

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 23 April 2019 at 6:00 pm.

ON-SITE INSPECTIONS

On-site inspections will precede the meeting.

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

- 2 APOLOGIES
- 3 DISCLOSURES OF INTEREST
- 4 MINUTES OF PREVIOUS MEETINGS
 - 4.1 Minutes of the Bayside Local Planning Panel Meeting 9 April 2019.....2
- 5 REPORTS PLANNING PROPOSALS

Nil.

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1	DA-18/1164 - 16 Ramsgate Street, Botany	12
6.2	DA-2018/1164 - 10 Garden Street Eastlakes1	21
6.3	S82-2019/1 - 11 Gertrude Street, Wolli Creek20	04
6.4	DA-18/1182 - 24 Carinya Avenue, Mascot20	66

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

23/04/2019

Item No 4.1

Subject Minutes of the Bayside Local Planning Panel Meeting - 9 April 2019

Report by Fausto Sut, Manager Governance & Risk

File SF18/2996

Recommendation

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 9 April 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

Present

Marcia Doheny, Chairperson Jan Murrell, Independent Expert Member Greg Wright, Independent Expert Member Thomass Wong, Community Representative

Also Present

Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Pascal Van de Walle, Coordinator Development Assessment
Ben Latta, Coordinator Development Assessment
Chris Mackey, Coordinator Development Assessment
Angela Lazaridis, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Patrick Nash, Senior Development Assessment Planner
Helen Lai, Development Assessment Planner
Ana Trifunovska, Development Assessment Planner
Lauren Thomas, Governance Officer
Taif George, IT Support Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6:02 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 26 March 2019

Decision

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

5 Reports – Planning Proposals

There were no Planning Proposals.

6 Reports – Development Applications

6.1 DA-2018/344 - 12/637-645 Forest Road, Bexley

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

The following person spoke:

• George Lagoudakis, Director of Absolute Design and Construction, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- The Panel has considered the Clause 4.6 request to vary the floor space ratio (FSR) standard contained in Clause 4.4 of the RLEP 2011 and the Panel is satisfied that the written request satisfies the requirements of clause 4.6(3) of Botany Bay LEP 2013, and that the proposed variation is in the public interests because it will result in consistency with the objectives of the FSR development standard contained in Clause 4.4 and the objectives of the B1 Neighbourhood Centre zone.
- The Development Application No. DA-2018/344, for the proposed demolition of the existing pergola and construction of an enclosed sunroom and pergola to rooftop terrace at 12/637-645 Forest Road, Bexley, is APPROVED, pursuant to Section 4.16(1) (a) of the Environmental Planning and Assessment Act 1979 and subject to conditions of consent attached to this report. In addition to those conditions the Panel also imposes the following I conditions:

- 10(a) The space is not to be used as a separate domicile.
 10(b) The proposed north-west facing wall is to be deleted.
 10(c) Amended Plans showing the deletion of the proposed north facing wall are to be submitted to Council prior to the issue of the construction certificate.
- 3 That objectors be advised of the Bayside Planning Panel's decision.

Name	For	Against
Jan Murrell	\boxtimes	
Marcia Doheny	\boxtimes	
Greg Wright	\boxtimes	
Thomass Wong	\boxtimes	

Reason for the Panel's Determination

The Panel adopts the reasons contained in the Planning Assessment Report and
has imposed additional conditions to ensure that there are no adverse impacts
from the proposed development on nearby apartments and also to ensure that the
approved space is only used for the purpose for which the application has been
approved.

6.2 DA-2018/48 - 88 Stoney Creek Road, Bexley

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

The following people spoke:

- Ms Alix Fraser, affected neighbour spoke against the officer's recommendation.
- Ms Belinda Leonard, affected neighbour spoke against the officer's recommendation.
- David Haskew, planner, spoke for the officer's recommendation and responded to the Panel's questions.
- Ammar Becka, architect, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

That the development application DA-2018/48 for the demolition of existing structures and construction of a four (4) storey shop-top housing development comprising 10 residential units, one (1) commercial tenancy and basement car parking, is APPROVED pursuant to Section 4.16 of the Environmental Planning

and Assessment Act 1979 and subject to the conditions of consent attached to this report. Additional conditions are to be inserted in 39 (a) as follows:

- A report from a qualified arborist be provided prior to the issue of a construction certificate which demonstrates to Council's satisfaction that the proposed development will not have any adverse impact on the fig tree located on 79 Abercorn Street, Bexley.
- That the landscaping plan be amended to include an additional tree with a mature height of 5-6 metres with an evergreen canopy to be planted in the north east corner of the subject site.
- 2 That the objectors be advised of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	\boxtimes	
Marcia Doheny	\boxtimes	
Greg Wright	\boxtimes	
Thomass Wong	\boxtimes	

Reason for the Panel's Determination

The Panel adopts the reasons in the Planning Assessment Report and, in relation
to the submissions made, the Panel is satisfied that, with a rear setback of 12
metres, the proposed landscaping and the additional tree, the proposed
development will have a sufficient buffer to mitigate adverse impacts to the
properties to the rear of the subject site.

6.3 DA-17/1047 - 2 and 2A, 4 Bay Street, Botany

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

The following people spoke:

- John Alafaci, applicant, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Maurice Beraldo, architect, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

Determination

 The Panel determines that this matter is DEFERRED to allow the applicant to address the issues raised in the Planning Assessment Report including stormwater management, expired Basix report, car parking and internal amenity.

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

Name	For	Against
Jan Murrell	\boxtimes	
Marcia Doheny	\boxtimes	
Greg Wright	\boxtimes	
Thomass Wong	\boxtimes	

Reason for the Panel's Determination

The Panel notes that, while the design of the proposed development is generally
acceptable in terms of the built form and scale, there remain deficiencies in terms
of stormwater management, Basix reporting, car parking and residential amenity.

6.4 BDA-2014/45/A - 2-8 Sarah Street, Mascot

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

The following people spoke:

- Alison Brown, planner, spoke for the officer's recommendation and responded to the Panel's questions.
- Mark Hotson, developer, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Bayside Local Planning Panel is satisfied that:
 - a. The proposed modification is of minimal environmental impact.
 - b. It is substantially the same development as that originally approved.
 - c. It has been notified in accordance with the Regulations.
 - d. There were no submissions received.
- That the Bayside Local Planning Panel APPROVES the Section 4.55(1A) Application to modify Development Consent No. DA-2014/45 to the approved hotel to facilitate the integration with adjacent addition at 10-12 Sarah Street Mascot and modify conditions 13, 28, 67, 74 and 89 and subject to the following amendment:

Condition 73A is to be amended to read as follows:

73A Prior to the issue of a final Occupation Certificate, the lots at 2-8 Sarah Street shall be consolidated into a single allotment together with the 10-12

Sarah Street lots. Written notification as to the registration of such consolidation at NSW Land and Registry Services is to be submitted to Council (BDA-2014/45/A).

Name	For	Against
Jan Murrell	\boxtimes	
Marcia Doheny	\boxtimes	
Greg Wright	\boxtimes	
Thomass Wong	\boxtimes	

Reason for the Panel's Determination

- The Panel adopts the reasons set out in the Planning Assessment Report.
- In addition, the Panel notes that, desite the slight increase in floor space, the
 modified development will adopt a similar footprint and setbacks and will have no
 discernible visual or amenity impacts.

6.5 DA-2018/319 - 10-12 Sarah Street, Mascot

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

The following people spoke:

- Alison Brown, planner, spoke for the officer's recommendation and responded to the Panel's questions.
- Mark Hotson, developer, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1. That the Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard and the objectives for the B5 Business Development zone.
- 2. That the Panel APPROVES Development Application No. 2018/319 for the addition to approved a nine (9) storey hotel at 2-8 Sarah Street, comprising of 69 rooms, above ground parking and business identification signage at 10-12 Sarah Street Mascot. The development is to be carried out in accordance with the attached conditions of consent and subject to the following further condition:

Prior to the issue of any Occupation Certificate, the lots at 10-12 Sarah Street shall be consolidated into a single allotment together with the 2-8 Sarah Street lots. Written notification as to the registration of such consolidation at NSW Land and Registry Services is to be submitted to Council.

Name	For	Against
Jan Murrell	\boxtimes	
Marcia Doheny	\boxtimes	
Greg Wright	\boxtimes	
Thomass Wong	\boxtimes	

Reason for the Panel's Determination

- The Panel adoptes the reasons in the Planning Assessment Report.
- The Panel notes the development will be consistent in scale and form with the adjoining development.
- The Panel does not accept the submission made by the applicant in the Clause 4.6
 request that Council has abandoned the FSR control as the examples given in the
 request refer mostly to residential flat buildings that were assessed under Botany
 LEP 1995, not Botany Bay LEP 2013 which is the applicable LEP.

6.6 SF19/1234 - DA-2018/1169 3-5 Queen Street, Botany

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

The following people spoke:

- Derek Raithby, Architect, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Phillip Tien, Project Manager, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- John Higgins, Applicant, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Clive Hillier, Owner, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

Determination

- 1. That the Bayside Local Planning Panel is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Botany Bay Local Environmental Plan 2013 in regard to the Clause 4.4A- Floor Space Ratio.
- 2. That the Development Application No. DA-2018/1169 for the demolition of existing structures, Torrens Title subdivision into five (5) lots, construction of five (5) attached dwellings, swimming pool and two (2) cabanas at 3-5 Queen Street, Botany, is REFUSED pursuant to Section 4.6(1)(b) of the *Environmental Planning and Assessment Act 1979* (EPA Act) for the following reasons:

- a) Pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is excessive in terms of bulk, scale, size, density, inconsistent with local character and subdivision pattern and would adversely impact upon the amenity of the locality.
- b) The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
- c) Pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed development does not satisfy Clause 4.4A of the Botany Bay Local Environmental Plan 2013 relating to non-compliance with the floor space ratio development standard of 0.5:1. Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Botany Bay Local Environmental Plan 2013 in regards to floor space ratio.
- 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 following sections of the Botany Bay Development Control Plan 2013 with respect to the following:
 - Part 3A Car Parking and Access. The proposed development does not comply with the requirements of Part 3A.3.1 C28 and Part 4A.7 C2 relating to compliant vehicular access and loss of on-street parking;
 - ii) Part 3E Subdivision & Amalgamation. The proposed development does not comply with the requirements of Part 3E.2.2 regarding consistency with the prevailing subdivision pattern in the street;
 - iii) Part 3G Stormwater Management. The proposed development does not comply with Part 10 Stormwater Management Technical Guidelines 5.2 (i) & (ii) and does not provide sufficient detail as to the on-site detention system proposed on the site;
 - iv) Part 3J Aircraft Noise and OLS. The proposed development does not comply as an acoustic report was not provided with the development application, preventing an accurate assessment or aircraft noise impacts;
 - v) Part 3L Landscaping and Tree Management. The proposed development does not comply as insufficient information was provided regarding the swimming pool and rainwater tanks to be utilized for irrigation, and the proposed driveways will impact upon the existing street trees within the nature strip.
 - vi) Part 4A.2.8 Building Setbacks. The proposed development does not comply with the minimum side setback requirements imposed in control 1 and 9, and is inconsistent with the dominant pattern along the street.

- vii) Part 4A.4.1 Visual Privacy. The proposed development does not comply with control 1, 2, 3, 4, and 5, as it will pose overlooking impacts upon the adjoining properties.
- viii) Part 4A.3 Solar Access. The proposed development does not comply with control 1 regarding to the minimum sunlight required for proposed and adjoining properties.
- ix) Part 70 Swimming Pools. The proposed development does not comply with Part 70.2.4, Part 70.2.13, and Part 70.2.21 as insufficient information was provided relating to pool fence details and rainwater tank provisions.
- x) Part 8 Character Precincts. The proposed development does not comply as it is inconsistent with the desired future character of the Botany Precinct.
- e) Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land.
- f) 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.
- g) Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable subdivision pattern, visual privacy, solar amenity, excessive density, and car parking impacts on adjoining /nearby properties.
- h) Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be in the public interest as it is likely to set an undesirable precedent, and is inconsistent with the existing and desired future character of the locality resulting in an overdevelopment of the site, creating a medium density environment in a low density context.
- 3. That the objectors be informed of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	\boxtimes	
Marcia Doheny	\boxtimes	
Greg Wright	\boxtimes	
Thomass Wong	\boxtimes	

Reason for the Panel's Determination

- In addition to the reasons set out above, the Panel also considers that the proposed development is an overdevelopment of the site and is incompatible with the prevailing subdivision pattern.
- The Panel also notes that the proposed development fails to comply with a large number of requirements of Council's DCP and the Panel considers this is a consequence of the overdevelopment of the site.

The Chairperson closed the meeting at 7:58 pm.

Certified as true and correct.

Marcia Doheny Chairperson



Bayside Local Planning Panel

23/04/2019

Item No 6.1

Application Type Development Application

Application No DA-18/1164 Lodgement Date 07/09/2018

Property 16 Ramsgate Street, Botany

Ward Mascot

Owner NGPV Investments Pty Ltd

Applicant NGPV Investments

Proposal Demolition of existing structures and construction of a 2

storey boarding house with 26 rooms, manager room and

associated parking and tree removal.

