (2) off street car parking spaces including one (1) in a 3x5.5m attached garage, and one (1) in a hardstand area forward of the front garage line. The provisions comply with the requirements of Table 1.	Y
3A.3 Car Park Design		
C14 A maximum of one vehicle access point is permitted per property. Council may consider additional vehicle access points for large scale developments.	Following subdivision, each property will have only one (1) vehicle access point off Garden Street.	Y
C28 The minimum width of the access driveway at the property boundary shall be:- (i) For dwelling houses: 3 metres	The proposed driveway width is 3m. Complies with the minimum requirement.	Y

Part 3E – Subdivision and Amalgamation

Control	Proposed	Complies
3E.2.1 Residential Torrens Title		
C1 Development Applications shall demonstrate that the proposed subdivision or amalgamation is consistent with the Desired Future Character of the area (refer to relevant sections in Part 8 - Character Precincts, Part 9 - Key Sites, Part 5 - Business Centres and Part 6 - Employment Zones).	Two allotments are proposed which are both rectangular in pattern and will maintain the rectilinear grid pattern within the precinct. The desired future character for the Eastlakes Character Precinct is to <i>'encourage an increased height (to a maximum of 9 metres) and density in the form of terrace style housing in Special Area H2.'</i> The subdivision of the land will successfully reflect the controls relating to Special Area H2, therefore the proposal is compliant.	Y – Refer to Note 2
C2 Proposed subdivision or amalgamation must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area; dimensions, shape and orientation (refer to Figure 1).	The proposed lots will have a site area of 226sqm each, with a north-south orientation, rectilinear shape and frontage to Garden Street. The area and dimensions of the proposed allotments are consistent with surrounds, and the desired future character of both the area and the street. However, it should be noted that Garden Street comprises of a variety of lot sizes considering the mix of housing types including detached dwelling, semi-detached dwelling, attached dwellings and multi- dwelling housing.	Y – Refer to Note 2
C3 Development application which proposes the creation of new allotments must be accompanied by a conceptual building plan that demonstrates compliance with relevant building controls.	A subdivision concept plan has been provided.	Y
C4 Notwithstanding Control C2 above, land within Area H1 and H2 (refer to Figure 2, Figure 3 and Part 8 - Character Precincts) may have a minimum lot width of 5 metres.	The land is located within Special Area H2 and the proposed lot width of each lot is to be 5.03m.	Y – Refer to Note 2
C5 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	The proposed allotments can accommodate dwelling houses that acknowledge site constraints, the street frontage, solar access, privacy, private open space, vegetation, stormwater management and contamination as is assessed in this report.	Y

vii) Acknowledge contamination of the land		
viii) Protect heritage items		
C7 All lots created shall have at least one (1) frontage to the street.	Both lots have a frontage to Garden Street.	Y

Note 2 – Prevailing Subdivision Pattern

The relevant objectives of Part 3E.2.1 – General Torrens Title Subdivision and Amalgamation of the BBDCP2013 are as follows:

- (1) *To ensure that proposed subdivision is consistent with the Desired Future Character of the area;*
- (2) *To ensure the proposed subdivision is consistent with the prevailing lot pattern including the area, dimensions, shape and orientation;*
- (3) *To ensure a site's characteristics are considered; and*
- (4) *To ensure the orderly development of land does not adversely impact on the amenity of existing developments within the locality.*

Objective 1. The proposed allotment subdivision is situated within *Special Area H2- Two storeys plus attic terrace style dwellings* (figure 14). Therefore, the site is subject to compliance with BBDCP2013 controls that encourage the opportunity for increased height and density for future development. Special Area H2 encourages the construction of higher density terrace style developments on lots with minimum allotment frontages of 5 metres. As the development proposes subdivision of the lots into 5 metre lot widths, the proposal would be achieving the desired outcome for the area.

Objective 2. The DCP states that Council generally considers the prevailing subdivision pattern to be the typical characteristic of up to ten (10) 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 LEP 2013. An assessment of the lot pattern in the vicinity of the subject site has been undertaken.

The subdivision pattern exhibits a varied pattern in allotment sizes ranging from 181 sqm to 558 sqm (figure 15). The pattern directly to the east and west varies given the variety in housing typologies (figure 16). However, given this section of the street falls within *Special Area H2*, the desired future character of these lots overrides the requirements of existing conditions and patterns.

Nonetheless, the subdivision pattern on the opposite side of the street is consistently rectilinear, comprising of similar sized lots and part lots averaging at an area of 209 sqm with approximately 6 metre lot widths. Most of the lots directly opposite the proposal, exhibit lot sizes that are smaller than the proposal. The proposed lot width of 5 metres will ensure there is a consistency between both sides of the street. Additionally, these lots include developments of terraced and/or semi-detached typology meaning that the proposal will be a continuation of the predominant housing type. These include 19B and 21 Garden Street (figure 9), and 9 and 9A Garden Street (figure 8).

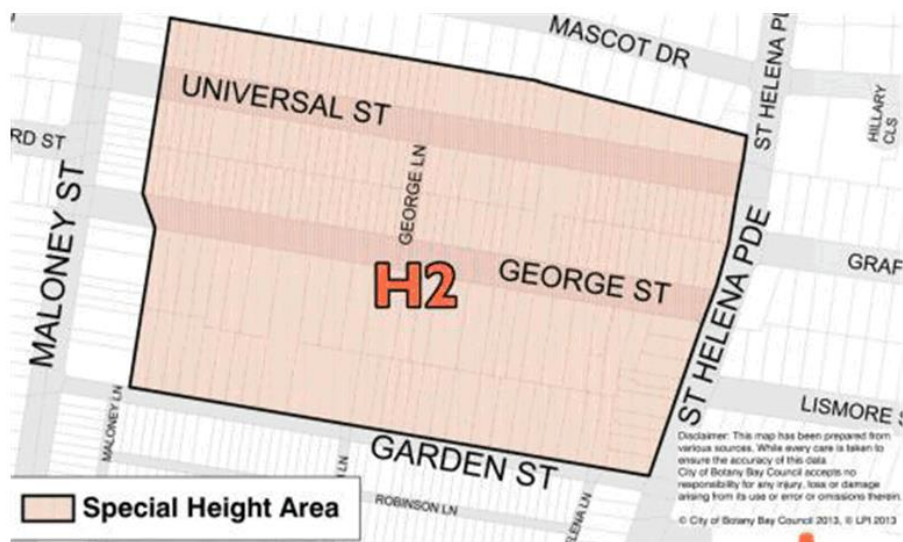


Figure 14: Extent of Special Area H2



Figure 15: Lot configurations of the prevailing subdivision pattern



Figure 16: Satellite imagery of lot configurations. Note the existing building typologies

While not within the range of 10 allotments from the subject proposal, but a number of lots towards the east, within *Special Area H2*, the terraced properties of 52, 54 and 56 Garden Street Eastlakes (figure 10) have comparable lot characteristics to the proposal. These developments exhibit the desired future character for lot configuration in *Special Area H2* and therefore perform as a precedent for the area and the proposal. The same can be stated for a number of properties also within *Special Area H2* on Universal Street and George Street. These include 40 & 40A Universal Street (367sqm area, 6m lot width), 15 & 15A George Street (183sqm area, 6m lot width) (figure 17), 19 George Street (184sqm area, 6m lot width) (figure 18), 51 & 51A George Street (183sqm area, 6m lot width) (figure 19).

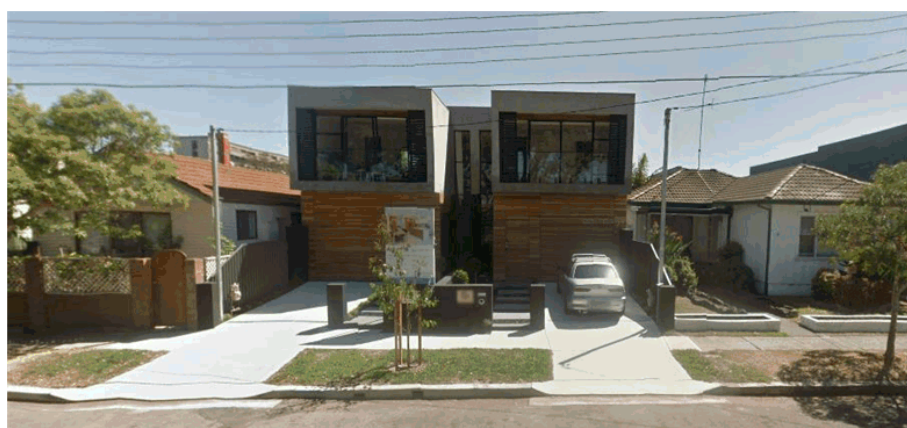


Figure 17: 15 & 15A George Street, Eastlakes



Figure 18: 19 George Street, Eastlakes



Figure 19: 51 & 51A George Street, Eastlakes

As the proposal will encourage the transition of the street from existing detached dwellings to new two storey terrace style dwellings in an effort to achieve the desired future character, the proposed subdivision meets Objective (2).

Objective 3. The proposed subdivision has also taken into account the site characteristics particularly the north-south orientation of the block, the rectilinear shape of the resultant lots, and the potential to provide an appropriate building envelope that will meet all other requirements stipulated in the BBDCP2013.

Objective 4. All the aspects above will ensure that the resulting semi-detached dwellings will not result in adverse impacts upon the surrounding properties. As demonstrated in the assessment of the development application, the proposed dwellings on site will generally comply with the DCP controls as stipulated in Part 4A – Dwelling Houses.