No. of Submissions Twelve (12) Against and one (1) in support

Cost of Development \$2,343,000

Report by Michael McCabe, Director City Futures

Officer Recommendation

1. That DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 4.16(1)(3) of the Environmental Planning and Assessment Act 1979 in accordance with the deferred Commencement Conditions provided below, and subject to the conditions of consent attached to this report.

This consent must not operate until you satisfy Council of the following matters:

- a. Plans are to be submitted deleting nine (9) individual boarding rooms to reduce the requirement of on-site parking. The following units are to be removed:
 - i. Boarding rooms 19, 23, 27, 28, 29, 30,31,32 and 33 shown on plan DA 201 E Rev E, drawn by BKA architecture and dated 4 February 2019; and
 - ii. The deleted rooms shall be replaced with a suitable architecturally designed roof form over a single storey structure.

Evidence of the proposed solution is to be submitted to Council for review. Should the solution involve design changes to the development, amended plans are to be submitted for assessment and approval by Council.

- b. The period of the "Deferred Commencement" consent is to be limited to 6 months
- 2. That the objector(s) be advised of the Bayside Planning Panel's decision.

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Location Plan



Attachments

- Planning Assssment Report
 Survey Plan
 Elevations
 Sections
 Roof Plan
 Landscape Plan
 Photomontage
 Plan of Management
 Car Share
 Car Share Management
 Car Share
 Car Share 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

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BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number: DA-2018/1164
Date of Receipt: 7 September 2018

Property: 16 Ramsgate Street, Botany
Lot & DP/SP No: 21 and 22 Section 11 DP 773

Owner:

Applicant: N.G.P.V Investments

Applicant Address: Level 1, 33 Morley Street Rosebery

Proposal: Demolition of existing structures and construction of a 2 storey

boarding house with 35 rooms, managers rooms, associated

parking and tree removal

Property Location: Southern side of Ramsgate Street between Cranbrook St to the

west and Tenterden Rd to the east.

Value: \$ 2,343,000

Zoning: Botany Bay Local Environmental Plan 2013

Author: Adam Iskander
Date of Report: 14 March 2019

Classification of Building: Class 3 – Boarding House Present Use: Residential dwelling

No. of submissions: Twelve (12) submissions against and one (1) supporting

Key Issues

- On 18 January 2019, Council issued a 14 day letter to the applicant addressing concerns relating to parking, stormwater, flooding, landscaping privacy and materials. On 7 February 2019, Council received amended plans addressing these concerns, however, uncertainty remained with the proposed parking on site as the applicant proposed fourteen (14) spaces and the required amount needed to satisfy the SEPP ARH 2009 is nineteen (19);
- The applicant proposed a car share scheme for one of the parking spaces to offset the remaining parking requirement of five spaces. This scheme was used by the applicants under DA-2017/1108, 1455 Botany Road & 1-3 Hastings Road for a mixed use commercial and boarding house development within an R2 Low Density Zone. It should be noted that this application was approved under a S34 Conference 'Astoria Capital Pty Ltd ATF The Delta Funds Family Trust v Bayside Council [2018] NSWLEC 1527'.

Through the conciliation process, the development was approved with a reduced amount of boarding units from thirty-three to thirty and two commercial tenancies to one commercial tenancy. Further, the car share parking scheme was accepted to offset the deficiency in parking of up to four spaces for the boarding house component.

The applicant submitted a car share management plan for 14-16 Ramsgate Road. Council
raised concerns of the use of the car share scheme as the car is also used by the public
and not limited to the tenants of the boarding house. This reduces the cars availability for
the tenants making the car scheme unreliable which may force tenants to purchase their
own vehicle or borrow cars from family and friends creating the need for additional on-site
parking and potentially parking on Ramsgate Street.

Further, varying the parking requirement with a car share is not a favourable alternative for Council, considering that DA-2017/1108 was approved with a car share scheme offsetting four parking spaces and this application proposing to utilise a car share scheme to offset five parking spaces. Council would like to avoid offsetting large deficiencies in parking with car share schemes.

 Twelve (12) neighbour submissions have been received during the neighbour notification period, raising concerns relating to parking and traffic, privacy and character.

Recommendation

That DEFERRED COMMENCEMENT consent be granted to this Development Application
pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979 in
accordance with the Deferred Commencement Conditions provided below, and subject to the
conditions of consent attached to this report.

This consent must not operate until you satisfy Council of the following matters:

(A) Plans are to be submitted deleting nine (9) individual boarding rooms to reduce the requirement of on-site parking. The following units are to be removed:

- Boarding rooms 19, 23, 27, 28, 29, 30,31,32 and 33 shown on plan DA 201 E Rev E, drawn by BKA architecture and dated 4 February 2019; and
- ii) The deleted rooms shall be replaced with a suitable architecturally designed roof form over a single storey structure.

Evidence of the proposed solution is to be submitted to Council for review. Amended plans are to be submitted for assessment and approval by Council.

- (B) The period of the "Deferred Commencement" consent is to be limited to 6 months
- 2. That the objector(s) be advised of the Bayside Planning Panel's decision.

Site Description

The site is located at 14-16 Ramsgate Street Botany, on the southern side of Ramsgate Street, and is legally known as Lots 21 and 22 Section 11 DP 773.

The site is trapezoidal in shape and has a cross fall from east to west of 900mm. The site has a primary frontage of 27.08 metres to Ramsgate Street and an average depth of 56.3 metres. The site has an area of 1,372sqm and is zoned 'R2 Low Density Residential' under the Botany Bay LEP 2013.

Each lot accommodates a freestanding dwelling that is currently utilised as a boarding house with 23 rooms. The site has a long standing history as a boarding house however there is no Council record of any approval as a boarding house. It is noted that there have been previous Orders on the site by Council officers in relation to fire and health issues. These Orders have been resolved.

The site is located in a low density residential area that accommodates a variety of one and two storey dwellings. The dwellings range in architectural style which includes Californian bungalows and contemporary style dwellings. In addition, there is a Church located to the west of the site at Ramsgate Street and St Bernard's Catholic Primary school located further west on Ramsgate Street.

To the east of the site is 18 Ramsgate Road which is a small site in the shape of a battle axe. The site has minimal landscaping and contains a swimming pool which abuts the shared boundary of the subject site. The dwelling is two storeys in height, terracotta pitch roof, with a white board cladding on the front façade and a garage behind the front building line.

Further to the east of the subject site are 75, 77, 79 and 81 Tenterden Road. These properties have rear yards which traverse the subject site. No. 79 Tenterden has a rear pergola and swimming pool along the shared eastern boundary. No. 77 has a rear shed along the shared eastern boundary and No. 75 has a rear garage and attached shed along the eastern boundary. These dwellings are both one and two storeys in height, with a mixture of terracotta and metal pitch roofs.

To the rear of the site is 12 and 14 Chatham Street which both contain two storey residential dwellings with a large setback from the southern boundary shared with the rear of the subject site.

To the west is 12 Ramsgate Street which is a single storey residential dwelling, with colour bond pitch roof, white board cladding and a 1.5m high fence constructed with brick and white steel.

St Bernard's Primary School

Subject Site

Along Tenterden Road are a variety of residential flat buildings with heights of up to three storeys. The immediate character of the area is zoned as R2 Low Density residential.

Figure 1 - aerial view

Site History

On 16 April 2015, Council refused Development Application 2014/141 for demolition of all existing structures on the site and construction of a new two storey boarding house with 40 boarding rooms, nine at-grade car parking spaces at rear, new landscaping and removal of four trees at 14-16 Ramsgate Street, Botany. The reasons for refusal are summarised below:

- Non-compliance with the floor space ratio requirements under Clause 4.4 of the BBLEP 2013.
- Adverse traffic and vehicle impacts on the site and immediate surrounds.
- Non-compliance with Clause 29(1) of the ARH SEPP, which is a reason for refusal.
- Non-compliance with Clause 30(1)(d)of the ARH SEPP, as the proposed kitchen facility is insufficient to meet the needs of all lodgers.
- Incompatibility with the character of the area, as required under Clause 30A of the ARH SEPP.
- The proposal is considered an overdevelopment of the site and is not compliant with the
 objectives of the Botany Bay LEP 2013, specifically Clause 1.2(2)(f) and (g).
- The proposal is not in the public interest

Description of Development

The development application seeks Council consent for the demolition of the existing structures and construction of a 2 storey boarding house with 35 rooms (24 single rooms, 9 double rooms and 2 accessible rooms) with associated parking and tree removal at 14 – 16 Ramsgate Road, Botany.

Each room will have its own bathroom and kitchen. A communal room is provided internally on the ground floor with an area of 21.5sqm and communal open space area of 30sqm. Several ground floor rooms will have private court yards. The rear and front facing rooms will have private balconies.

The single bedrooms will have floor areas measuring 13sqm (less kitchen and bathroom). The double bedrooms will have floor areas measuring 16sqm (less kitchen and bathroom). The accessible rooms will have floor areas measuring 29sqm.

The boarding house is designed as a two storey development with a front elevation that spans approximately 27 metres in width. The front elevation presents as two separate modulations with a pitch roof design. The frontage comprises of landscaping and trees with a front fence consisting of both a Gabion feature wall and steel flat bars.

In total, the development will be divided into six separate building modulations and are connected via a corridor within the centre.

Landscaping in the form of trees and hedges are provided along the front, side and rear boundaries, reaching heights between 2m and 8m to provide privacy.

Fourteen car spaces are provided at the rear of the site inclusive of one accessible access space. The parking area is accessed via a new driveway entry point from Ramsgate Road and runs along the western side boundary.

Ground floor:

- Thirteen (13) Rooms consisting of eight (8) single rooms, three (3) double rooms and two (2) accessible rooms;
- Eleven of the rooms will have private courtyards separated with 1.8m high privacy fences;
- · One (1) manager's room;
- · Communal room with kitchen and accessible bathroom;
- Communal private open space;
- Bin room: and
- Rear parking consisting of fourteen (14) car spaces, inclusive of one car share space and one
 accessible space.

First floor:

- Twenty-two (22) rooms consisting of sixteen (16) single rooms and six (6) double rooms;
- · Four rooms facing north will have front facing balconies;
- Five (5) rooms facing south with have balconies facing the rear with privacy panels along the sides; and

 Four rooms located within the centre of the building will have balconies (these balconies will face brick walls and will have privacy screens along the sides)

Roof:

- Each building will have its own skillion roof constructed with roof sheeting and appearing as a
 pitch roof design; and
- · The internal corridors will have a lowered flat roof.

Landscaping:

- · Landscaping will be provided within the front setback;
- The Araucaria heterophylla (Norfolk Is. Pine), and the Phoenix canariensis (Canary Is. Date Palm) are proposed to be removed;
- Eucalyptus botryoides, (Bangalay), Mangifera indica (Mango Tree), Plerandra elegantissima (False Aralia) and Dypsis lutescens (Areca palm) are proposed to be retained and protected;
- Privacy screening in the form of planting along the side and rear boundaries are proposed.
 The trees proposed are:
 - Twelve (12) x Lilly Pilly (height 5m) along the rear boundary
 - Seven (7) x Watergum (height 5m-8m) along the western side boundary
 - One (1) x Water gun (height 5m-8m), twenty (20) x Rhaphis Palm (height 3m) and twenty three (23) Minor Lilly Pilly (height 2m-3m);
 - One (1) x Tuckaroo within the front setback

In the event of an approval, it will be recommended that the boarding house be reduced from 35 to 26 boarding rooms with the addition of a manager's room in order to comply with parking. This will be in the form of a deferred commencement and will ensure that the development does not alter in design when viewed from Ramsgate Street and will ensure a lesser impact to the adjoining neighbours in terms of bulk, scale and over-looking.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 1003386M 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.
- The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

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

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) applies to the proposal. The site contains trees that are subject to approval by Council under clause 4.1.7 of Rockdale Development Control Plan 2011, conferred by:

- (a) development consent, or
- (b) a permit granted by Council.

Several conditions have been imposed in the draft Notice of Determination, regarding the protection and retention of the *Eucalyptus botryoides* (Bangalay) tree located on the south west corner of the block. All other trees on the site can be removed subject to one (1) Corymbia maculata (Spotted Gums) of 100L root ball to be planted at the rear of the site so as to offset the removal of the significant Araucaria heterophylla (Norfolk Island Pine). It should be noted that the applicant has proposed a Tuckeroo tree within the front setback

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) and Botany Bay DCP 2013.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP 2009)

Part 2 Division 3 identifies specific development standards applying to boarding houses.

Standard	Control	Proposed	Compliance
Clause 26 – Land to which division applies	(b) Zone R2 Low density	The proposal is zoned R2 Low Density	Yes
Clause 27 – Development to which Division Applies	(2) Development on land within zone R2 Low Density Residential within Sydney Region, must be within an accessible area.	The applicant indicates that the site is located within an accessible area, being 250 metres from a bus stop on Banksia Street.	Yes
Clause 29(1) – FSR	Zone allows for residential flat buildings. Bonus 0.5:1 applied to maximum FSR of 0.50:1. Therefore max FSR 1:1	The application results in an FSR of 0.70:1	Yes
Clause 29(2)(a) – Building Height	Not more then permitted under an LEP. BBLEP 2013 Height Control 8.5m	8.13 metres	Yes
Clause 29(2)(b) – Landscape area	Compatible with streetscape	The landscape treatment is consistent with the immediate area.	Yes
Clause 29(2)(c) – Solar Access	One communal area received 3 hours of direct sunlight between 9am and 3pm in midwinter	A common area is proposed which faces west and receives a minimum of 3 hours of sunlight.	Yes
Clause 29(2)(d)- Private Open Space	 One area at least 20m² with a minimum 3m. Manager area – 8m² with a minimum dimension of 2.5m 	 The primary common area is 30m². In addition, smaller courtyards are proposed on the ground floor area. A manager's room is provided onsite, that benefits from a designated private open space area that is in excess of 8 m². 	Yes

Clause 29(2)(e) - Parking	 at least 0.5 parking spaces are provided for each boarding room; and Not more than 1 parking space is provided for each person employed 	14 spaces provided inclusive of one care share space	No – deficiency of 5 car spaces (See discussion under Part 4A.4.8 of this report)
Clause 29(2)(f)- Accommodation size	 12m² per single boarding room 16m² in any other case. 	Between 12m² to 18m² (excluding bathroom and kitchen)	Yes
Clause 29(3)	Boarding house may have private kitchen or bathroom facility in each boarding room, but is not required to have those facilities in any boarding room.	A bathroom and kitchen has been provided to each boarding house room.	Yes
Clause 30(1)(a) – Communal Living room	At least one communal living room for 5 or more rooms.	One communal living room is proposed on the ground floor.	Yes
Clause 30(1)(b) – Size of rooms	No rooms more than 25m ²	No room, excluding the kitchen and bathroom facility, is over 25m ²	Yes
Clause 30(1)(c) – Number of Lodgers	No more than 2 lodgers per room	The applicant states that each boarding house room will be occupied by one or two adult lodger.	Yes
Clause 30(1)(d) – Bathroom & Kitchen Facilities	Access be provided to each lodger to use a bathroom and kitchen	All rooms have a bathroom and kitchen facilities. An additional communal kitchens is provided on the ground floor.	Yes
Clause 30(1)(e) – On site Manager	More than 20 lodgers	The boarding house has the capacity to accommodate up to 35 lodgers. An onsite manager is proposed for the development.	Yes (deferred commencement will require reduction in boarding rooms to 26)
Clause 30(1)(g) – Commercial Zoned Lane	Not Applicable	Not Applicable	Not Applicable

Clause 30(1)(h) – Motorbike and bicycle parking	1 Motorbike and 1 bicycle space for each 5 rooms	7 motorbike and 8 bicycle spaces provided	Yes
Clause 30A Character of Local Area	Development must be compatible with the character of the local area.	Two storey building, pitch design and sufficient landscaping provided.	Yes - See below
Clause 30AA	Limit 12 rooms within R2 Zone	35 rooms proposed	The application was lodged in September 2018 and does not require compliance in accordance with the savings provision of Clause 54C. This is discussed below

Clause 30A - Character of the Area

The character of the area is described as primarily a low density residential area that includes freestanding dwellings all of varying architectural styles. Dwelling types include face brick dwellings and weatherboard clad dwellings. In addition, there are some non-residential uses along Ramsgate Street, including a Place of Public Worship (Church) and a School.

The character of the area is determined by the immediate surrounding properties that are bounded from Cranbrook Street and Tenterden Road. The consistency amongst the dwellings is that they are primarily single storey buildings with the exception of the adjoining dwelling at 18 Ramsgate Street.

The proposal seeks approval for a two storey building which presents as a residential dwelling when viewed from Ramsgate Street. The design incorporates the existing characteristics of the street which includes a pitch roof design, a staggered front setback and front landscaping with a contemporary scheme created by the split roofing, light weight front balconies, utilization of dark and light tone materials, and a front fence constructed with both steel and gabion walls.

The building will be divided into eight separate modulations, connected internally by a corridor. Each of the eight modulations will have its own skillion roof with opposing angles creating a pitch like design. The corridors will be enclosed with a separate flat roof (set lower than the skillion roofs) and a 1.8m high screen at every opening providing privacy to the adjoining neighbours.

A side driveway along the western boundary provides vehicular access to a rear parking area containing 14 parking spaces. All boundaries will have planting with trees reaching heights between 2m and 8m to provide privacy to the future occupants and neighbouring properties. The landscaping will also reduce the visual impact of the development when viewed from the neighbouring properties and from the street.

Taking the above into consideration, the applicant has designed a 35 unit boarding house over a generous sized lot (1,372 sqm) which is generally compatible within its context and zone in terms of design and size. The development is below the maximum floor space ratio and height standard and maintains generous setbacks from the side and rear boundaries providing architectural reliefs with the intent to reduce the impacts of the perceived bulk and scale. However, the application fails to comply

with parking, with a deficiency of five (5) parking spaces. Twelve neighbour submissions have been received raising concerns relating to parking and the potential pressure of 35 boarding houses will have on the on-street parking which will be discussed further in this report.

Considering the subject site is within an R2 Low Density Residential area, the impacts of the non-compliance in parking is not in character with the area as it fails to provide for the day to day needs of the residents and will require a reduction in proposed units to allow for compliance with the minimum parking requirements. A reduction in units will be more in line with the amended SEPP for Affordable Housing (published 28 February 2019) limiting the amount of units to a boarding house within an R2 Low Density Zone to 12 units. This application was lodged in September 2018 and as such, the application is not required to comply due to the savings provisions under Clause 54C of the SEPP ARH 2009.

Subject to the deletion of several boarding rooms, it is considered that the proposal will be compatible with the character of the local area and satisfies Clause 30A of ARH SEPP 2009.



Image 1: Artist impression of proposed boarding house at 16 Ramsgate Street Botany

State Environmental Planning Policy (Affordable Rental Housing) Amendment (Boarding House Development) 2019.

This application is subject to the amendments to the SEPP, however the application was submitted before 28 February 2019 and therefore Clause 54C 'Savings and transitional provision – 2019 amendments' applies. Further, Clause 27 reads:

Clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.

As the subject site is located with an accessible area, Clauses 29, 30 and 30A do apply to the assessment of the development 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
Landuse Zone	Boarding house is permissible within the zone	The site is zone R2 Low Density Residential under the BBLEP 2013.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Maximum height permissible	Yes	Proposed Height: 8.13 Maximum permissible: 8.5m
		·
Maximum FSR 0.50:1 (benefits from an additional 0.50:1 as per	Yes	Proposed FSR: 0.70:1
ARH SEPP 2009) totalling to a maximum of 1:1		GFA = 964sqm
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/a	Not a heritage item or within a conservation area
The following provisions in Part 6 of the LEP apply to the development–	Yes	
6.1 – Acid sulfate soils		The subject site is within ASS class 4 area however the proposed works will not penetrate 2 metres below the natural ground surface and the works will not lower the water table more than 2 metres below the natural ground surface.
6.3 – stormwater management		The proposed works have been assessed by Council's Development Engineer and appropriate conditions of consent have been imposed to ensure that all stormwater will drain in a suitable manner to Council's stormwater drainage system.
6.9 – Development in areas subject to aircraft noise		The site is subject to aircraft noise (ANEF 25). Several conditions have been applied to the draft notice of consent ensuring that the building is constructed in accordance with AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction

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

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

Refer to heading 'State Environmental Planning Policy (Affordable Rental Housing) Amendment (Boarding House Development) 2019' of this report

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

3L - Landscaping

The application will provide a total of 278sqm or 20% of soft landscaping on site. The proposed landscaping will address issues of privacy between the subject site and adjoining neighbours.

The Norfolk Is. Pine and Canary Is. Date Palm are proposed to be removed while the Bangalay, Mango Tree, False Aralia and Areca palm are proposed to be retained and protected.

The proposal will ensure that the development incorporates high quality landscaping and planting design; provides vegetated screens and buffers around developments to reduce impact son neighbours; improves the visual amenity of the built environment by minimising bulk and scale and enhances the streetscape by providing a scale and density of landscaping that soften the visual impacts of buildings. The application satisfies the Objectives of Part 3L of BBDCP 2013.

Part 3N- Waste Minimisation and Management

A waste management plan has been provided to Council, which addresses the works involved including minor excavation and fill to the site, in addition to the construction of the works proposed.

Part 4A- Dwelling House

4A.2.1 Site Design

The proposal positively responds to the character of the two storey development within the area and remains below the maximum height and floor space ratio standard.

The design enhances the streetscape character through its contemporary design, with generous side and rear setbacks to minimise impacts onto the adjoining neighbours in terms of solar access and privacy.

One important feature of the site design is the separation of the development into eight buildings, creating visual reliefs along the side elevations reducing the perceived bulk and scale of the development when viewed from the neighbouring properties while also maintaining privacy between units through appropriate landscaping alongside boundaries and privacy screens.

Taking the above into consideration, the application satisfies the Objectives and Controls of Part 4A.2.1 of BBDCP 2013 as the proposal encourages innovative design the positively responds to the character and context of the locality and contributes positively to the streetscape.

4A.2.8 Building Setbacks

Table 1 under Part 4A.2.8 of Council's DCP requires that the minimum side setbacks to be 900mm for up to 2 storeys.

The proposal provides a 1.5m-3m side setback along the eastern side boundary measured from the ground and first floor levels and a 3m-5m setback along the western side boundary measured from both the ground and first floor levels.

The rear setback measured from the ground floor is approximately 25m and the rear setback measured from the first floor is 10.435m – 17.815m. Council's DCP requires a 4m and 6m setback from the ground and first floor levels respectively.

The front setback matches the prevailing staggered setback of the street which varies in measurement but is consistent with the adjoining dwellings to the east and west.

Taking the above into consideration, the application satisfies the minimum setback requirements. The applicant has provided additional setbacks, above the minimum requirement, ensuring the amenity of neighbouring residential sites are maintained and to provide spatial relief between buildings and to promote the use of additional landscaping along the side and rear setbacks. The application satisfies the Objectives of Part 4A.2.8 of BBDCP 2013.

4A.2.9 Landscape Area

Table 2 under Part 4A.2.9 of BBDCP requires a 40% of soft landscaping on site. The application proposes 20% of landscaping. Clause 29 (2) (b) of SEPP ARH 2009 states that a consent authority cannot refuse consent to development if the landscape treatment of the front setback area is compatible with the streetscape.

The adjoining neighbouring properties have front landscaped areas and no trees. The subject site currently contains Norfolk Island Pine trees which will be removed as part of this application. The landscape plans proposes an additional two trees and several shrubs and hedges along the front boundary. As such, the proposal is compatible with the existing streetscape character of the immediate area.

The subject site will be lined with trees, shrubs and hedges along the side and rear boundaries providing privacy between the subject site and neighbours and to soften the perceived impacts of the development.

The communal space located on the western part of the site will be obscured with shrubs and hedges reaching heights of 2m. Further, the communal area is setback 4.485m from the western side boundary providing a generous separation from the adjoining neighbour.

Council's landscape officer has assessed the application and has made the following comments:

"The development proposal is acceptable from the landscape perspective: provides amenity, privacy and considers relevant environment site aspects in the design."

Although the application does not meet the minimum requirement for landscaping under Part 4A.2.9 of BBDCP 2013, the proposal maintains a generous level of vegetation on site, is consistent with the prevailing streetscape character and provides sufficient level of screen to soften the impact of the building. Further, the location of the trees and hedges provides privacy to both the occupants and neighbouring dwellings. Requesting additional landscaping would therefore be unreasonable as the rear of the site is used for parking. Taking this into consideration, the proposed development satisfies the Objectives of Part 4A.2.9 of BBDCP 2013.

4A.4.1 Visual Privacy

The original architectural plans provided proposed seven balconies facing the side (east and west. The landscape plan did not sufficiently address privacy and lacked mature trees and hedges along the side boundaries. The amended plans rectified these issues, by deleting the

side balconies and providing privacy screens along the side elevations of the remaining balconies. The amended landscape plan includes the addition of seven trees along the western boundary reaching mature heights of 5-8m and along the eastern boundary is one tree reaching a height of 5m-8m supported with a 2-3m high hedging along the entire boundary. The rear boundary will have one tree with a mature height of 10m and hedges measuring a mature height of 5m. Council is satisfies that the proposed landscape will provide sufficient privacy to the adjoining neighbours and occupants of the boarding house.

All window facing the western side elevation on both the ground and first floor are setback approximately 6.6m from the boundary and all windows facing the eastern side boundary are setback 3m from the boundary which will further reduce impacts of over-looking.

Noise generated from the use will be managed by the submitted 'Plan of Management' (PoM) which will be enforced by the onsite manager. The outdoor communal space will be restricted in use during 9pm and 7am daily. No music is allowed within the common area and music should not be audible from outside each room. No smoking is allowed anywhere onsite and alcohol cannot be consumed in the outdoor communal area.

Taking the above into consideration, the amended plans and PoM will provide sufficient privacy to the future occupants of the site and to the adjoining neighbouring dwellings. The application satisfies Part 4A.4.1 of BBDCP 2013.

4A.4.3 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.

The subject allotment is north-south orientated with south being the rear of the property. Shadow diagrams have been submitted which demonstrate that the proposal complies with the solar access requirements of DCP 2013 and the adjoining properties to the east and west receive 2 hours of solar aces during 9am-3pm on 21st June. As such, the application satisfies the Objectives and Control of Part 4A.4.3 of BBDCP 2013.