On its merits, the appropriateness of the resultant subdivision is acceptable when taking into consideration the desired future outcome of *Special Area H2*, the existing semi-detached dwellings along Garden Street, and the provision of housing opportunities of compliance in the locality.

Part 3G – Stormwater Management

The development application was accompanied by stormwater plans and absorption rates which were prepared by AKT Engineering & Consulting Pty Ltd. The plans demonstrate that an absorption system is to be provided. In addition, rainwater tanks have been proposed that are in accordance with the requirements of BBDCP2013. The scheme was referred to Council's Development Engineer who supports the proposed development subject to appropriate conditions imposed in the consent.

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application as the subject site is located within the 20-25 ANEF contour. Residential development in these areas is considered 'conditional' under Table 2.1 of Australian Standard AS2021-2000. Therefore the submission of an acoustic report demonstrating that the proposed dwelling can achieve the requirements under Table 3.3 of AS2021-2000 is required.

An acoustic report prepared by Acoustic Logic Pty Ltd was prepared to accompany the development application. The report demonstrates that the proposed development (when complete) will conform with the relevant requirements of AS2021-2000 provided the recommendations contained in the acoustic report are imposed. Appropriate conditions have been recommended in the consent.

Part 3K – Contamination

The relevant requirements and objectives have been considered in the assessment of the development application. The subject site has long been utilised for residential purposes and it is unlikely that the land is contaminated. Furthermore, the application has been assessed against SEPP 55 and is found to be satisfactory. Further site investigation is not required necessary in this instance.

It was noted during the site inspection that the rear outbuildings and sheds may contain asbestos. Appropriate conditions regarding the removal of asbestos have been imposed in the consent.

Part 3L – Landscaping and Tree Management

There are currently two trees located in the rear yard of the existing site. The tree located in the north-west corner is proposed to be retained. The tree in the middle of the rear courtyard is proposed to be removed. The proposal was referred to Council's Tree Management Officer who supports the removal of the trees on site.

A minimum of 20% of the total site area is to be dedicated to landscaped area. The provision of landscape area for both dwellings is calculated at 24.86% of the total site area which complies with the minimum requirement under BBDCP2013. The proposal was referred to Council's Landscape Officer who supports the scheme subject to appropriate conditions imposed in the consent.

Part 3N – Waste Minimisation and Management

A Waste Management Plan was submitted with the application. Conditions are imposed to ensure all waste generated will be stockpiled, managed and disposed of appropriately. Bins for ongoing use are to be stored within the front setback.

Part 4A – Dwelling Houses

Control	Proposed	Complies
4A.2.4 Streetscape Presentation		
<p>C1 New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and identity which contributes to its character. Applicants must address the design principles outlined in the statement.</p> <p>C2 Development must be designed to reinforce and maintain the existing character of the streetscape.</p> <p>C3 Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).</p>	<p>The proposal is located in a R2 Low Density Residential Zone. The immediate context is relatively low scale, consisting of single and double storey residential dwellings, semi-detached dwellings, and multi dwelling housing. The proposed development is consistent with the desired future character of Eastlakes and <i>Special Area H2</i>. This is further discussed in Part 8 below.</p> <p>The proposed design is in line with the streetscape character of Garden Street with respect to building siting and location, height, roof form, materials, and design features, providing a positive and complementary contemporary addition to the area.</p> <p>There is no dominant roof style within the area, however the street presents a range of hipped, flat and pitched roof lines. The proposal will have low pitched roofs with parapet surrounds which is similar to a number of other examples on the street (6 Garden Street & 7 Garden Street).</p> <p>The proposal will sit appropriately within a street that incorporates a versatile and eclectic range of dwellings.</p>	Y
<p>C4 Buildings must appropriately address the street. Buildings that are intrusive or inconsistent with the established development pattern will not be permitted.</p> <p>C6 The entrance to a dwelling must be readily apparent from the street.</p> <p>C7 Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.</p>	<p>The proposed dwellings will both address Garden Street.</p> <p>Their proposed entrances are also readily apparent from the street.</p> <p>Bedroom 1 of each dwelling have windows facing the street, encouraging passive surveillance.</p>	Y
<p>C10 Development must retain characteristic design features prevalent in houses in the street including: verandas, front gables, window</p>	<p>There are no major characteristic design features prevalent in the dwellings along Garden Street. However, the site is located within <i>Special Area H2</i> which is characterised by a desired outcome for two</p>	Y

awnings, bay windows, face brickwork or stone details.	storey plus attic terrace style dwellings. The proposal incorporates a terrace style design.	
C29 Terrace house development in Special Area H2 can have a maximum height of 9 metres.	The proposed development has a 7.1m height and therefore complies with the maximum limit.	Y
C30 A minimum allotment frontage of 5 metres is permitted in <i>Special Area H2</i> .	Proposed lot width: 5.03m Complies, refer to Note 2.	Y – Refer to Note 2
C31 New development must comply with the minimum parking requirements in Part 3A - Car Parking. Setbacks for new dwellings in <i>Special Area H2</i> are to be determined following a detailed site analysis at Development Application stage and must satisfy Council that the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access, privacy and visual amenity. Applicants must therefore demonstrate with the development application that impacts on the surrounding residential area are minimised.	The proposal is to provide two (2) off-street car parking spaces per dwelling in accordance with the requirements of Part 3A – Car Parking. One (1) space is to be located within the attached garage, and one (1) space is to be located within a hardstand area forward of the garage and building line. In regards to setbacks, refer to Note 3.	Y – Refer to Note 3
4A.2.5 Height		
C1 The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	Maximum Height: 9m Proposed Height: 7.2m Complies.	Y
4A.2.6 Floor Space Ratio		
C1 The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the Botany Bay Local Environmental Plan 2013 (refer to Figure 12).	Per Lot Maximum FSR: 0.5:1/ 113 sqm Site Area: 226 sqm Proposed Ground Floor GFA: 75.8sqm Proposed First Floor GFA: 80.8 sqm Total Proposed GFA: 162.6 sqm Proposed FSR: 0.72:1	No – Refer to Note 1
4A.2.7 Site Coverage		
C2 For sites over 200m ² the maximum site coverage is: 200 – <250m ² 65% of the lot 250 – <300m ² 60% of the lot >300m ² 50% of the lot	Site area: 226 m ² Site coverage: 48% (109 m ²) – excluding eaves and portico. Complies.	Y
4A.2.8 Building Setbacks		
C.1 Dwelling houses must comply with the following minimum setbacks as set out in Table 1.	Refer to Note 3 – Boundary Setbacks, below.	Y – Refer to Note 3

<p><i>Lot Width of less than 12.5m:</i></p> <p>Minimum front setback – comply with the prevailing street setback or 6 metres (min)</p> <p>Minimum side setback - Up to 2 floors 900mm (Council may require an increased setback due to streetscape and bulk considerations)</p> <p>Minimum rear setbacks – 6 metres (min)</p> <p>Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions</p> <p>Eaves – 450mm minimum setback</p>		
<p>C5 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, or a variation in materials.</p>	<p>The proposal incorporates an internal courtyard to each dwelling to avoid large expanses of blank walls along the side boundaries between neighbouring properties and increase the internal amenity of indoor living spaces.</p>	Y
4A.2.9 Landscape Area		
<p>C1 Landscaped areas are to be designed accordance with Part 3L - Landscaping.</p> <p>C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2.</p> <p>Table 2 requires the following minimum landscaped area:</p> <p>Less than 250 m² - 15%</p> <p>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).</p> <p>C3 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).</p>	<p>Site area: 162.6m²</p> <p>Landscape areas: 77m² (34%)</p> <p>The landscaped area proposed is predominantly deep soil area within the internal courtyard and the front and rear setbacks.</p>	Y
<p>C8 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.</p> <p>C9 The front setback area must contain</p>	<p>Taking into consideration the narrow lot width and the 3m provision for the driveway, it is impossible to restrict paving to a maximum of 50% of the front setback area.</p> <p>However, all areas other than the driveways and entry paths are to be</p>	No - Accepted

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.	landscaped. A condition is imposed to ensure one (1) native canopy tree that is able to reach a minimum mature height of six (6) metres, is provided within the front setback.	
4A.3.1 Materials and Finishes		
<p>C3 Materials, colours, architectural details and finishes must be sympathetic to the surrounding locality.</p> <p>C4 The use of materials with different textures such as brickwork, glass, timber weatherboards and iron awnings are to be used to break up uniform buildings.</p> <p>C10 The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.</p>	<p>A schedule of colours and finishes was provided with the application.</p> <p>The proposal is to incorporate a range of materials including:</p> <ul style="list-style-type: none"> • Bowral Face brick (colour: "brown"), • Weathertex Cladding – Weatherboard to first floor front balconies (colour: white) • Colorbond Metal Roof (colour: silver grey) • A range of architectural details painted in Dulux (colour: white and/or black) <p>The materials, colours, architectural detail and finishes are sympathetic to the surrounding locality, and add interest to the facade. The proposed materials, architectural details and finishes incorporate the use of different textures (brickwork, metal and render) and colours preventing uniformity and adding interest to the streetscape facade.</p>	Y
C11 New development must incorporate colour schemes that are consistent with the predominant colour schemes in the street. No expansive use of white, light or primary colours which dominate the streetscape are permitted.	The proposed colour scheme is consistent with the colours apparent in the street incorporating a variety of appropriate shades of brown, grey, white and black.	Y
4A.3.2 Roofs and Attics/Dormer		
C2 Flat or skillion roof forms may be located to the rear of a development site provided it is not a corner location and does not detract from the streetscape.	The proposed roof form of the semi-detached dwellings is to be flat. As there is precedence for flat roofs along the street (6 Garden Street, 7 Garden Street) and as the roof will not detract from the streetscape character, the flat roof is an accepted form.	Y
4A.3.3 Fences		
C1 Front fences are to compliment the period or architectural style of the existing dwelling house.	A front fence has not been proposed for this development. There is no existing consistent front fence style along the street, therefore the lack of a front fence will not detract from the streetscape. The front setback is articulated via landscaping and an entry path to provide an appropriate transition between public and private spheres.	Y