Part 4A.4.8 Car Parking

Clause 29 (2) (e) stipulates 0.5 spaces per room and 1 space for manager. The total amount of parking required for the boarding rooms is:

35 rooms x 0.5 parking rate = 17.5 car spaces 1 managers room = 1 car space

Total required = 18.5 (This figure is rounded up to 19 car spaces).

Currently the development proposes 14 spaces with one of these spaces dedicated as a 'car share'. The proposal is deficient in parking by 5 spaces. The intent of the car share is to reduce the demand for onsite parking, and compensate for the deficiency in 5 parking spaces.

Part 3A.2 of BBDCP 2013 Control C2 Note 4 states:

"Council may reduce car parking provision in certain circumstances, as follows...Includes management regimes to minimise car use, such as workplace travel plans or on-site car share schemes"

It is noted that a car share scheme was approved (via a S34 Conference finalised on 8 October 2018) for a site at 1455 Botany Road/1-3 Hasting Street, Botany. This application sought consent for the demolition and construction of two (2) new commercial tenancies, thirty-three (33) room boarding house and one manager's room. The site was also located within an R2 Low Density Residential Zone. The proposal was reduced to one commercial tenancy, thirty boarding rooms and one manager's room. The final parking scheme dedicated two spaces to the commercial tenancy, twelve spaces for the boarding house component which included a car share space. The required parking for the boarding house is:

30 rooms x 0.5 parking rate = 15 car spaces 1 managers room = 1 car space Total required = 16 car spaces

As only twelve spaces were provided, the car share space was intended to offset for the deficient four parking spaces.

As such, the applicant for 14-16 Ramsgate Road has proposed to use the same car share scheme to address the non-compliance of five parking spaces. However, Council will not support the car share as no proper plan of management of the car share has been submitted. As Council has no adopted car-share policy it is uncertain on how a car share scheme via go get or similar, can ensure that the use of the car is limited to the tenants of the boarding house. Also, considering the amendment to the ARH SEPP requiring a maximum of 12 boarding rooms and the high level of concern of the development raised by the neighbours, it will be a better planning outcome and within the public interest to delete 9 of the 35 boarding rooms. This will reduce the total amount of boarding rooms to 26 requiring the following:

26 rooms x 0.5 parking rate = 13 car spaces
1 Managers room = 1 car spaces
Total required = 14 car spaces
Total proposed = 14 car spaces

As the application proposes 14 car spaces, the deletion of 9 rooms will ensure compliance with the required parking and ensure the potential of on-street parking is eliminated. The deletion of 9 boarding rooms will form part of a deferred commencement.

Part 7A.4.1 Boarding Houses

The application has been assessed under Part 4 of BBDCP 2013 and is generally acceptable within its context. Issue relating to parking, privacy and design have been rectified through the submitted amended plans. The boarding house has been designed to achieve a pleasant and attractive living environment for future and adjoining properties with site planning and design which results in acceptable levels of amenity to, meet the needs of residents and owners.

A Plan of Management has been submitted with the application, restricting the use of the common areas during 9pm – 7am Monday- Sunday and the limiting the consumption of alcohol and cigarettes in the external common areas. A manager will reside on the premises and will ensure that all boarders agree to the terms of the PoM upon signing their contract for lease.

The design of the boarding house is consistent with the future character of the area. Two bus stops, located on Banksia Street (north of the site) is within 400m of the subject site which promotes and encourages the use of public transport for future occupants of the boarding house.

All common areas are sufficiently setback from neighbouring internal habitable rooms and the site is reasonably landscaped softening and minimising the noise impacts generated from common areas, private terraces and driveways. An acoustic report has been submitted with the application. This acoustic report prepared by acoustic logic – Project Number 20181042.1, Document Reference 20181042.1/0609A/R1/GC, '14-16 Ramsgate St, Botany DA Noise Impact Assessment' dated the 6 September 2018 shall form part of the draft notice of consent.

Each boarding room has access to a terrace, balcony or a window and the communal open spaces is greater than 20sqm in size and is not located at the front of the property and screened off from the adjoining properties.

As such, the application satisfies the Objectives and relative Controls of Part 7A.4.1 of BBDCP 2013

Part 8 - Botany Character Precinct

The site is located within the Botany zone of the Precinct between Cranbrook Street and Tenterden Road Botany

The dwelling has been designed to address the street and is consistent with the streetscape promoting neighbourhood amenity and creates a site layout and building style that promotes commonality and a visual relationship with the surrounding built form and dwelling styles.

The dwelling is compliant regarding FSR, setbacks, site coverage, private open space and is considered to have acceptable height, landscaping and solar access to neighbouring sites. The development maintains a two storey height with parking facilities at the rear which does not dominate the street frontage.

The development complements the height and architectural style found in the immediate vicinity and maintains a contemporary roof form while having regards to the roof forms within the area.

As such the proposal is suitable for the site and is consistent with the desired future character of the Botany Precinct pursuant to Botany Bay Development Control Plan Part 8 Character Precincts.

S.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 bulk, scale, parking and privacy are addressed in detail in this report and on balance are acceptable.

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. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The site is 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 fourteen (14) day period from 19 September 2018 to 10 October 2018. Twelve (12) submissions were received and one (1) submission in support of the application.

The objections received as the result of the notification raised the following concerns:

Impacts of parking onto the surrounding streets resulting from the development.
 Increase traffic (vehicular and pedestrian) within the area. No visitor parking shown on plans

Planner's comments: The amount of parking onsite complies subject to a deferred commencement requiring the deletion of nine boarding units. Refer to Part 7A.4.1 of this report. The increase in traffic is not unreasonable and not assessed as significant to warrant further modifications to the development.

No visitor parking is required in accordance with the State Environmental Planning Policy (affordable rental housing) 2009

 Noise and privacy concerns generated from the use of the boarding house, including onsite vehicular movement

Planner's comments: Privacy has been addressed by way of landscaping alongside the rear and side boundaries. The Landscape plans show that the mature height of the vegetation will vary between 2m-8m providing a reasonable about of privacy between the subject site and the neighbouring properties.

The Plan of Management will limit the use of the outdoor common areas till 9pm Monday to Sunday and will limit the use of music within each boarding room and the amount of people in each room at any one time.

It is not anticipated that the use of the driveway and parking area at the rear of the site will generate unreasonable levels of noise onto the adjoining property to the west.

Please refer to section 4A.4.1 of this report for further discussion on privacy.

Loss of solar access and insufficient solar access to common areas

Planner's comments: The subject allotment is north-south orientated with south being the rear of the property. Shadow diagrams have been submitted which demonstrate that the proposal complies with the solar access requirements of DCP 2013 and the adjoining properties will receive 2 hours of solar access during 9am-3pm on 21st June. Therefore, it is not anticipated that the development will create unreasonable levels of over-shadowing.

It should also be noted, that with the deletion of nine boarding rooms as part of the deferred commencement, the solar access to the adjoining properties will be improved as the mass of the development will be significantly reduced.

Over-development of the site relating to height, FSR, bulk and scale and not compatible with the character of the area including insufficient landscaping

Planner's comments: The proposal does not exceed the maximum height standard and measures 8.13m in height (maximum permissible is 8.5m). The proposal has an FSR of 0.70:1 (maximum permissible is 1:1). Further, the deferred commencement requires the deletion of nine rooms, reducing the gross floor area by approximately 200sqm. The proposed setbacks to the side and rear exceeds the minimum requirement. The design of the building has been designed with respect to the streetscape in terms of front setback, roof style, storey height and landscape and appears as a residential dwelling when viewed from Ramsgate Street. Therefore, the development in comparison to the site area (1372sqm) is modest in size and does not generate unreasonable levels of impacts onto the adjoining properties in terms of privacy and over-shadowing.

Loss of property value as a result of the development

Planners comment: The impacts of the development in terms of the value of the adjoining neighbouring properties is not a planning consideration. However, as the proposal is built with respect to the adjoining properties (taking into consideration the generous setbacks, compliant height and FSR and landscaping) it is not assessed as having devastating impacts to the value of the surrounding properties.

Boarding houses will attract unfavourable tenants adding to the crime within the area

Planners comment: Modern and recently built boarding houses generally attract university students or locally employed persons. It is unreasonable to assert that boarding homes only attract lower socio-economic people. Further, all boarders will be provided with the Plan of Management upon leasing a room outlining the rules and conduct of living within the establishment. Failure to abide by the rules will result in a termination of a lease. This will be implemented by the on-site manager.

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 \$376,415.06 is to be paid to Council at the rate of 27 rooms. This rate will form part of the conditions of consent.

Conclusion

Development Application No. 2018/1164 for the demolition of existing structures and construction of a 2 storey boarding house with 26 boarding rooms and one manager room, associated parking and tree removal at 14-16 Ramsgate Road has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for deferred commencement subject to conditions of consent.

Attachment

Schedule 1 - Conditions of Consent

Premises: 14-16 Ramsgate Road DA No: 2018/1164

DEFERRED COMMENCEMENT CONDITIONS

 That DEFERRED COMMENCEMENT consent be granted to this Development Application pursuant to Section 4.16(1)(3) of the Environmental Planning and Assessment Act 1979 in accordance with the deferred Commencement Conditions provided below, and subject to the conditions of consent attached to this report.

This consent must not operate until you satisfy Council of the following matters:

- (A) Plans are to be submitted deleting nine (9) individual boarding rooms to reduce the requirement of on-site parking. The following units are to be removed:
 - iii) Boarding rooms 19, 23, 27, 28, 29, 30,31,32 and 33 shown on plan DA 201 E Rev E, drawn by BKA architecture and dated 4 February 2019; and
 - iv) The deleted rooms shall be replaced with a suitable architecturally designed roof form over a single storey structure.

Evidence of the proposed solution is to be submitted to Council for review. Should the solution involve design changes to the development, amended plans are to be submitted for assessment and approval by Council.

- (B) The period of the "Deferred Commencement" consent is to be limited to 6 months
- 2. That the objector(s) be advised of the Bayside Planning Panel's decision.

GENERAL CONDITIONS

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

Drawing	Author	Dated
Ground Floor Plan DA 200 E Rev E		4 February 2019;
First Floor Plan- DA 201 E Rev E		4 February 2019;
Roof Plan- DA 202 D Rev D		5 September 2018;
Elevations- DA 300 D Rev D		4 February 2019;
Sections DA 400 D Rev D		4 February 2019;
Landscape Plan LPDA 19 -19 Page 1	Conzept Landscape	6 February 2019
Rev D	Architects	

Landscape Plan LPDA 19 -19 Page 2	Conzept Landscape	8 August 2018
Rev C	Architects	
Concept Stormwater Management	Zait Engineering	6 February 2019
Plan and Waste Management Plan	Solutions	
Drawing D01, D02, D03 and D04 Rev		
С		

Reference Documents	Author	Dated
BASIX Certificate No. 1003386M	Building & energy	20 March 2019
	Consultants Australia	
Schedule of Finishes DA 700 E Rev E	LW Designs	4 February 2019;
	Architectural Drafting	
	Services	
DA Noise Impact Assessment Rev 1	Acoustic Logic	6 September 218
Plan of Management	ABC Planning	August 2018

- 2. This Consent relates to land in Lot 21 & 22 in DP 773 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;
 - 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.
- 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 (as referenced at Condition No. 1) for the development are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
 - 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:
 - 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 Certifying Authority; and
 - 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.
- 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.
- 7. The building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993 and Local Government (General) Regulations 2005 and Public Health Act 2010 and Public Health Regulation 2012.
- No amplified/ stereo/music/ speakers are permitted in all outdoor and indoor communal areas.
- Adopt and implement all recommendations contained in the acoustic report prepared by acoustic logic – Project Number 20181042.1, Document Reference 20181042.1/0609A/R1/GC, '14-16 Ramsgate St, Botany DA Noise Impact Assessment' dated the 6 September 2018.
- Trading shall not commence until a final inspection has been carried out by Councils Environmental Health Officer and all health related requirements have been complied with.
- 11. The proprietor of the premises places of shared accommodation shall provide Council with details for Council's Environmental Health Unit register by completing the Registration form available on request from the customer service centre.

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

12. Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany DCP Part 10— Stormwater Management Technical guidelines sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Botany DCP Part 10 — Stormwater Management Technical Guidelines. All plans shall correspond with the approved architectural plans.

The detailed design plans shall incorporate the following measures:

- a)The provisions made in the Stormwater Concept Plans prepared by ZAIT Engineering Solutions Pty Ltd, job number 18DZ1678, issue B, dated May-18, and
- b)Revisions shall be made to update the stormwater plans to accurately correspond with the approved architectural plans, and
- c) Provision of a rainwater tank(s) system shall be provided with a minimum capacity of 10000L. The rainwater tank(s) shall service all toilets, clothes washers, landscape irrigation and any external taps in accordance with the requirements of Sydney Water and AS/NZS 3500 National Plumbing and Drainage Code. First flush device shall also be incorporated into the tank systems. Overflow from the rainwater tank shall connect to the proposed site drainage system.
- 13. Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed absorption trenches and underground rainwater tank(s) 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.
- 14. Prior to the issue of any Construction Certificate, the driveway over the absorption trenches shall be structurally constructed so that no load is transferred to the plastic trenches. Structural/reinforced permeable pavement shall be utilised for all permeable paving required on the driveway for the development so that no load is transferred to the plastic trench. Details of the brand and type of the proposed permeable pavement shall be submitted to the satisfaction of the principal certifier. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.
- 15. 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 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.
- 16. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the habitable areas shall be submitted to the Principal Certifying Authority for approval. The plans shall incorporate but not limited to:
 - The floor level of the habitable areas of the building shall be at least RL 8.42m AHD.
 - b) The floor level of the non-habitable areas of the building shall be at least RL 8.22m AHD.
- 17. A suitable 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 RL 8.42m AHD. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at or above RL 8.42m AHD. Details shall be provided and approved prior to the issue of the construction certificate.
- Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.
 - As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section.
- 19. Prior to issue of the Construction Certificate, an application for Driveway Works (Public Domain Construction Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- 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/sydneywater-tap-in/index.htm

21. 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.

22. The building must be constructed in accordance with AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. Details of compliance must be outlined within a report prepared by a practicing professional acoustical consultant (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). The report must be submitted to the Certifying Authority prior to the release of any Construction Certificate and the building plans must be endorsed with the required acoustical measures.

The measures required must be implemented in accordance with the provisions of AS 2021-2015 to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021-2015. The required measures shall be incorporated into the plans submitted with the Construction Certificate.

The work detailed in the report includes:

- 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.
- 23. Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (requirements
- 24. 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.

25. <u>Prior to the issue of the Construction Certificate,</u> the applicant must pay the following fees:

a)	Development Control Fee	\$3,000.00
b)	Footpath crossing Deposit	\$11,563.16
c)	Section 94 Contributions	\$376,415.06

26. A Section 7.11 contribution of \$654,025.10 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.

Breakup:	
Community Facilities	\$ 30,812.59
Recreation and Open Space	\$ 317,898.21
Transport Facilities	\$ 24,963.50
Administration	\$ 2,740.75
Total in 2018/19	\$ 376,415.06

- 27. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing deposit (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.
- 28. Prior to the issue of any Construction Certificate, the applicant shall lodge a Development Control Fee (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.
- 29. 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 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.

 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and 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 20m 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.

- 31. A dilapidation report of all adjoining properties, including a photographic survey prepared by a Practicing Structural Engineer, must be prepared in respect of the property known as 14-16 Ramsgate Road. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Certifying Authority prior the release of the Construction Certificate.
- 32. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the 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.
- 33. A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
- 34. Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.
- 35. All fixtures, fittings, furniture, shall be constructed of durable, smooth, impervious materials capable of being easily cleaned. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
- 36. Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
- Concrete area around water tank located on rear east southern boundary shall be replaced with soft landscape treatment and shall include screen shrubs to address privacy towards neighbouring properties.

38. Outdoor tap and any Irrigation system shall be connected to rainwater tank as a WSUD principle.

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

- 39. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This persons full name and address.
 - c) Details of Public Liability Insurance.
- 40. The Certifying Authority must be satisfied that:
 - a) In the case of work to be done by a licensee under the Home Building Act: -
 - 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: -
 - 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.
 - c) And is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- 41. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - 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: -
 - 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.
- 42. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the 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.
- Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
- 44. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 45. 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.
- 46. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Soil and Water Management Plan if required under this consent;
 - "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organization of Councils, 2001; and
 - "Managing Urban Stormwater Soils and Construction" published by the NSW Department of Housing 4th Edition" ('The Blue Book').
 - d) Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (http://www.austieca.com.au/) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommenced that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The "Do it Right On Site," can be downloaded free of charge from Council's website at: http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm, further information on sediment control can be obtained from www.ssroc.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution".

Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where

pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

47. Prior to commencement of any works, relevant 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.)

- Permit to erect hoarding on or over a public place, including Council's property/road reserve;
- 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);
- Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
- Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / readjustments of utility services;
- f) Permit to place skip/waste bin on footpath and/or nature strip; and
- g) Permit to use any part of Council's road reserve or other Council lands.

(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 Engineering and Regulatory Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

- 48. 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, piering, 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 of the soil must be provided and:-
- ii. Adequate provision must be made for drainage.
- 49. For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

- 50. 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.
- 51. The Eucalyptus botryoides (Bangalay) located in the south west corner of the block is to be retained and protected. A sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.

All other trees on the site shall be removed, subject to one (1) Corymbia maculata (Spotted Gums) of 100L root ball to be planted in the rear yard (not within three (3) meters from any building structure) so as to offset the removal of the significant Araucaria heterophylla (Norfolk Island Pine).

Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan.

DURING WORKS

 Any demolition work shall be carried out in accordance with Australian Standards AS 2601-2001 Demolition of Structures and the requirements of the NSW WorkCover Authority.

- 53. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
 - 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;
 - Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - DECC Waste Classification Guidelines 2008.
- 54. No demolition materials shall be burnt or buried on the site.
- All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
- 56. The proposed development shall comply with the following:
 - 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;
 - 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
 - The name of the Certifying Authority including an after-hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
- 57. 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. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

58.

- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - 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.
 - Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -

The additional load on the system; and

The relocation and/or adjustment of the services affected by the construction.

- b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 59. Should the construction 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.
- 60. 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.
- 61. The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.
- 62. 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.
- 63. If any 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, piering, 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.

- f) 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.
- 64. Any dewatering is not permitted on this site without NSW-EPA approval.
- 65. The following shall be complied with during construction and demolition:
 - a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.

- b) Level Restrictions
 - Construction period of 4 weeks and under:

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

ii) Construction period greater than 4 weeks and not exceeding 28 weeks:

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

c) Time Restrictions

i) Monday to Friday 07:00am to 05:00pm
 ii) Saturday 08:00am to 01:00pm

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

d) Silencing

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

- 66. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - a) construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:

to a public sewer; or

- if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
- if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls as required by this consent and the Protection of the Environment Operations Act 1997.
- 68. 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.

69.

- 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.
- 70. 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 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.

- 71. Separate permits are required to be obtained and approved by 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.
- 72. 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.
- 73. Inspections must be conducted by Council's Engineer at the following occasions:
 - 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.
- 74. 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.
- 75. 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.
- 76. 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.

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

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

- 78. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
 - a) On Ramsgate Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
 - On Ramsgate Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
- 79. 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.
- 80. 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. 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.
- 81. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
 - The overflow from the rainwater tank shall be directed to the storm water system.
- All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
- A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

- 82. 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. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
- 83. 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:
 - · Restriction on Use of Land and Positive covenant for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
- 84. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable floor levels are constructed at or above RL 8.42m AHD. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
- 85. Flow through open form fencing (louvres or pool fencing) is required for all new front fencing and all internal fences and gates up to RL 7.92m AHD. Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Details of approved types of flow through fencing can be obtained from Council. Documentation shall be provided to Certifying Authority prior to occupation.
- 86. Prior to occupation, all off-street car, bicycle and motorcycle spaces shall be provided in accordance with the approved architectural plans. All spaces shall be line marked in accordance with AS2890 parking series to the satisfaction of a suitably qualified traffic engineer. Bollards shall be erected for all accessible parking spaces in accordance with AS/NZS 2890.6:2009.
- 87. 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: "Vehicles shall enter and exit the site in a forward direction at all times".
- 88. A benchmark shall be established adjacent to the lowest point of the driveway to Australian Height Datum to enable comparison to the flood standard and the flood risk management plan shall be permanently erected to a prominent location within the development to the satisfaction of the principal certifier prior to occupation.
- 89. 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 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).

- 90. Prior to the issue of any Occupation Certificate, satisfactory inspection reports (formwork and final) for any works on the road reserve shall be obtained from Council's engineer and submitted to the Certifying Authority.
- 91. 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.
- 92. The Council nature strip at any site frontage shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- 93. Prior the issue of the relevant Occupation Certificate an experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
- 94. 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 carried out in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
- 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

- 96. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 97. 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 <u>does not include</u> 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.
- 98. The boarding house shall at all times be operated in accordance with the Plan of Management (PoM) which forms part of this consent In addition, the Plan of Management is to address and include the following to Council's written satisfaction prior to the issue of the Construction Certificate:
 - a) Compliance with requirements the PoE (Noise Control) Regulation (2008)
 - b) Recommendations documented in the acoustic logic Project Number 20181042.1, Document Reference 20181042.1/0609A/R1/GC, '14-16 Ramsgate St, Botany DA Noise Impact Assessment' dated the 6 September 2018.

- c) Procedures for recording details of on-site motor vehicles/motor scooters/bikes
- d) Induction procedures for operating motor vehicles/scooters/bikes on site, including but not limited to, excessive noise, excessive acceleration, gear changing, speed limit <10kph, amplified music and stationary on-site vehicles.
- e) Procedures for addressing, managing and handling community specific issue arising on site activities and generated traffic on Ramsgate Street. This will involve community generated complaints being referred directly to the Site Manager. If the Site Manager is not on site at the time, an entry in the Site Management Book will be made to ensure appropriate action and monitoring is undertaken. A response would be required by the Site Manager to Complainant within 24 hours and prior to the 'close out' the complaint, Resolution of the compliant will recorded in Site Management Book. The Site Management Book will be maintained on site and made available to Council on request.
- f) Maintenance procedure to ensure that the audio/video surveillance system installed for the purpose of managing on-site activities at the rear of the site is operational 24 hours a day, 7 days a week with direct streaming to the site office. Recorded data from the system shall be maintained for not less than 30 days and provided to Council on request,
- g) Details of how on-site car and motorbike parking spaces will be allocated for specific boarders and Site Manager.
- h) Procedures to be adopted by boarders and/or notices to boarders with respect to the use by any boarder and visitors.
- All deliveries and waste collection are to be managed by the Site Manager in strict compliance with an operational Plan of Management (PoM) that prohibits uses during peak traffic generation times.
- 99. In addition, the plan of management is to address and include the following to Council's written satisfaction prior to the issue of the Construction Certificate:
 - a) Procedures managing and controlling motor scooters/bikes engine capacities to less than 300/400cc
- 100. 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. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed. Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.
- 101. 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.

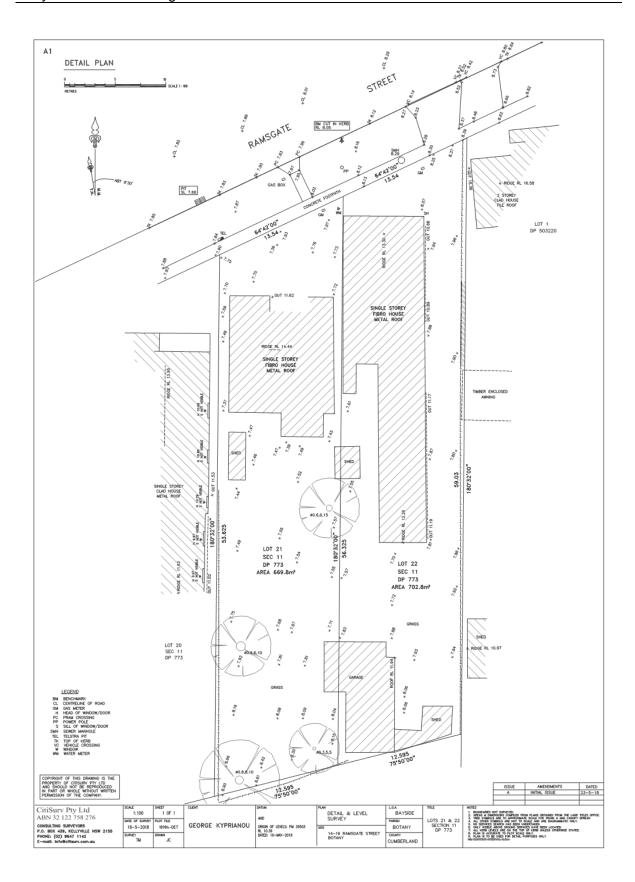
The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

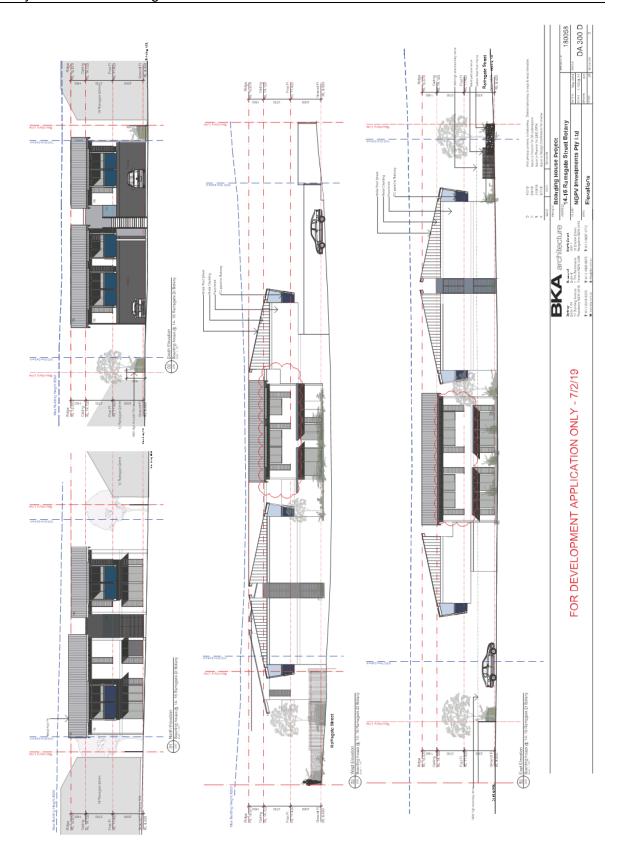
For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

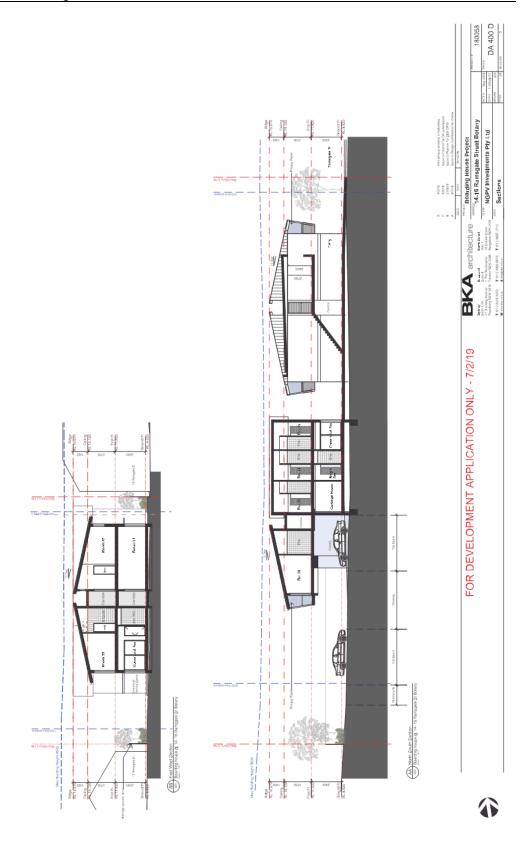
- 102. Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- 103. The Protection of the Environment Operations (Noise Control) Regulation 2000, states that noise from any air-conditioning units (measured as the Laeq 15 minute) is not to exceed the background level (measured as the La90 15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

Note: in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is 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.