4A.4.1 Visual Privacy		
<p>C1 The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling. Windows are to be located so they do not provide direct or close views into the windows of other dwellings, particularly those of living areas.</p> <p>C2 Visual privacy for adjoining properties must be minimised by:</p> <ul style="list-style-type: none"> ▪ Using windows which are narrow or glazing which is translucent or obscured ▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings ▪ Screening opposing windows, balconies and courtyards; and ▪ Increasing sill heights to 1.5 metres above floor level. 	<p>The window selection and location is considered appropriate in providing internal amenity to the proposal, whilst minimising privacy impacts to neighbouring properties.</p> <p>The semi-detached dwellings have side setbacks that sit on the boundary between adjacent properties, excepting the internal courtyards which extend for a length of 3m. The privacy impacts from the internal courtyard will be mitigated via a 1.8m high fence (compliant with boundary fence controls), which will prevent direct views from the ground floor towards the habitable space windows of adjacent properties. Fixed windows from the first floor, facing these courtyards, have also mitigated privacy impacts as these windows will not be of high intensity use given they are located within hallway spaces with the intention of increasing the internal amenity of the dwellings through voids providing light to the spaces below. Both neighbouring properties are also of single storey height, therefore all views from these first floor windows will be directed towards the pitched roofs of these adjoining dwellings, and not to any opposing windows or private open spaces.</p>	Y
<p>C3 First floor balconies are only permitted when adjacent to a bedroom.</p> <p>C6 Balconies are to be designed to minimise overlooking to other properties.</p>	<p>The front facing balconies to both dwellings will be located adjacent to Bedroom 1.</p> <p>The balconies will be overlooking the street and will therefore pose negligible overlooking impacts.</p>	Y
4A.4.2 Acoustic Privacy		
<p>C4 New dwellings on land within the Australian Noise Exposure Forecast (ANEF) Contour 20 or higher shall be designed and constructed in accordance with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).</p>	<p>The proposed dwelling is within the 20-25 ANEF contour. The applicant has provided an Acoustic Report and a condition is imposed to ensure compliance with the recommendations of this report and with Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction).</p>	Y- Conditioned to Comply
4A.4.3 Solar Access		
<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 to 50% of the primary private open space areas of both the subject site and adjoining properties.</p>	<p>Shadow diagrams were provided with the subject application. Given the lot's north-south orientation, and the building's compliant height and placement, the proposed development will have minimum impact on the level of sunlight currently received by adjoining properties and within the development site.</p> <p>Living areas and primary private open spaces have been orientated towards the</p>	Y – Refer to Note 4 – Solar Access & Public Submissions

	<p>north, meaning they will gain an acceptable amount of solar access throughout the majority of each day.</p> <p>Impacts on adjoining properties on 21st June</p> <p><i>8 Garden Street</i></p> <p>Front and western section of the dwelling overshadowed from 9am until 11am in the morning. The dwelling will receive 2+ hours of sunlight following 11am.</p> <p><i>10A Garden Street:</i></p> <p>The dwelling will receive ample sunlight (2+ hours) from 9am until 11.30am in the morning. The eastern section of the dwelling will be overshadowed from 11.30am until 3pm in the afternoon. The majority of dwelling will be completely overshadowed by 3pm.</p> <p>Refer to Note 4 – Solar Access and Public Submissions section of this report for further assessment.</p>	
C2 Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.	There are a number of solar panels located on the western side of the roof of the adjacent property at 10A Garden Street. These solar panels will receive at least 3 hours of sunlight in mid-winter from 9am until midday.	Y – Refer to Public Submissions
4A.4.4 Private Open Space		
<p>C1 Each dwelling is to have a private open space that:</p> <p>(i) Has at least one area with a minimum area of 36m²;</p> <p>(ii) Is located at ground level with direct access to the internal living areas of the dwelling;</p> <p>(iii) Maximises solar access;</p> <p>(iv) Is visible from a living room door or window of the subject development;</p> <p>(v) Minimises overlooking from adjacent properties;</p> <p>(vi) Is generally level;</p> <p>(vii) Is oriented to provide for optimal year round use;</p> <p>(viii) Is appropriately landscaped; and</p> <p>(ix) Is located or screened to ensure privacy;</p> <p>Note: Private open space is not to include:</p>	<p>78.4m² of private open space is provided at the rear of each proposed dwelling, including the outdoor alfresco area and the internal courtyard.</p> <p>The private open spaces are located at ground level with direct access from the living areas. They receive adequate solar access given their northern orientation and are appropriately landscaped and screened to ensure privacy.</p>	Y

(i) Non-recreational structures (including garages, tool sheds and such like structures); (ii) Swimming pools; and (iii) Driveways, turning areas and car spaces, drying areas and pathways.		
C5 The primary private open space area is to be located at the rear of the property.	The primary private open space areas of the proposal are located at the rear of the property.	Y
4A.4.6 Excavation		
C1 Buildings must not dominate or detract from the natural landform. The siting of buildings should relate to the site's natural context and topographical features.	The proposed development is located on a site that is relatively flat and will therefore not involve extensive excavation.	Y
4A.4.7 Vehicle Access		
C1 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).	The driveway to each property will have a minimum width of 3 metres.	Y
C2 The width of the vehicular crossing over the Council's road reserve shall be a minimum of 3 metres for a single garage and a maximum of 5.5 metres for a double garage at the property boundary and at 90° to the kerb. C3 Driveways must be designed to comply with AS2890.1 (also refer to Part 3A - Car Parking). C4 Vehicular crossings shall be sited so that existing street trees, bus stops, bus zones, power lines and other services are not affected.	The width of the vehicular crossing for each lot shall be a minimum of 3 metres excepting the eastern lot where there is an existing power pole located. A condition is imposed to ensure that the driveway access servicing the eastern dwelling shall be amended and moved west to provide a 1m clearance from the existing power pole.	No – Conditioned to comply
C6 The number of vehicle crossings is to be limited to one (1) per allotment.	Only one (1) vehicle crossing is provided per allotment.	Y
4A.4.8 Car Parking		
C1 Development must comply with Part 3A - Car Parking.	Provisions for Car Parking were assessed by Council's Development Engineer. The proposal provides for two (2) off-street parking spaces, per dwelling. One (1) space is to be located within the attached garage, and one (1) space is to be located within a hardstand area forward of the building line. This complies with the control which requires one (1) space per semi-detached dwelling.	Y

<p>C9 Garages, parking structures (i.e. carports & car spaces) and driveways are not to dominate the street.</p> <p>C10 Garages and carports must be designed to be sympathetic to the existing character and design of the dwelling house in terms of roof pitch, materials and features.</p>	<p>The proposed garages are integrated into the design of the dwellings. Landscaping, materiality and articulation of the façade are methods utilised to ensure that the garages do not dominate the street or the overall design of the dwellings.</p>	<p>Y</p>
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Note 3 – Boundary Setbacks

Part 4A.2.8, Control C9 states that where terrace style developments are proposed, Council may grant consent to a development with a 0 metre setback to a side boundary with the provision that the applicant provides an assessment against the Land and Environment Court Planning Principle “Building to the side boundary in residential areas” established in *Galea v Marrickville Council* [2003] NSWLEC 113. The proposal incorporates nil side boundary setbacks and has therefore provided the following responses in relation to the planning principle:

Is the street characterised by terrace housing?

“The surrounding locality is characterised by a regular grid street pattern befitting its residential zoning with varying allotment sizes, adjusted to the natural topography and orientated to relevant street frontages. The integrity of the building stock varies considerably and demonstrates a range of architectural form ranging from low set traditional single storey dwellings traditional two storey dwellings, large contemporary two storey dwellings and single and two storey townhouses, including townhouses within internal cul-de-sacs. The locality’s subdivision pattern is varied and which provides for the varied built form typology.

The scale of the proposal is characterised by the desired future character for the area. The proposed rectilinear subdivision pattern and lot size is consistent with the existing and desired future subdivision pattern in the surrounding locality. The lot width of 5m is specifically encouraged by DCP 2013 (the site is within area H2) as is the semi-detached dwelling land use. Similar built forms are provided throughout the H2 precinct as desired by the planning controls and the precinct’s desired future character objectives.”

What is the height and length of the wall on the boundary?

“Each dwelling has a maximum height of 6.913m, well below that technically permitted by LEP 2013 (10m) and encouraged by DCP 2013 (9m).

Each dwelling’s side elevation is articulated with built and visual relief provided by the 3m wide central courtyard. A wall length of only 11.44m from the front of each dwelling to the central courtyard and 8.5m from the rear of each dwelling to the central courtyard is proposed. The overall height and length of each dwelling’s side elevation is relatively modest and is less than that existing on the neighbouring properties.”

What are the impacts on the amenity and/or development potential of adjoining sites?

“The site’s redevelopment for the purposes of two semi-detached dwellings does not in any way preclude the appropriate redevelopment of the neighbouring properties. These neighbouring properties are within the H2 precinct where terrace house, semi-detached dwellings and 5m wide allotments are specifically encouraged. These properties are provided with similar lot size and orientation as that of the site. Alternatively the neighbouring properties can also be

redeveloped for the purposes of single dwelling houses which could potentially be 10m in height with an FSR of 0.8:1 (i.e. greater than that proposed on the site).