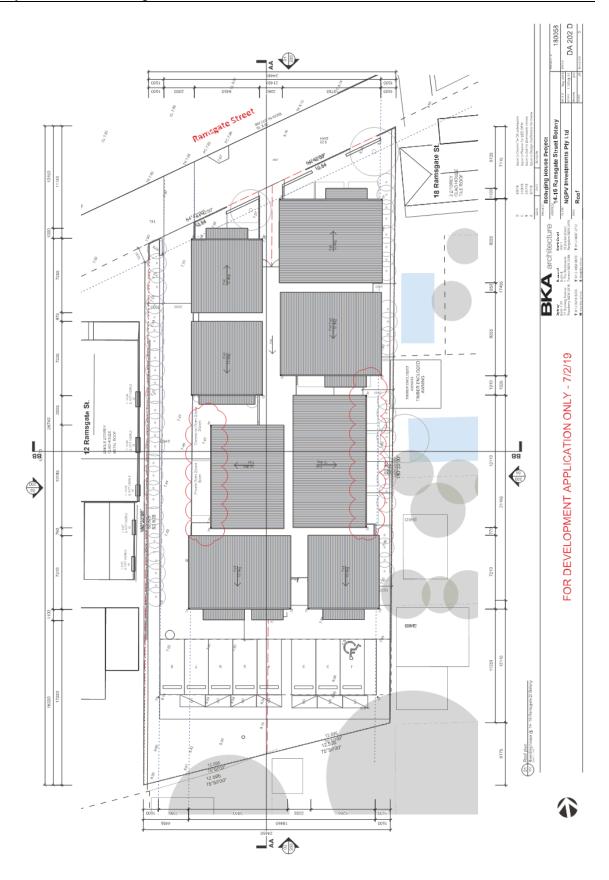
- 104. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
- 105. 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. 2018/1164 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.



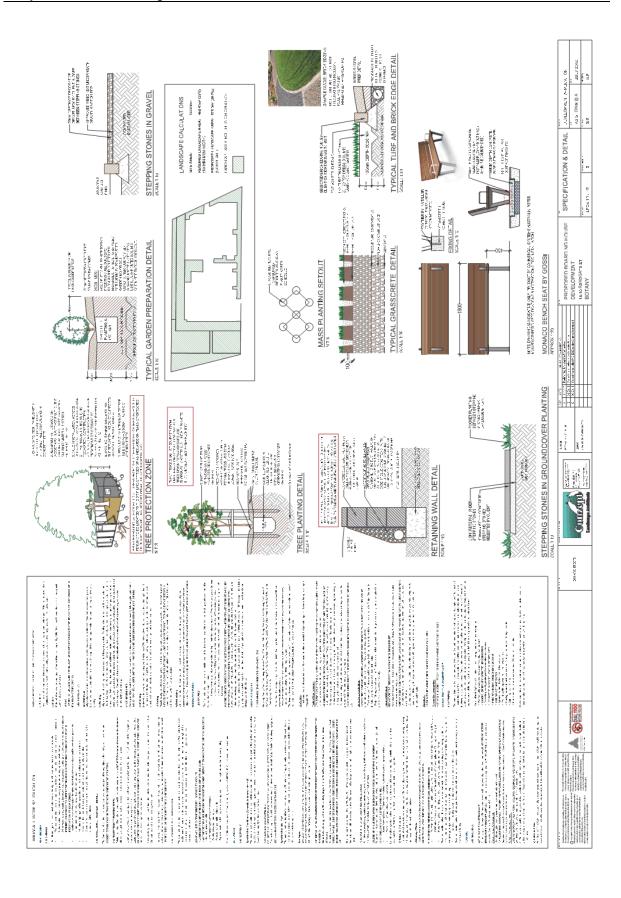




Item 6.1 – Attachment 4







Bayside Local Planning Panel



Item 6.1 – Attachment 7



STATEMENT OF ENVIRONMENTAL EFFECTS

14-16 Ramsgate Street, Botany



Demolition of the existing dwellings and construction of a 2 storey boarding house with 35 rooms, one manager's room and 14 car spaces

Submitted to Bayside Council
On Behalf of NGPV Investments Pty Ltd

August 2018

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Statement of Environmental Effects 14-16 Ramsgate Street, Botany

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1. INTRODUCTION

ABC Planning Pty Ltd has been engaged to prepare this Statement of Environmental Effects to accompany the Development Application for demolition of the existing dwellings and construction of a 2-storey boarding house at 14-16 Ramsgate Street, Botany.

This statement should be read in conjunction with the architectural drawings prepared by BKA Architecture, dated July 2018.

The following consultant reports and plans also accompany the development application:

- · Acoustic Report prepared by Acoustic Logic;
- · Arborist Report prepared TLC Tree Solutions;
- Geotechnical Report prepared by Geotechnical Consultants Australia;
- · GFA Certificate prepared by Citisurv;
- Flood Study prepared by Zait Engineering Solutions;
- Landscape Plan prepared by Conzept Landscape Architects;
- Plan of Management prepared by ABC Planning (Appendix 1);
- Stormwater Drainage Plans prepared by Zait Engineering Solutions;
- · Survey Plan prepared by Citisurv;
- Traffic Report prepared by ML Traffic Engineers

This statement provides an outline of the subject and surrounding sites, a description of the proposal and an assessment under the relevant Planning Controls, including the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979.

The proposal seeks to construct a 2-storey boarding house comprising 35 boarding rooms, 1 manager's room, 1 communal room and parking facilities for 13 cars plus 1 car share space, 7 motorcycles and 7 bicycles.

The proposed boarding house is permissible in the R2 Low Density Residential zone under Botany Bay LEP 2013.

The replacement of the existing single dwellings with an attractively designed boarding house represents a desirable visual and social outcome on the site. The contribution of the proposal to housing affordability and the provision of high quality internal amenity to the boarding rooms with no unreasonable external amenity impacts confirm that the proposal achieves the objectives of the zone.

The proposed 2-storey scale of the built form is compliant with the 8.5m statutory height limit. The proposed FSR is compliant with the maximum LEP standard of 1:1 and represents a compatible bulk and scale with surrounding dwellings. The fragmented form of development further minimises the visual bulk of the built form and results in a cohesive presentation in the streetscape.

The proposal meets the relevant criteria within the State Environmental Planning Policy (Affordable Rental Housing) 2009 in regard to:

- Building Height
- Floor space ratio
- Landscaped area
- Accommodation size
- · Manager's room and private open space
- Indoor Communal Room

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- · Outdoor communal open space
- Solar Access

The provision of 13 car spaces plus 1 car share space for 35 boarding rooms is considered an adequate parking outcome for the subject site.

A compliant number of motorcycle and bicycle spaces are provided (7 each) and the site's proximity to public transport along Banksia Street (270m to the north) and Botany Road (460m to the west), shops and services in Botany Town Centre (500m to the west) and recreational areas (Booralee Park 500m to the north), reduces reliance on car ownership and encourages alternative modes of transport like walking, cycling and public transport.

Furthermore, there is abundant on-street parking available along Ramsgate Street and surrounding streets, as shown on the aerial photographs in **Appendix 2**.

The proposal demonstrates a high degree of compliance with Botany Bay DCP 2013, particularly with regard to the specific provisions for boarding houses.

The proposed development results in minimal environmental impacts to neighbouring properties in regard to privacy, solar access and view loss.

In this regard, the proposal maintains visual privacy to adjoining neighbours to the east and west by limiting the number of side-facing rooms and orienting the majority of rooms to the north or south.

The adjoining neighbour to the east at 18 Ramsgate Street as no openings on its western elevation, whilst a setback of 4.5m is provided to the western boundary, providing an adequate separation distance between the subject proposal and the western adjoining neighbour at 12 Ramsgate Street.

Side-facing boarding rooms are also set in from the main building line, as shown on the floor plan below:

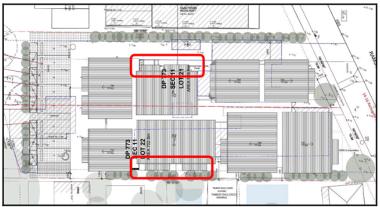


Figure 1: Site plan showing side-facing rooms are set-in from the main building line

The parking facilities are suitably located at the rear of the boarding house to ensure acoustic impacts associated with car parking are minimised.

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The north-south orientation of the subject site ensures that more than 3 hours solar access is maintained to adjoining neighbours, as demonstrated on the accompanying shadow diagrams.

Overall, it is considered that the proposed boarding house will provide for affordable accommodation in an accessible area, whilst the architectural quality of the proposal is considered to be of a high level as demonstrated on the accompanying architectural plans and elevations, provided by BKA. The proposed development will sit comfortably sit comfortably in its context and provide a positive contribution to this part of Botany.

Therefore, it is considered that the proposed boarding house is worthy of approval.

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14-16 Ramsgate Street, Botany

2. SITE ANALYSIS

This section provides a detailed description of the existing site and surrounding development.

2.1. Site Location and Context

The subject site is located on the southern side of Ramsgate Street between Tenterden Road to the east and Cranbrook Street to the west. Botany Road is located further to the west

The site is formally identified as Lot 21 and 22 / Section 11 / DP 773. The subject site has a total frontage to Ramsgate Street of 27m, a depth of 53.6m - 59m and a total site area of 1372.6 sqm.

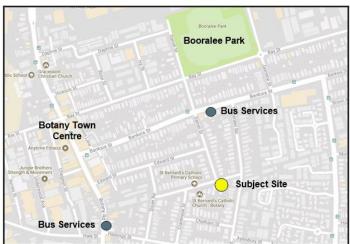


Figure 2: Site location and context



Figure 3: Aerial Photo showing subject site in red outline

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14-16 Ramsgate Street, Botany

2.2. Existing Development

The subject site comprises of two lots. A single-storey dwelling is located on each lot.



Figure 4: Existing single-storey dwellings on the subject site

14-16 Ramsgate Street, Botany

3. SURROUNDING DEVELOPMENT

3.1. North

To the north of the subject site are dwellings addressed to Daniel Street. The southern elevation of 25 Daniel Street is directly opposite the subject site which has minimal south-facing openings.



Figure 5: South elevation of 25 Daniel Street, with minimal openings facing the subject site



Figure 6: Rear interface between 25 Daniel Street and 87 Tenterden Road, opposite the subject site

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3.2. East

A 2-storey dwelling adjoins the subject site to the east which has no west-facing openings, as shown below:



Figure 7: Eastern adjoining neighbour at 18 Ramsgate Street

3.3. South

To the south of the subject site are dwellings addressed to Chatham Street.



Figure 8: Dwellings addressed to Chatham Street, to the rear of the subject site

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The aerial photo below demonstrates a substantial separation distance between the subject site and these dwellings:



Figure 9: Aerial photo showing large separation distance between the neighbouring dwellings to the south and the common boundary

3.4. West

To the west of the subject site is a mix of uses including dwelling houses, places of public worship, and a childcare centre.