As demonstrated at Section 4.2 of the originally lodged SEE each dwelling does not cause any material impacts to the neighbouring properties or the public domain in respect of overshadowing, visual impact, view loss, aural and visual privacy and access to daylight and ventilation and the like. Based on the relevant planning controls and the desired future character of the H2 precinct, the size and dimensions of the land are appropriate for the accommodation of the proposal, including the proposed Torrens title subdivision.

It is noted the overall impacts of the amended built form are reduced slightly from that originally lodged."

Are there arrangements in place for the maintenance of the wall or gutters?

"Side walls of each dwelling are to be constructed of solid rendered brickwork. Negligible maintenance of these walls will therefore be required. This is a typical characteristic of zero lot line built form.

Maintenance of gutters can be undertaken as required from either front or rear elevation of each dwelling or if required within the middle of each dwelling, from the central courtyard."

Planner's Comment:

The plans demonstrate that the side walls will be constructed of face brick. A condition is to be imposed in the Consent to ensure that any side boundary walls within 900mm of a boundary, are to be fire rated. The proposal is in line with desired future outcome of *Special Area H2* and the Eastlakes Area Precinct.

Overall, the applicant has provided sufficient justification for the nil boundary side setback of the development and the proposal is accepted in this particular case.

Note 4 – Solar Access

Development Control Plan (DCP) 2013 states that the minimum amount of direct solar access to the dwelling's and adjoining dwellings primary open space area shall not be less than 2 hours between 9:00am and 3:00pm on the 21st June. In addition, Clause 6 states that where an existing development currently receives less than the required amount of sunlight (on 21st of June) the amount of sunlight available on the 21st of March or the 21st of September will be used as an alternative standard.

The subject allotment is north - south orientated with south being the front of the property and north being the rear of the property.

With respect to the Land and Environment Court planning principles on the impact on solar access of neighbours (*Parsonage v Ku-ring-gai* (2004) NSWLEC 347) and as amended by *The Benevolent Society v Waverly Council* is addressed as follows:

The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.

Comment: The subdivision pattern along the southern side return of Garden Street is orientated north-south, with south being the front boundary and north being the rear boundary. The proposed development is considered to be contemporary in design, within the height control and rear boundary setbacks as required by BBDCP2013. The locality is in a low density residential area. The proposed development casts a morning shadow to the front section of 8 Garden Street to the west and a midday shadow upon itself and the road reserve. The adjoining single dwelling at 10A Garden Street is affected by the proposed development in terms of solar access loss in the afternoon. However, the private open space area at the rear of the site retains solar access until 1pm, which is accordance with Council's solar access requirements.

The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.

Comment: The amount of existing sunlight comparative to the amount of sunlight retained has been taken into account. The shadow diagrams submitted with the application indicated in plan, that the development would overshadow the adjoining property to the west in the morning and the adjoining property to the east from 12pm onwards. As discussed above, the proposal complies with Council's minimum solar access requirements for the adjoining properties. It is considered that the overshadowing impacts created by the proposed development are within acceptable limits and the application should be supported in its submitted form.

Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.

Comment: The proposal is not considered to be of poor design. The proposed two storey dwellings are to be constructed from brickwork and Colorbond roof sheets. The dwellings are to have a 3 metre ground floor, floor to ceiling height, and a 2.7 metre high first floor, floor to ceiling height with an overall height of 7.1m metres, which is in accordance with the maximum height limitation of 10 metres.

For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest proportions of the glazed area.

Comment: As stated above, the subject allotment is north-south orientated. The submitted shadow diagrams clearly indicate that the private open space areas of the adjoining properties will have access to direct sunlight for the required period during the 9am to 3pm assessment period.

Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

Comment: Overshadowing by fences, roof overhangs and changes in level have been taken into consideration. The site is not affected by any substantial trees, shrubs and or overgrown vegetation.

In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.

Comment: The proposal is located within the *Special Area H2* which encourages two storey plus attic terrace style dwellings. The area is low density residential, however undergoing change as existing single and two storey detached dwellings are encouraged to be replaced by terraced development. Existing detached dwellings within the area will be redeveloped either by demolition and rebuilding, and/or the construction of new two-storey dwellings.

Part 8- Eastlakes Character Precinct

The site is located within the R2 Low Density Residential Zone and *Special Area H2* of the Eastlakes Precinct to the east of Maloney Street and the west of St Helena Parade.

The semi-detached dwellings have been designed to have minimal impact on surrounding dwellings while achieving a consistency with the intended desired future outcomes of *Special Area H2*. The proposal is compliant regarding building height site coverage, landscaping, private open space, solar access and parking. It is considered to have acceptable density and FSR, as well as setbacks and streetscape presentation, consisting of a bulk and scale that is encouraged in the area. In terms of subdivision, the rectilinear grid pattern will continue to be retained and preserved, and the encouraged 5 metre wide frontage allotments will be realised through the proposal.

As such the proposal is suitable for the site and is consistent with the desired future character of the Eastlakes Precinct pursuant to Botany Bay Development Control Plan, Part 8 – Character Precincts.

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

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

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

The proposed development will have no adverse environmental, social or economic impacts in the locality. Matters relating to FSR, solar access, boundary setbacks, and subdivision are addressed in detail in this report, and on balance are acceptable.

Considering the close proximity of the power pole to the proposed realignment of the driveway, the proposal was also referred to Augrid for comment on the 16 January 2019 and the 5 February 2019. No response was received, however relevant conditions are included in the consent to ensure the protection of all assets.

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

The issue of likely site contamination has been considered in the assessment, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The subject site is located within the 20-25 ANEF contour and is therefore subject to aircraft noise. As such, the applicant has provided an acoustic report recommending that the proposed development be constructed in accordance with Australian Standard AS 2021-2015 "Aircraft Noise Intrusion – Building Siting and Construction." Conditions are imposed in the Consent to ensure compliance.

Subdivision of the existing lot is permitted however dual occupancies are not permitted within the area. For this reason, the subdivision of the existing lot into two (2) lots must be registered before any occupation certificate. The proposal was referred to Council's Development Control Planner who supports the scheme, subject to conditions to be included in the consent.

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. Accordingly, it is considered that the site is suitable to accommodate the development. The site is zoned R2-Low Density Residential and currently accommodates an existing dwelling. Accordingly, the site is suitable to accommodate the 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 14 day period from 29 October 2018 to 14 November 2018. Two (2) submissions were received and the specific concerns that were raised, are addressed below:

- **Car Parking**

Submission's Comment: *"Creation of an extra driveway (a width of 3m) will reduce a roadside parking spot and on average, every household on the street has more than two cars, it would mean that there will be at least two additional cars permanently using the small stretch of Garden Street."*

Planner's Comment: The proposal has been assessed by Council's Development Engineer who supports the scheme. Part 3A of BBDCP2013 requires semi-detached dwellings to provide one (1) off-street car parking space per dwelling. The proposal provides two (2) car parking spaces which is in excess of the requirement. According to BBDCP2013, vehicular crossings shall be sited to *minimise* the reduction of on-street kerb side parking. However, as the proposal involves the subdivision of land, and subsequent construction of semi-detached dwellings in an area where it is encouraged so as to meet the desired future outcome, the loss of one (1) on-street car parking space is expected and unavoidable in this particular instance.

- **Building Design – Setbacks, Height & Visual Amenity**

Submission's Comment:

- *"The proposal is inconsistent with the neighbouring properties' heights as these are single storey buildings while the proposal is for a two storey building;"*
- *"Visual amenity of my property will be significantly impaired due to the proposed development with zero setback with my property;"*
- *"There is no new dwelling built on the street with "zero" side boundary setback. Therefore, the proposal is not compliant."*

Planner's Comment: The proposal is compliant with building height controls considering the BBDCP2013 allows for dwellings of 9m height to be built in the area. While the adjoining dwellings are both of single storey height, the site is located within *Special Area H2* which encourages terrace style dwellings with the opportunity for increased height. Despite this, the building height of the terraces extends to 7.1m which is considerably lower than the maximum permitted. There are also an extensive number of two storey dwellings along Garden Street.

The zero lot line setbacks to the side boundaries of the proposed semi-detached dwellings have been assessed in the Note 3 – Boundary Setbacks section of this report. The applicant has provided adequate justification for building on the boundary by referring to *Galea v Marrickville Council* [2005] NSWLEC 113 Court Principle. Furthermore, providing that the proposal is located within *Special Area H2*, building on the boundary is accepted as there will be minimal additional impact on the amenity, solar access and visual privacy of adjoining dwelling in comparison to a dwelling with 900mm boundary setbacks.

- **Visual Privacy**

Submission's Comment: *"The opening position of the new proposed dwelling located just opposite our living area and bedroom that give impact to our privacy."*

Planner's Comment: The impacts of visual privacy have been assessed in the Part 4A.4.1 section of this report. The objector's bedroom window is opposite the proposed internal courtyard area, however overlooking impacts have been mitigated via the 1.8m high fence that will be retained between the two properties.

- **Fencing**

Submission's Concern: *"The proposed dwelling will completely remove the existing fence between my lot (10A) and Lot 10 and it will be replaced with the brick wall which is completely unacceptable," and "request no removal of any of our fences and make good or replacement if any damage."*

Planner's Comment: The proposal involves the removal of part of the existing fence where the nil side boundary setbacks of the semi-detached dwellings are proposed. The proposed walls will be within the boundaries of Lot 10 and will not encroach upon any adjoining lots. For all sections of the side and rear boundaries where there is no zero lot boundary wall, a 1.8m high fence will remain. A condition is included in the consent to ensure that 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 unless depicted in the stamped plans.