Figure 10: Mixed development types to the west of the subject site along Ramsgate Street

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4. PROPOSAL

The proposal seeks to demolish the existing dwellings and construct a 2-storey boarding house with the following components:

Table 1: Development Summary

rable 1. Development Samin	_'
Level	Building Composition
Ground Floor	 13 boarding rooms (including 2 accessible rooms) 1 communal room with communal outdoor terrace 1 manager's room Garbage room At-grade parking for 14 cars (including 1 accessible space and 1 car share space) 7 motorcycle spaces 7 bicycle spaces Landscaped open space at rear
First Floor	22 boarding roomsStair access to ground floor
Total	35 Boarding Rooms 1 Manager's Room 1 Communal Room 14 Car spaces 7 Motorcycle Spaces 7 Bicycle Spaces

14-16 Ramsgate Street, Botany

5. ASSESSMENT UNDER RELEVANT CONTROLS

The following planning instruments are relevant to the proposed development:

- SEPP (Affordable Rental Housing) 2009;
- SEPP 55 Remediation of Land;
- SEPP Basix
- Botany Bay LEP 2013; and
- Botany Bay DCP 2013.

5.1. LEP AND DCP COMPLIANCE SUMMARY

Table 1 below provides a snapshot of compliance of the proposed boarding house with the LEP and DCP controls. The following sections expand on the items identified below.

Table 2: Summary Compliance Table

ITEM	CONTROL	PROPOSED	COMPLIANCE
AHSEPP 2009	– Division 3 – Boarding Houses		
FSR	1:1	0.72:1	✓
Building height	Not more than the maximum permitted under another environmental planning instrument 8.5m	7.15m	1
Solar Access	Minimum of 3 hours between 9am – 3pm mid-winter to the communal living room	Greater than 3 hours achieved	*
Private Open Space	One area of at least 20m ² with a minimum dimension of 3m + 8m ² with a minimum dimension of	30sqm with min 3.5m dimension	*
	2.5m adjacent to the boarding house manager	8sqm private open space 2m x 4mm	*
Communal area	If a boarding house has 5 or more boarding rooms, 1 communal living room is to be provided	Communal area provided on ground floor	*
Room sizes	Each room has a minimum GFA (excluding private kitchens or bathroom facilities) of: Single Lodger: 12m ² Double lodger: 16m ² No boarding room is to exceed 25m ²	All rooms are more than 12 sqm for single rooms and more than 16sqm for double rooms and not more than 25sqm excluding the kitchen and bathroom.	•
Boarding House Manager	If the boarding house accommodates 20 or more lodgers, a boarding room will be	A room is provided for the onsite manager	~

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14-16 Ramsgate Street, Botany

ITEM	CONTROL	PROPOSED	COMPLIANCE
	provided for the on-site manager		
Parking	At least 0.5 car spaces per boarding room	36 boarding rooms require 17.5 spaces	
	At least 1 space will be provided	42	
	for a bicycle and 1 space for a	13 car spaces and 1 car share space provided	× ,
	motorcycle for every 5 boarding	7 bicycle spaces	✓
	rooms	7 motorcycle spaces	
Botany LEP 20	13		
Zoning	R2 Low Density zone	Boarding House	✓
Height	8.5m	7.15m	✓
FSR	1:1	0.72:1	√
Botany DCP 20	13 – Part 7A: Boarding Houses		
Boarding rooms	12m ² – including 1.5m ² for wardrobe space + 4m ² for a second adult 2.9m ² for ensuite 1.1m ² for any laundry 2m ² for a kitchenette	Room sizes exceed the required areas	✓
Accessibility	Minimum of 1 boarding room is to be accessible	2 accessible rooms are provided	√
Private open space	30% of all boarding rooms are to have private open space with a minimum 4m²	Private open space is provided	✓
Natural light and ventilation	Each boarding room must have access to natural light and ventilation	Natural light and ventilation are provided to each room	√
Floor to ceiling heights	Minimum 2.7m	Min 2.7m	√
Internal	Minimum area of 20m ² or 1.25m ²	21.5m ²	✓
communal area	per resident with a minimum width of 3m To be located adjacent to communal open space	Internal communal area provided adjacent to communal open space which receives more than 2 hours solar access between 9am and 3pm on June 21st	
	minimum 2 hours solar access between 9am – 3pm		
Communal open space	Minimum 20m² with a minimum dimension of 3m North facing	30 sqm located adjacent to the internal communal room.	√
	Minimum 2 hours solar access between 9am -3pm Partial covered	Additional communal open space provided at rear of site	
	Incorporates soft landscaping for 50% of the area	More than 2 hours solar access achieved Paving and soft landscaping	
		proposed	

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5.2. SEPP (Affordable Rental Housing) 2009

The following table provides a comprehensive assessment against Division 3 of the AHSEPP 2009 as it applies to the subject site and proposed development.

Table 3: SEPP (Affordable Rental Housing) 2009 – Division 3

Table 3: SEPP (Affordable Rental Housi	ng) 2009 – Div	ision 3
SEPP -	Complies	Development Assessment Response
Affordable Rental Housing 2009	- 	
PART 1 – GENERAL AIMS OF TH		
The aims of this Policy are as followed	1	
(a) to provide a consistent planning regime for the provision of affordable rental housing,	√	Complies The proposed development seeks to deliver affordable rental accommodation consistent with the aims and intentions of this SEPP.
(b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards	~	Complies The subject site is located within the R2 Low Density Residential zone and therefore is not afforded any bonus FSR under SEPPARH.
(c) to facilitate the retention and mitigate the loss of existing affordable rental housing	N/A	Not Applicable The proposed development is for the replacement of two existing residential dwellings with a boarding house development.
(d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing	√	Complies The development provides for new affordable rental housing in the form of a boarding house.
(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing	N/A	Not Applicable The proposed boarding house will not be operated by a not-for-profit-provider of affordable rental housing
(f) to support local business centres by providing affordable rental housing for workers close to places of work	*	Complies The proposed boarding house provides affordable accommodation in proximity to local business which therefore supports both workers and local businesses.
(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.	N/A	Not applicable The proposed development is not classified as a group home or supportive accommodation.
DIVISION 3 – BOARDING HOUSE		
26. Land to which this Division at This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones: (a) Zone R1 General Residential, (b) Zone R2 Low Density	oplies ✓	Complies The subject site is located within zone R2 Low Density Residential of which this division applies.

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SEPP -		
Affordable Rental Housing 2009	Complies	Development Assessment Response
Residential,		
(c) Zone R3 Medium Density		
Residential,		
(d) Zone R4 High Density Residential,		
(e) Zone B1 Neighbourhood		
Centre,		
(f) Zone B2 Local Centre,		
(g) Zone B4 Mixed Use.		
27 Development to which this Div	ision applie	s
(1) This Division applies to	✓	Complies
development, on land to which		The application seeks approval for the
this Division applies, for the		construction of a boarding house.
purposes of boarding houses.	✓	Commiss
(2) Despite subclause (1), this Division does not apply to	· ·	Complies The subject site is located on land identified as R2
development on land within Zone		Low Density Residential. Furthermore, the subject
R2 Low Density Residential or		site is located within the Sydney region and is
within a land use zone that is		within an accessible area, which, for the purpose
equivalent to that zone in the		of the subject site, is defined by the SEPPARH as
Sydney region unless the land is		being:
within an accessible area.		400m walking distance of a bus stop used by a
		regular bus service that has at least one bus per
		hour servicing the bus stop between 06.00 and
		21.00 each day from Monday to Friday (both days inclusive) and between 8.00 and 18.00 on each
		Saturday and Sunday.
		The subject site is located within 270m walking
		distance of bus stops (X09/309) on Banksia Street
		to the north that are serviced by buses in
		accordance with the above definition.
(3) Despite subclause (1), this	✓	Complies
Division does not apply to		The subject site is located within the Sydney
development on land within Zone R2 Low Density Residential or		region and is within 400m of the B2 Local Centre zone to the west along Botany Road.
within a land use zone that is		Zone to the west along botally Road.
equivalent to that zone that is not		
in the Sydney region unless all or		
part of the development is within		
400 metres walking distance of		
land within Zone B2 Local Centre		
or Zone B4 Mixed Use or within a		
land use zone that is equivalent to any of those zones		
29 Standards that cannot be used	to refuse o	onsent
		to development to which this Division applies on
		and scale of the buildings when expressed as a
floor space ratio are not more th		g
(a) the existing maximum floor	✓	Complies
space ratio for any form of		The proposed FSR of 0.72:1 complies with the
residential accommodation		maximum FSR for the site under the LEP (1:1).
permitted on the land,		
(b) if the development is on land	N/A	Not Applicable
within a zone in which no		The development is on land within a zone in which
residential accommodation is		residential accommodation is permitted.
permitted—the existing maximum		
floor space ratio for any form of		

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SEPP – Affordable Rental Housing 2009	Complies	Development Assessment Response
development permitted on the		
land (c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:	N/A	Not Applicable Residential flat buildings are not permitted in the R2 Low Density zone under the Botany Bay LEP 2013. Therefore the subject site and proposed boarding house use is not afforded an additional floor space ratio bonus under this SEPP.
(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1. (2) A consent authority must not reany of the following grounds:	efuse consen	t to development to which this Division applies on
(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land	√	Complies The subject site is afforded a maximum building height of 8.5mm. The proposed development has a maximum height of 7.15m and therefore complies with the maximum permitted on the subject site.
(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located	*	Complies The proposed development includes a landscaped front setback. It is considered that this is compatible with the streetscape in which the building is located.
(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	√	Complies The proposed development provides for a north and west-facing communal living room that receives at least 3 hours of direct sunlight on June 21st.
(d) private open space if at least the following private open space areas are provided (other than the front setback area): (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum	•	Complies A communal terrace with an area of 30sqm is provided at ground floor level which is accessed directly from the communal room. A further landscaped garden is located at the rear of the site. The proposal includes accommodation for a boarding house manager, which includes a private open space area of 8m² and minimum dimension of 2m.

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SEPP -	Complies	Davidonment Assessment Bernance
Affordable Rental Housing 2009	Complies	Development Assessment Response
dimension of 2.5 metres is provided adjacent to that accommodation		
(e) parking if: (i) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and (ii) in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site		Complies 0.5 parking spaces are required per boarding room, resulting in a total parking requirement of 17.5 car spaces for 35 boarding rooms. 14 at-grade parking spaces are proposed at the rear of the site which is considered to be adequate. This includes 1 car share space. A compliant number of motorcycle and bicycle spaces are provided (7 each) whilst the site's proximity to public transport along Banksia Street (270m to the north) and Botany Road (460m to the west), shops and services in Botany Town Centre (500m to the west) and recreational areas (Booralee Park 500m to the north), reduces reliance on car ownership and encourages alternative modes of transport like walking, cycling and public transport, as shown in Figure 1 above.
		Aviesbury St Subject site Sub
(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least: (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	~	Complies The proposed development includes 24 single boarding rooms and 9 double boarding rooms. All of the single boarding rooms have a minimum GFA of 12 sqm, whilst all double boarding rooms have a minimum GFA of 16 sqm. Such areas exclude bathroom and kitchen facilities.
(3) A boarding house may have private kitchen or bathroom facilities in each boarding room	✓	Complies Each boarding room is equipped with private bathroom facilities, laundry facilities and

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SEPP -	Complies	Development Assessment Response	
Affordable Rental Housing 2009	001111111111111111111111111111111111111		
but is not required to have those		kitchenettes	
facilities in any boarding room.		Noted	
(4) A consent authority may consent to development to which	-	Noted	
this Division applies whether or			
not the development complies			
with the standards set out in			
subclause (1) or (2).			
30 Standards for Boarding House	s		
(1) A consent authority must not co satisfied of each of the following:	nsent to dev	elopment to which this Division applies unless it is	
(a) if a boarding house has 5 or	✓	Complies	
more boarding rooms, at least		The proposed development provides for a	
one communal living room will be		communal living room at ground level.	
provided			
(b) no boarding room will have a	✓	Complies	
gross floor area (excluding any		No boarding room is greater than 25 sqm.	
area used for the purposes of			
private kitchen or bathroom facilities) of more than 25 square			
metres			
(c) no boarding room will be	√	Complies	
occupied by more than 2 adult		No boarding room will be occupied by more than 2	
lodgers		lodgers.	
(d) adequate bathroom and	✓	Complies	
kitchen facilities will be available		All boarding rooms contain bathroom and kitchen	
within the boarding house for the		facilities.	
use of each lodger			
(e) if the boarding house has	✓	Complies	
capacity to accommodate 20 or		The proposed development is capable of accommodating a maximum of 46 lodgers.	
more lodgers, a boarding room or on site dwelling will be provided		accommodating a maximum of 46 lodgers.	
for a boarding house manager		A separate onsite manager's room is provided for	
lor a boarding nodes manager		the boarding house manager.	
(f) (Repealed)	N/A	N/A	
(g) if the boarding house is on	✓	Not Applicable	
land zoned primarily for		The site is zoned for residential purposes, of	
commercial purposes, no part of		which Boarding House is a permissible use.	
the ground floor of the boarding			
house that fronts a street will be			
used for residential purposes			
unless another environmental			
planning instrument permits such a use			
	✓	Complies	
(h) at least one parking space will be provided for a bicycle, and one	ľ	7 bicycle spaces and 7 motorbike spaces are	
will be provided for a motorcycle.		provided.	
for every 5 boarding rooms			
(2) Subclause (1) does not apply	N/A	Not Applicable	
to development for the purposes		The proposed development is for the erection of a	
of minor alterations or additions to		new boarding house.	
an existing boarding house			
31 Character of Local Area			
A consent authority must not	✓	Complies	

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SEPP -	Complies	Davidanment Assessment Bernance
Affordable Rental Housing 2009	Complies	Development Assessment Response
consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area		The proposed height, bulk and scale and siting of the development is considered to be harmonious with the existing and likely future character of the area that is established by the zoning and associated LEP and DCP controls.
the local area		The proposed orientation of the majority of boarding rooms to the north and south, whilst setting-in the side-facing rooms allows for future redevelopment of the eastern and western adjoining neighbours.
		The residential nature of the boarding house use is compatible with the low-density residential context along Ramsgate Street.
		The landscaped setting of the subject site is enhanced through the retention of trees at the rear whilst providing additional planting within the front, side and rear setbacks.
		The high quality architectural response which complies with the applicable FSR and height controls confirms that that proposal will sit comfortably in the character of the local area. In particular, the fragmented built form reduces the visual bulk of the proposal whilst achieving a cohesive presentation with the single dwellings in in the immediate vicinity of the subject site.
		The high degree of compliance and amenity of the proposed boarding house further confirms that the site is appropriate for the proposed use and built form.
		The proposal is thereby considered to be compatible with the character of the local area.