- **Solar Access**

Submission's Comment:

- *"Restricting solar access [my right to use solar panels will be taken away]"*
- *"Overshadowing will interrupt natural air flow and cause thermal entrapment. Therefore, interior of my house will suffer abnormal temperature variation compared to outside ambient temperature;"*
- *"Plantation on my backyard will not get sufficient sunlight as they used to;"*
- *"Water temperature of my backyard pool will be adversely affected;"*
- *"Due to lack of sunlight and daylight, my usage of the backyard will be restricted which is likely to have significant impact on my psychological health;"*
- *"The height of the new proposed 2 storey dwelling next to our main openings stated above that give impact much reducing the solar access to our living area and bedroom, much reducing the quality of natural light that becomes darker and longer in shadow, and the change would be not good for our health and our living quality."*

Planner's Comment: BBDCP2013 requires that proposals for all dwellings are to maintain approximately 2 hours of solar access in living areas and 50% of primary private

open space areas, between the hours of 9am and 3pm on the 21st June (mid-winter). As the proposal is north-south orientated with its frontage facing the south and rear facing the north, all adjacent properties will achieve a minimum of 2 hours direct sunlight to both their habitable living areas and 100% of their private open spaces as is assessed in the Part 4A.4.3 section of this report. Most shadows will be cast upon the southern side of the site where the carriageway of Garden Street is located.

When compared to the overshadowing impacts of a complying detached dwelling development with a 0.8:1 FSR, 900mm side setbacks and a 9m building height, the proposal reveals to have no evident difference relative to the deviations of the scheme. This is apparent in the shadow diagrams provided by the applicant which illustrate the impacts of the proposal and the impacts of a complying scheme (figures 20, 21, 22, 23 & 24).

8 Garden Street's eastern elevation is affected by overshadowing between the hours of 9am and midday while 10A Garden Street's western elevation is affected from approximately 11.30am onwards. Both dwellings will successfully receive at least 2 hours of sunlight to ALL their windows and private open spaces in mid-winter.

The impact on the solar panels of 10 A Garden Street is negligible as the solar panels will receive ample sunlight between the hours of 9am and midday in mid-winter. The shadows cast by the built form of the proposal are expected given the desired future character as expressed for *Special Area H2* precinct, therefore the relative useability of the adjoining developments will not be materially compromised as a result of this proposal.

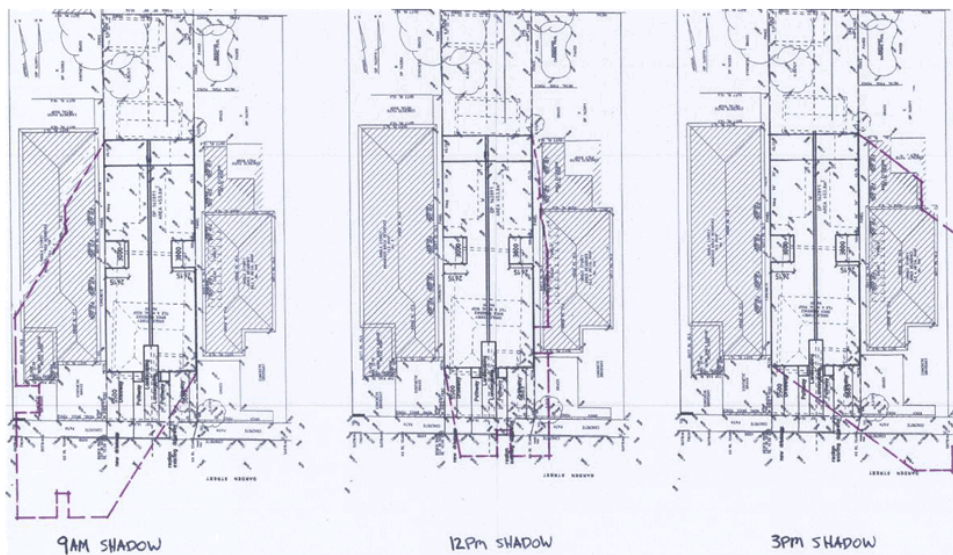


Figure 20: Shadow Diagrams of proposal – 21 June (Mid winter)

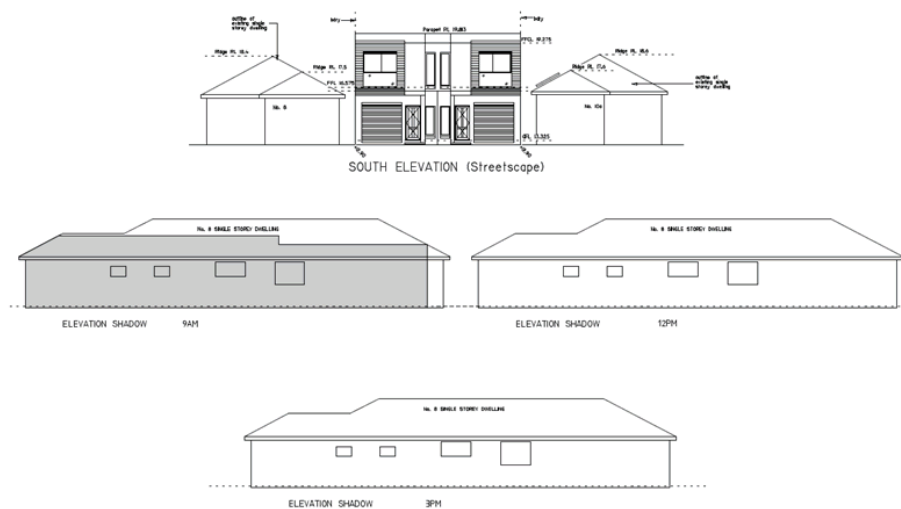


Figure 21: Shadow elevation diagrams of proposal – 21 June (Mid winter) – effect on 8 Garden Street, Eastlakes. Note neighbour is not additionally overshadowed a considerable amount in comparison to the diagrams below. The additional window that is overshadowed by the proposal is a bathroom window and not considered a primary habitable space.

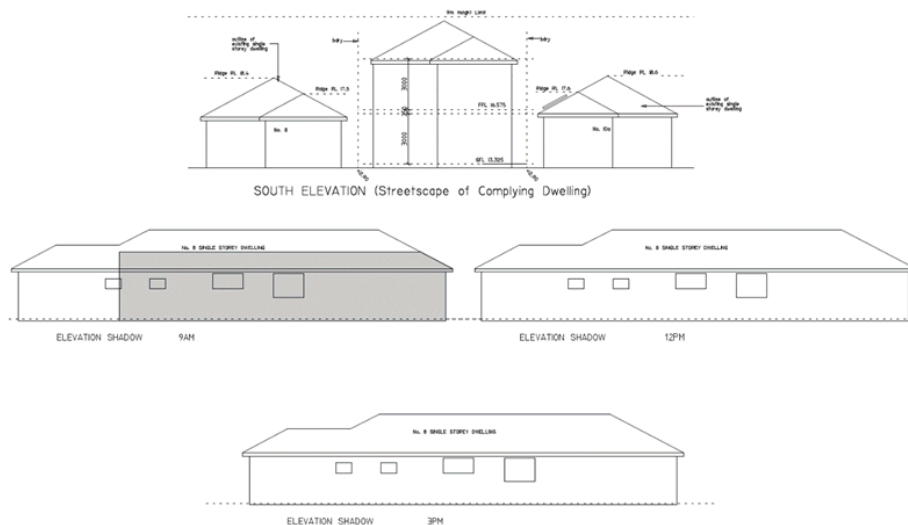


Figure 22: Shadow elevation diagrams of complying proposal – 21 June (Mid winter) – effect on 8 Garden Street, Eastlakes. Note neighbour is overshadowed only from 9am - midday

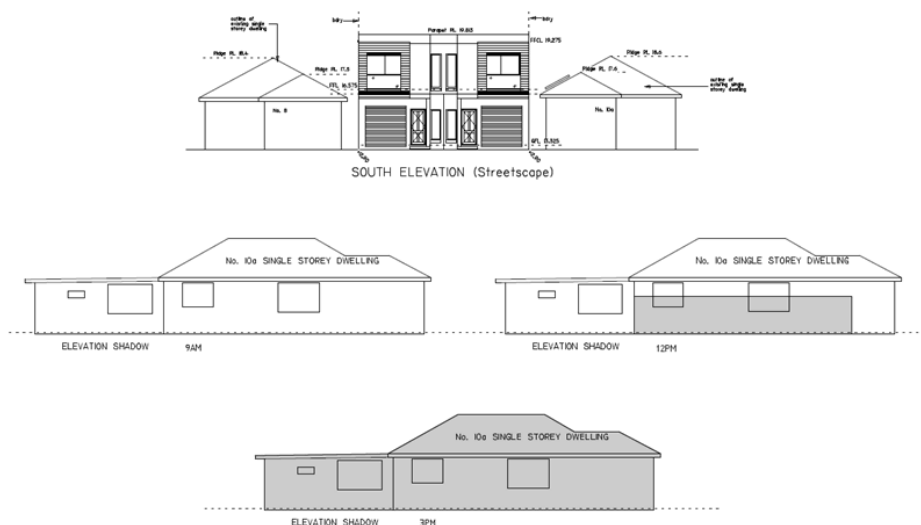


Figure 23: Shadow elevation diagrams of proposal – 21 June (Mid winter) – effect on 10A Garden Street, Eastlakes. Note neighbour is not additionally overshadowed a considerable amount in comparison to the diagrams below. The Bedroom and Living room window towards the front of the house will be additionally overshadowed by a negligible percentage.

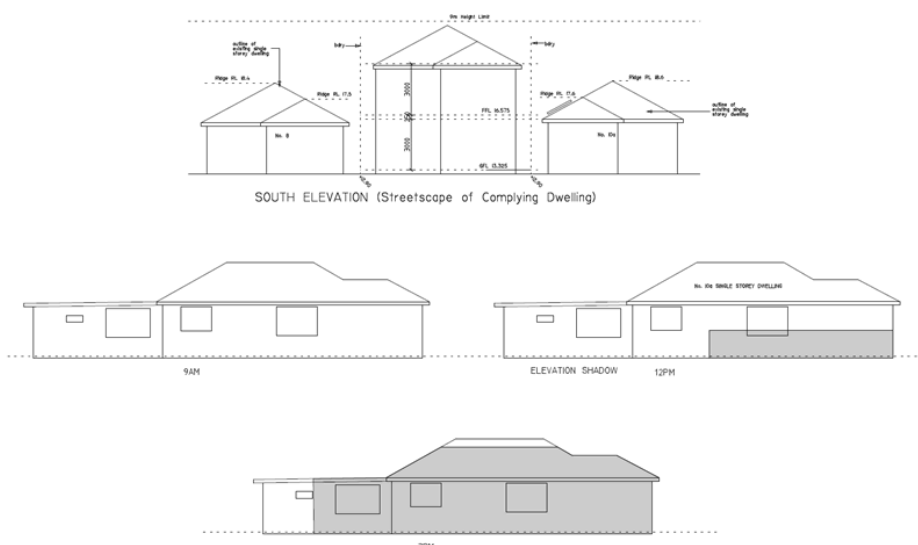


Figure 24: Shadow elevation diagrams of complying proposal – 21 June (Mid winter) – effect on 10A Garden Street, Eastlakes. Note neighbour is overshadowed from midday onwards

- **Property Devaluation and Financial Hardship**

Submission's Concern: *"The market value of my property will be reduced significantly and thereby, the proposed development, in its current structure will put me into significant financial hardship."*

Planners Comment: This application is assessed and considered compliant with all relevant controls, therefore Council cannot comment on property devaluation as a result of the proposal. The value of the objector's property and financial hardship are aspects beyond the control of Council.

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

Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

Section 7.11 Contributions

A Section 7.11 contribution of **\$20,000.00** shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). 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 are only used towards the provision or improvement 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 in 2018/19	\$20,000.00

Conclusion

Development Application No. 2018/1192 for the demolition of existing structures and construction of two semi-detached dwellings and Torrens Title subdivision into 2 lots at 10 Garden Street, Eastlakes has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The development is compliant in height, site coverage, landscaping, car parking, solar access and private open space. The amenity of the neighbouring development will not be adversely impacted by the proposal and acceptable amenity is provided to the proposed dwellings. The development is not considered out of context in the area and in the street as it proposes similar street frontage widths, dwelling bulk and scale and setbacks. The subdivision pattern is acceptable as it is proposed in Special Area H2 and within the vicinity of similar semi-detached dwellings. Therefore, the proposal is recommended for approval subject to conditions of consent.

Attachment**Schedule 1 – Conditions of Consent****Premises: 10 Garden Street Eastlakes****DA No: 2018/1192****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 No.	Author	Dated Received
Dwg No. SW01, Revision C: General Notes Plan	Rodney Albert Yannakis and Associates	Dated: 29 January 2019, Received by Council: 08 February 2018
Dwg No. 00, Issue A: Concept Subdivision Plan	Rodney Albert Yannakis and Associates	Dated: 15 July 2018, Received by Council: 26 October 2018
Dwg No. 02, Issue B: Site Plan	Rodney Albert Yannakis and Associates	Dated: 03 January 2019, Received by Council: 16 January 2019
Dwg No. 03, Issue A: Demolition Plan	Rodney Albert Yannakis and Associates	Dated: 09 October 2018, Received by Council: 26 October 2018
Dwg No. 04, Issue B: Ground Floor Plans	Rodney Albert Yannakis and Associates	Dated: 03 January 2019, Received by Council: 23 January 2019
Dwg No. 05, Issue B: First Floor Plans	Rodney Albert Yannakis and Associates	Dated: 03 January 2019, Received by Council: 23 January 2019
Dwg No. 06, Issue B: Elevations 1	Rodney Albert Yannakis and Associates	Dated: 03 January 2019, Received by Council: 16 January 2019
Dwg No. 07, Issue B: Elevations – Section - 2	Rodney Albert Yannakis and Associates	Dated: 03 January 2019, Received by Council: 16 January 2019
Dwg No, TCP_10GS_10, Issue B: Landscape Plan	The Creative Practice Pty Ltd	Dated: 25 October 2018, Received by Council: 26 October 2018
External Colour Scheme	No author	Undated, Received by Council: 26 October 2018
BASIX Certificate No. 969430M	Australian Energy Efficiency Certificate	Dated: 17 October 2018, Received by Council: 26 October 2018

Reference Documents Drawing No.	Author	Dated Received
Dwg No. 08, Issue A: Soil & Water Management	Rodney Albert Yannakis and Associates	Dated: 09 October 2018, Received by Council: 26 October 2018
Dwg No. SW02, Revision C: Stormwater & Sediment Control Plan	AKT Engineering & Consulting Pty Ltd	Dated: 29 January 2019, Received by Council: 30 January 2019
Dwg No. SW03, Revision C: Stormwater Details Plan	AKT Engineering & Consulting Pty Ltd	Dated: 29 January 2019, Received by Council: 30 January 2019
Aircraft Noise Intrusion Assessment	Acoustic Logic Pty Ltd	Dated: 16 October 2018, Received by Council: 31 January 2019
Statement of Environmental Effects	Lockrey Planning & Development Solutions Pty Ltd	Dated: 23 October 2018, Received by Council: 26 October 2018
Letter response to issues/amended plans submission	Lockrey Planning & Development Solutions Pty Ltd	Dated: 15 January 2019, Received by Council: 16 January 2019
Exception to Development Standards Submission	Lockrey Planning & Development Solutions Pty Ltd	Dated: 15 January 2019, Received by Council: 16 January 2019
Waste Management Plan	No author	Undated, Received by Council: 26 October 2018
NatHERS Certificate No. 0003264640	Mahbub Hassan of AEEC	Dated: 17 October 2018, Received by Council: 26 October 2018
Registered Quantity Surveyors Cost Report	QPC&C Pty Ltd	Dated: 18 October 2018, Received by Council: 26 October 2018
Detail & Boundary Survey	Ballenden Surveyors Pty Ltd	Dated: 29 June 2018, Received by Council: 26 October 2018
Geotechnical Assessment for Onsite Stormwater Disposal System	Crozier Geotechnical Consultants	Dated: 30 January 2019, Received by Council: 01 February 2019
Absorption Calculations	Khaled Ammoun	Dated: 29 January 2019, Received by Council: 30 January 2019
Dwg No. 09, Issue B: Shadows – 21 June – 9am – 12pm – 3pm	Rodney Albert Yannakis and Associates	Dated: 14 January 2019, Received by Council: 16 January 2019
Dwg No. 12, Issue A: Elevation Shadows – 1 – Shadows – 21 June – 9am – 12pm – 3pm	Rodney Albert Yannakis and Associates	Dated: 09 October 2019, Received by Council: 16 January 2019

Reference Documents Drawing No.	Author	Dated Received
(8 Garden Street, CDC)		
Dwg No. 13, Issue A: Elevation Shadows – 2 – Shadows – 21 June – 9am – 12pm – 3pm (10A Garden Street, CDC)	Rodney Albert Yannakis and Associates	Dated: 09 October 2019, Received by Council: 16 January 2019
Dwg No. 15, Issue A: Elevation Shadows – 1 – Shadows – 21 June – 9am – 12pm – 3pm (8 Garden Street, Proposal)	Rodney Albert Yannakis and Associates	Dated: 09 October 2019, Received by Council: 16 January 2019
Dwg No. 16, Issue A: Elevation Shadows – 2 – Shadows – 21 June – 9am – 12pm – 3pm (10A Garden Street, Proposal)	Rodney Albert Yannakis and Associates	Dated: 09 October 2019, Received by Council: 16 January 2019

2. This Consent relates to land in Lot W in DP 162891 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.
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. 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.

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

8. 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.
9. The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-
 - a) Footpath Crossing Deposit \$5,280.00 (See below)
 - b) Development Control \$1,325.00
 - c) Section 7.11 Contributions (Section 94) \$20,000.00 (See below)

10. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$20,000.00**, to be paid to Council prior to the issue of the Construction Certificate.

The contribution is broken down as follows:

Community Facilities:	\$1,637.16
Recreation Facilities:	\$16,890.83
Administration:	\$145.62
Transport Management:	\$1,326.38
Total in 2018/19:	\$20,000.00

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

11. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **\$5,280.00** (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.
12. One (1) street tree shall be installed in the nature strip by Council at the Applicant's expense. The Applicant must make a payment to Council of (\$150.00 45L) for the purchasing and installation of the new street tree, and its establishment costs, prior to the issue of the Construction Certificate.

The new street tree will be planted by Council once construction work is complete, including any driveway crossovers. It is the Applicant's responsibility to notify Council when construction is complete and the new street tree may be planted without risk of damage.

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, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the applicant being liable for any construction related damages to

these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

15. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
16. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
- b) Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

17. 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. A copy of the detailed design plans shall be provided to Council where Council is not the Principal Certifying Authority.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Botany Bay Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate measures such as:

- a) The provision for an On-site Stormwater Infiltration System designed to retain **ALL** 1 in 100 year storm events and satisfying all relevant Council and Australian Standards.
 - b) The absorption systems shall have a setback of 1m minimum from existing and proposed boundaries.
18. Prior to the issue of any Construction Certificate, any part of the proposed building including driveways within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm

below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

19. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings and garages shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications.
20. Prior to the issue of any Construction Certificate, the driveway access servicing the eastern dwelling shall be amended and moved west to provide a 1m clearance from the existing power pole.
21. 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.

The form is available for download at:

<https://www.bayside.nsw.gov.au/sites/default/files/201810/Property%20Address%20Allocation%20Form.pdf>

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

For further information please refer to the Geographical Names Board (GNB) home page – NSW Addressing policies and guidelines and download the document "NSW Addressing User Manual".

http://www.gnb.nsw.gov.au/addressing/nsw_addressing_policies_guidelines

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

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

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. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
- 25. 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 Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
- 26. 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.
- 27. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
- 28. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 29. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 30. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These device shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a

minimum one (1) month period after the completion of the development, where necessary.

31. Dewatering is not permitted on this site without NSW-EPA approval.
32. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i. Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
 - ii. Adequate provision must be made for drainage.
33. 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

34. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

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

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

DURING WORKS

35. The proposed development shall comply with the following:

- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;

- ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an afterhour's contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
36. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
37. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
38. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
39. 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).
40. 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.

41. 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
42. No demolition materials shall be burnt or buried on the site.
43.
 - 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.
44. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
45. 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.
46. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
47. 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.
48.
 - a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing,

or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

- c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.

49. The following shall be complied with during construction and demolition:

- a) Construction Noise
 - (a) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
- b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - (b) 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:
 - (c) 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
 - (d) All possible steps should be taken to silence construction site equipment.

50. 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.

51.

- 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.
52. 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.
53. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.

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

54. 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 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.

55. 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 A OCCUPATION CERTIFICATE

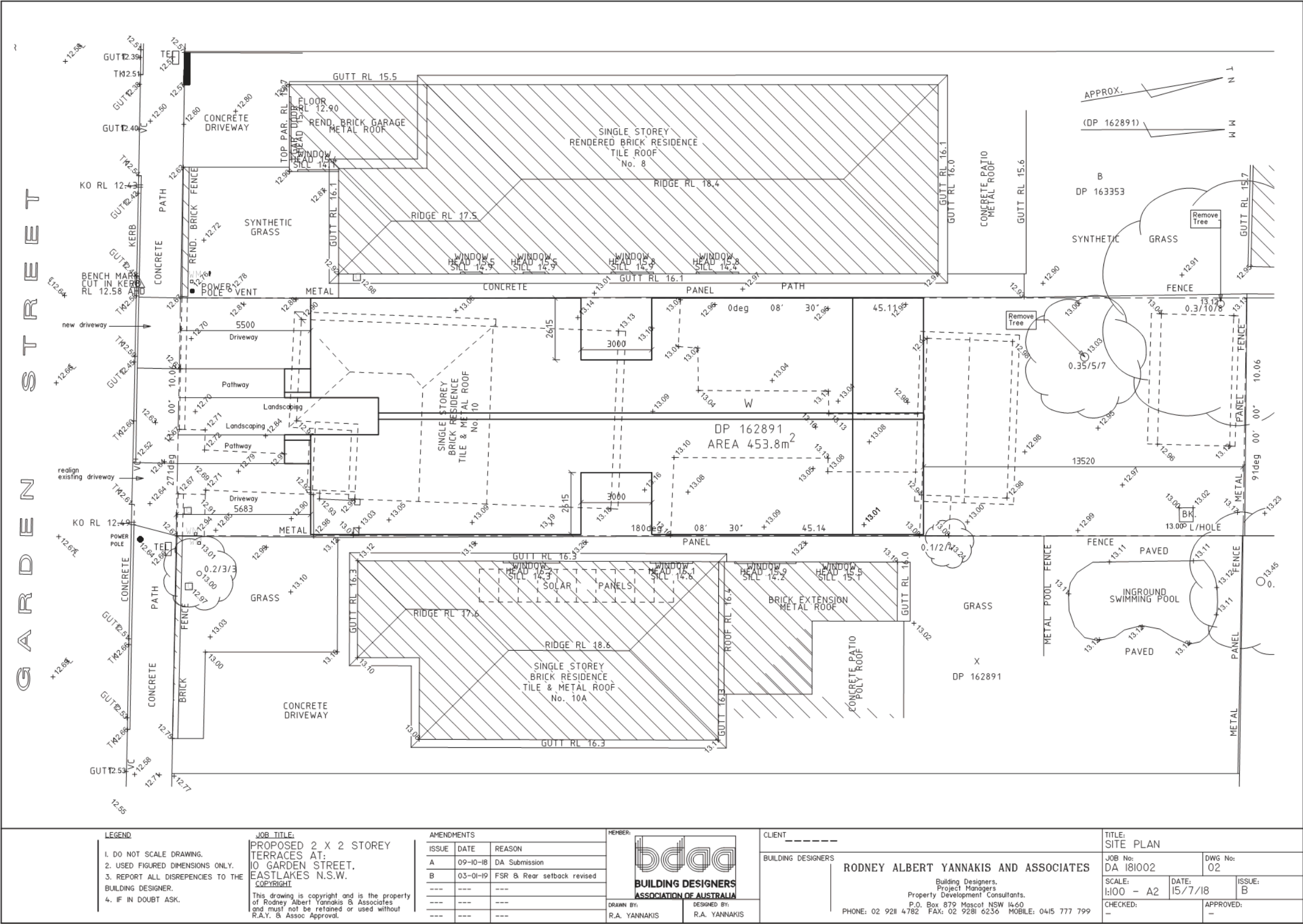
56. Prior to the issue of any Occupation Certificate, the approved subdivision is to be registered. The linen plans are to be submitted to Council prior to the release of the Occupation Certificate, and proof of registration with the Land and Property Information is to be submitted prior to occupation and use of any building.
57. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the required acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
58. 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.
59. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
60. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
- a) The redundant driveways and layback shall be removed and replaced with kerb and gutter, footpath/ grass verge to suit existing adjacent footpath reserve
 - b) Reconstruction of footpath along Garden Street fronting the development
 - c) 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. In order to soften the impact of the development further tree planting shall be provided. The front setback shall include one (1) native canopy tree be able to reach a minimum mature height of six (6) meters in local conditions. Container size to be supplied shall be minimum 75 litres, and planted with three stakes. A list of suitable native trees can be found in the BBDCP 2013 Part 10 Landscape Technical Guidelines for Development Sites. Details are to be submitted to and approved by Principal Certifying Authority prior to the issue of a Construction Certificate.
 - d) Capture of rainwater for irrigation purposes as a sustainability measure shall be provided.
 - e) At least one (1) native or ornamental trees of at least 45 Litres pot size and capable of growing to a minimum mature height of five (5) metres in local conditions shall be planted in rear yard of each proposed dwelling on completion of the building works and prior to the final inspection.

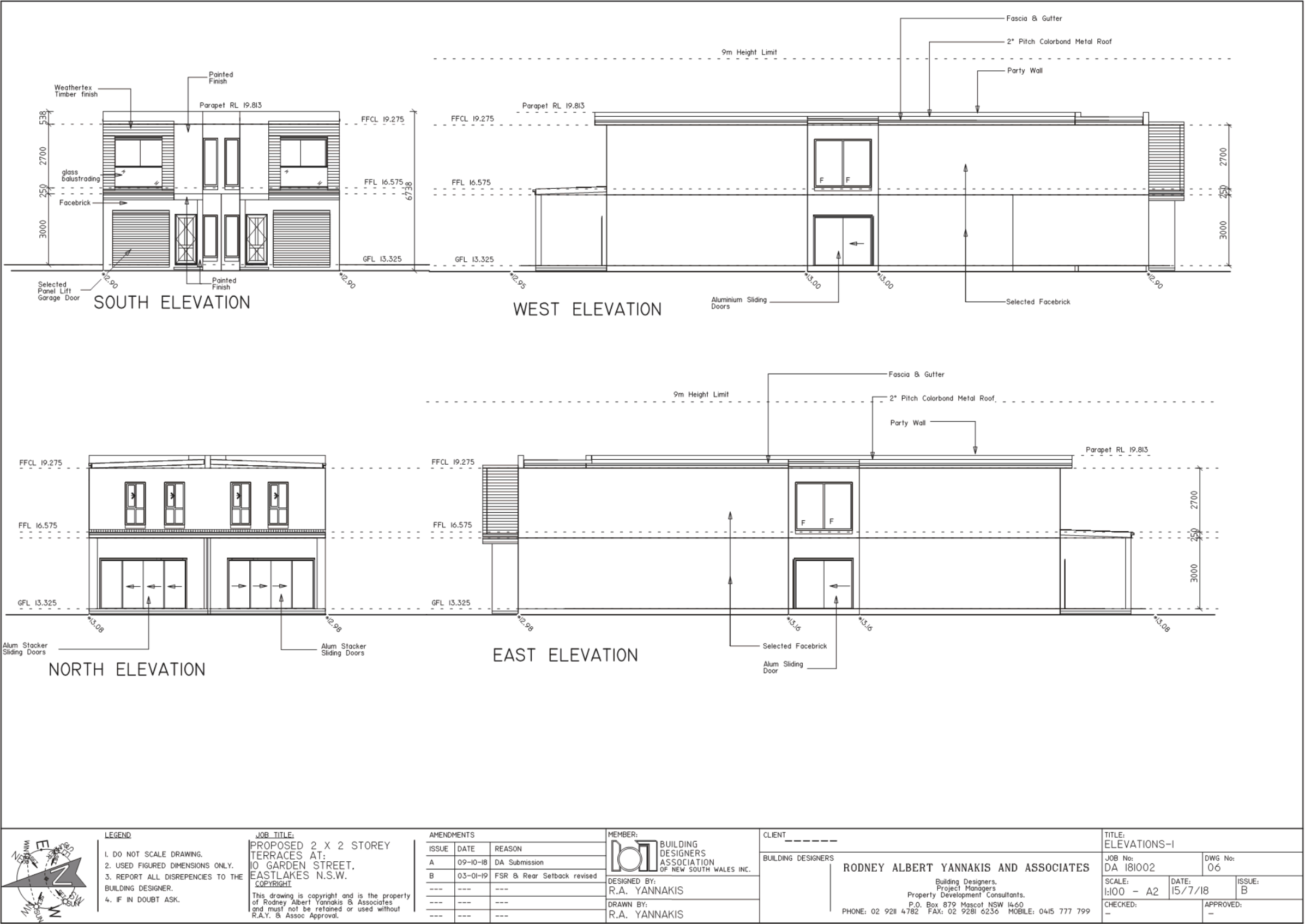
61. On completion of the building works the applicant shall contact Council's Customer Service Centre on 9562 1666 to arrange planting of the replacement street tree.
62. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
63. 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.
64. Prior to the issue of any Occupation Certificate(s), all absorption trenches must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of principal Certifying Authority. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction.
65. Prior to the issue of any Occupation Certificate(s), the maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes to ensure the effective performance of the system during construction and the long term viability of the system.
66. Prior to the issue of any Occupation Certificate(s), the constructed stormwater drainage system shall be inspected and certified by a suitably qualified engineer. The certification shall demonstrate compliance with the approved plans, relevant Australian Standards, Council Specifications.
67. Prior to the issue of an Occupation Certificate(s), appropriate instrument(s) in accordance with Council Specification must be registered on the title of the property, concerning the presence and ongoing operation of the On Site Retention System. A Works-as-Executed plan must be submitted to Council at the completion of the works, the plan must clearly illustrate dimensions and details of the site drainage and the On Site Retention system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards.
68. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.

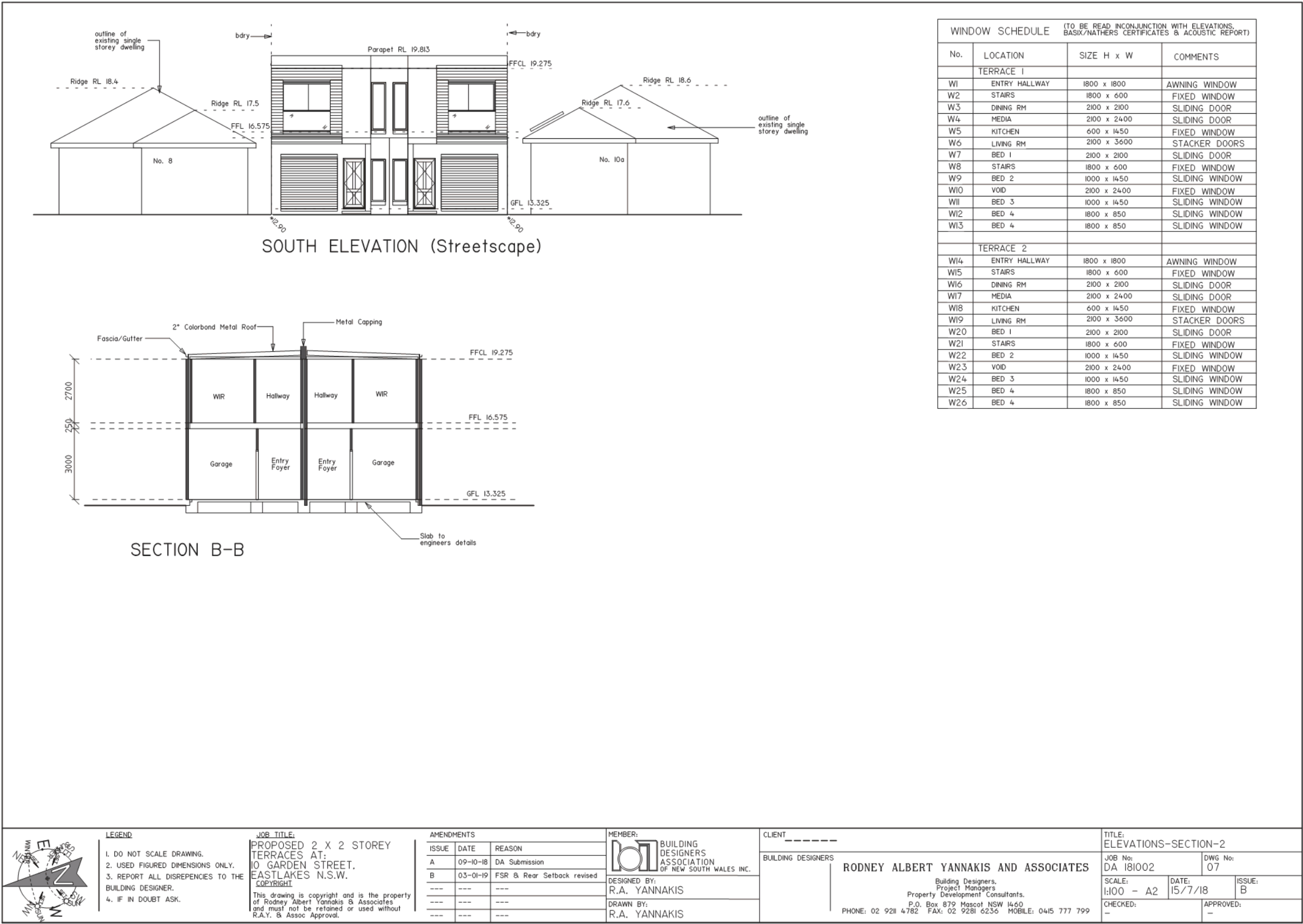
CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

69. 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.
70. 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.

71. 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.
72. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
73.
 - 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).
 - c) 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.







1000MM HIGH TIMBER PICKET FENCE TO FUTURE DETAILS

EXISTING TREE TO BE RETAINED AND PROTECTED DURING CONSTRUCTIONS IN ACCORDANCE WITH ARBORISTS RECOMMENDATIONS

EXISTING TREE TO BE REMOVED WITH COUNCIL'S APPROVAL

The site plan shows a rectangular plot with a dashed red boundary. A solid black line indicates the building footprint, which is a long, narrow rectangle on the left side. A hatched area represents the soft landscaped area, located to the right of the building footprint. Several small squares represent parking spaces, distributed around the building footprint and in the landscaped area. A legend at the bottom identifies the symbols: a solid black line for 'SOFT LANDSCAPED AREA' and a hatched area for 'BUILDING FOOTPRINT'.

Trees/Palms	SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	POT SIZE	MATURE SIZE	STAKING
	CA	Cupanopsis anacardioides	Tuckeroo	1	100L	7-8m	Yes
	ML	Magnolia laevis/olia x fips 'White Caviar'	Michelia Figo	2	100L	3-4m	Yes
Shrubs, Hedges & Perennials							
	An	Alphita nudata	Sweet Cardamom	10	300mm	1m	NA
	Cr	Cycas revoluta	Sago Palm	2	300m	1.2m	NA
	Gf	Gardenia augusta	Gardenia	10	300mm	1.2m	NA
	Pm	Pittosporum 'Miss Muffet'	Pittosporum 'Miss Muffet'	12	300mm	0.8m	NA
	Sc	Syzygium 'Cascade'	Cascade Lily Pilly	16	300mm	1.6m	Yes
	Sr	Syzygium 'Resilience'	Resilience Lily Pilly	26	300mm	2.5m	Yes
	Pm	Pittosporum 'Miss Muffet'	Pittosporum 'Miss Muffet'	26	300mm	0.8m	NA
	Vs	Viburnum suspensum	Viburnum suspensum	6	300mm	1.8m	Yes
Turf							
	Buffalo Turf 'Sapphire'		Sapphire Buffalo	105 ¹⁰	Rolls	NA	NA

A cross-sectional diagram of a concrete slab. The slab is shown as a grey rectangular block. Below the slab is a layer of compacted substrate, indicated by a hatched pattern. A label 'LAI' points to the top surface of the slab. A label 'P1' points to a vertical reinforcement bar (rebar) embedded in the slab. The rebar is shown as a solid black line. The substrate is shown as a hatched area. The top surface of the slab is labeled 'LAI' and the bottom surface is labeled 'P1'.

GRAVEL / GARDEN

200 x 3mm GAL STEEL
EDGE

LAWN

400 x 10mm GAL STEEL PEG
WELDED TO REAR SIDE AT
1200mm CENTERS

50% GREENLEAF MULCH & COMPOST
(CHECK WITH MFD FOR ALTERNATIVE
MULCH IF REQUIRED)

TYPICAL PLANTER

250% BED OF PREMIUM GARDEN MIX

WATERPROOF MEMBRANE

CORFLUTE TO PROTECT WATER PROOF
MEMBRANE

700% BED OF 80/20 MIX

GEOTECH FIBRE

50MM BED OF COARSE RIVER SAND
NOTE: IF DEPTH OF PLANTER IS LIMITED DO
NOT USE RIVER SAND

30MM ATLANTIS DRAINAGE CELL

TO DRAINAGE

TYPICAL SOIL PROFILE
SCALE: 1:5 @ A1