5.3. SEPP (Building Sustainability Index: BASIX) 2004

The proposal is accompanied by a compliant BASIX Certificate which demonstrates reduced reliance on artificial heating, cooling and lighting. The high internal performance of the boarding house also assists in this regard.

Water saving devices are also included in the proposal.

5.4. SEPP 55 - Remediation of Land

SEPP 55 introduces State wide planning controls for the remediation of contaminated land.

The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.

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Currently the site is used for residential uses and therefore it is considered that the site is suitable for the proposed boarding house use.

5.5. Botany Bay LEP 2013

5.5.1. **Z**oning



Figure 12: Zoning Map

Objectives of zone

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

Assessment: The proposed boarding house is permissible in the R2 Low Density Residential zone and provides for the housing needs of the community by providing affordable housing in an accessible area close to transport links, shops and services.

The proposal therefore accords with the zone objectives.

5.5.2. Building Height



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Figure 13: Building Height

The objectives of this clause are as follows:

- a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner,
- b) to ensure that taller buildings are appropriately located,
- c) to ensure that building height is consistent with the desired future character of an area,
- d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
- to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.

Assessment: The accompanying elevations demonstrate that the proposed boarding house is well below the 8.5m height limit.

The 2-storey scale of development is compatible with the surrounding dwellings and other uses along Ramsgate Street. The proposed height maintains amenity to surrounding properties in regard to solar access and privacy whilst there are no views affected by the proposal. The proposed height thereby satisfies the objectives of the standard.

5.5.3. Floor Space Ratio



Figure 14: FSR Map

The objectives of this clause are as follows:

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

4.4a(d) the maximum floor space ratio for all other development for the purpose of residential accommodation is 0.5:1.

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Assessment: The subject site has a maximum FSR of 1:1 in accordance with the Botany Bay LEP 2013.

The proposed FSR of 0.72:1 is therefore compliant with the maximum.

The proposed built form (2 storey scale of development) is compatible with the surrounding dwellings and development along Ramsgate Avenue.

5.5.4. Heritage Conservation



Figure 15: Heritage Map

Assessment: The subject site is not identified as a heritage item, nor is it located within a heritage conservation area. The subject site is not in the vicinity of any heritage items, therefore this clause does not apply.

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5.6. Botany Bay DCP 2013

5.6.1. General Provisions

The table below sets out the General Provisions of the Botany Bay DCP 2013 that apply to the subject site and proposed boarding house.

Table 4: Botany Bay DCP 2013 - Part 3: General Provisions

Controls	Response			
3A: Parking & Access	Generally Complies The proposed development complies with the objectives of the parking provisions, as per the AHSEPP 2009 parking rates, which requires the development to provide 17.5 car spaces, 5 bicycle spaces and 5 motorcycle spaces. This has been addressed above.			
3B: Heritage	Not Applicable			
3C: Access & Mobility	Complies Two accessible boarding rooms are provided on the ground floor level of the proposed boarding house as well as 1 accessible car space. Equitable access is provided to the boarding house and communal areas.			
3D: Signage	Not Applicable			
3E: Subdivision and Amalgamation	Complies The proposed boarding house comprises two fragmented built forms either side of a central corridor. The streetscape elevation below demonstrates that the proposed boarding house will present as two built forms, thereby preserving the existing subdivision pattern along Ramsgate Street.			

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Controls	Response
	Figure 16: Streetscape elevation demonstrating that the proposed boarding house will present as two low-density built forms
3F: Tree Management	Complies An Arborist Report accompanies the development application which identifies the existing trees on site as being of medium or low retention value. Two of the existing trees are proposed to be removed, whilst the proposal allows for the retention of two trees on the subject site and two on the adjacent site to the east. The Arborist Report provides recommendations to ensure the safe retention of the nominated trees.
3G: Stormwater	Complies
Management	The accompanying stormwater plan shows that stormwater can be collected and disposed of in an orderly manner.
3H: Sustainable Design	Complies All units enjoy an open aspect which ensures that they will receive abundant daylight, sunlight and natural ventilation. The accompanying BASIX Certificate demonstrates reduced reliance on artificial heating, cooling and lighting. Water saving devices are also included in the proposal.
3I: Crime Prevention, Safety and Security	Complies Pedestrian and vehicular access to and from the site will be secure. The proposed orientation of boarding rooms and balconies towards the respective street frontages significantly improves casual surveillance when compared with the existing warehouse/office building on the site.
3J: Aircraft Noise & OLS	Not Applicable This site is not affected by aircraft noise, as demonstrated by the accompanying Acoustic Report prepared by Acoustic Logic.
3K: Contamination	Complies Currently the site is used for residential uses and therefore it is considered that the land is not contaminated.
3L: Landscaping	Complies The accompanying landscape plan prepared by Conzept Landscape Architects demonstrates that there will be a suitable degree of landscaping provided within and around the subject site to soften the appearance of the built form.
3M: Natural Resources	Not Applicable
3N: Waste Minimisation and Management	Complies The existing building will be demolished in an orderly manner in accordance with WorkCover practices.
	A garbage and recycling room is provided at the rear of the of the proposed built form, which is enclosed to avoid any adverse

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Controls	Response
	visual or odour impacts.
	Please refer to the accompanying Waste Management Plan prepared by BKA Architects which demonstrates compliance with Council's waste policy.

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5.6.2. Boarding House Provisions

The table below sets out the Boarding House Provisions of the Botany Bay DCP 2013 that apply to the subject site and proposed boarding house.

Table 5: Botany Bay DCP 2013 - Part 7 Boarding House Provisions

	Objectives	Controls	Response
7A	4 Boarding Houses		
7A	.4.1 General Requirements		
1.	To achieve a pleasant and attractive living environment for future occupants and adjoining properties;	General C1 All Boarding Houses shall comply with the relevant parts of Part 4 - Residential	Complies It is considered that the proposed boarding house satisfies the general requirements as it will
2.	To ensure that site planning and design results in acceptable levels of amenity to meet the needs of residents and owners;	Development.	provide for a pleasant and attractive living environment as each room has its own ensuite, kitchenette, storage, bedroom and living areas as
3 .	To ensure clear and suitable operational measure and practices are in place for the on-going management of boarding houses; and To minimise the adverse impacts associated		well as all rooms having access to private open space in the form of ground floor terraces or upper level balconies. Such a level of amenity is considered to be superior to the degree of amenity anticipated for boarding rooms. The
	with boarding houses on adjoining properties and the vicinity.		accompanying Plan of Management also ensures that there are suitable practices in place for the ongoing management whilst also minimising any potential impacts externally.
		Design	Complies
		C2 Development, including additions and alterations, must reflect the built form and design of surrounding area. Refer to the relevant desired future character statement in Part 4, 5, 6. 8 or 9, depending on the zoning and locality of the development site.	The proposed design is considered to be of a high quality which will be compatible with the low density residential nature of development within the locality. The accompanying elevations and colours, material and finishes schedule demonstrate the high quality of the design.

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	C3 Outdoor recreational areas e.g. courtyards and gardens should be located, if possible, away from bedrooms and habitable rooms of adjoining residences. C4 Landscaping should be used to soften and minimised noise impacts from courtyards, gardens and driveways on the surrounding area.	
	Location	Complies
	C5 Boarding houses are to be located in close proximity to public transport i.e. within 400 metres.	The site is located 270m from bus stops on Banksia Street to the north and 450m from Botany Road which is a major public transport route as shown on the map below: Supplies Myrtle St. Myrtle St.

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	Subdivision C6 The strata subdivision or community title subdivision of boarding houses is not permitted.	Not Applicable Subdivision is not proposed.
	Operation and Management C7 All residents must enter into a tenancy	Complies As required in the Plan of Management, a 3
	agreement with the managing agent of the boarding house, stating that they agree to the house rules and the fees payable. Residency agreements for Boarding Houses should be between 3 months to 1 year. C8 A Plan of Management (POM) is required to be submitted. The Plan of Management (POM) is a written report which describes how the ongoing operation of boarding houses will be managed to reduce its impact upon the amenity of surrounding properties. The POM allows Council to exercise control	month minimum stay is required. The Plan of Management addresses each of the factors required within Council's DCP. Please refer to the Plan of Management contained in Appendix 1 of this Statement of Environmental Effects which addresses the relevant requirements of the DCP.
	over the ongoing operation of a premises by requiring, as a condition of consent, that the premises operate in accordance with the POM. A condition of consent may require that a POM be regularly revised and	
	submitted to Council. (i) The POM must provide all details relevant to the operation of the premises. As a minimum the	

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Objectives		Controls	Response
7A.4 Boarding Houses			
7A.4.1 General Requirements			
		following must be included: Title;	
	(ii)	Objectives;	
	(iii)	Operational details;	
	(iv)	Hours of operation;	
	(v)	Details on maximum occupancy rate;	
	(vi)	Details on maximum period of stay of guests;	
	(vii)	Measures to minimise	
	\	unreasonable impacts on	
		adjoining properties;	
	(viii)	Maintenance of fire safety.	
	(ix)	Deliveries and loading/unloading;\	
	(xxii)	Provision of carparking;	
	(xxiii)	Noise/vibration from plant &	
	(,	equipment;	
	(xxiv)	if no onsite caretaker/site	
	(,	manager, how is the use	
		managed;	
	(x)	Managing customers or patrons;	
	(xi)	The boarding house staffing	
	(////	arrangements, including the	
		location or 24 hour contact details	
		of any on-site manager, off-site	
		manager or resident caretaker,	
		who has overall responsibility for	
		the operation, administration,	
		cleanliness, maintenance and fire	
		safety of the premises;	

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	(xii) Proposed house rules, i details of how they publicised to residents, th guest behaviour, activit noise, visitor policy, and of alcohol or drugs and a relevant rules;	will be not cover ies and the use
	(xiii) Plans outlining the oc rate for each sleeping roo furnishings, provision communal areas and f and access and facili people with a disability;	m, room is of facilities,
		adjoining the
	(xv) Waste minimisation, r	gements, 'sharps' eptacles; nd pest gements, should fessional

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7A.4 Boarding Houses 7A.4.1 General Requirements (xvi) Safincl Per Sur sys Fer Rod arra A la to r Inte The the ma Em
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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	moderate incomes); (xviii) Complaint recording and handling process; and (xix) The review process to continuously improve the POM Amenity, Safety, Traffic and Privacy	Complies
	C9 Boarding houses are to maintain a high level of resident amenity, safety and privacy by ensuring: i. Communal spaces, including laundry, bathroom, kitchen and living areas are located in safe and accessible locations; ii. Bedrooms are located so that they are separate from significant noise sources and incorporate adequate sound insulation to provide reasonable amenity between bedrooms and external noise sources; iii. Structural fittings and fixtures for all internal rooms that enhance nonchemical pest management of the building, with all cracks and crevices sealed and insect screening to all openings; and iv. All appliances achieve an energy star rating of 3.5 or higher, unless otherwise legislated.	The proposed boarding rooms and communal area are suitably separated to avoid potential conflicts between the private and communal areas. The orientation of the boarding rooms primarily to the front and rear of the site ensure that privacy impacts to adjoining neighbours are minimised. It is noted that east-facing boarding rooms adjoin the rear of the dwellings addressed to Tenterden Road where there is a large separation distance between the eastern adjoining dwellings and the proposed boarding house. This ensures that privacy and overlooking impacts to the east are minimised. Furthermore, 18 Ramsgate Street has a blank western elevation. A large side setback is provided to the west to minimise privacy impacts to the western adjoining neighbour.

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	C10 Building entry points and internal entries to living areas are to be clearly visible from common spaces. C11 Habitable living areas (such as lounge room, kitchen, dining and bedroom) are to be located to allow general observation of the street and communal open space. C12 Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings by locating: (i) The main entry point at the front of the site, away from side boundary areas near adjoining properties; (ii) Communal areas and bedroom windows away from the main living area or bedroom windows of any adjacent buildings; (iii) Screen fencing, plantings, and acoustic barriers in appropriate locations; and (iv) Double glazed windows where noise transmission affects neighbouring buildings. C13 An acoustic report prepared by a suitably qualified acoustical consultant is required. The report shall include, but not be limited to the following:	The accompanying acoustic report also demonstrates that the internal amenity of the boarding rooms will be suitable. The location of car parking at the rear of the boarding house is considered appropriate for minimising acoustic impacts associated with car parking.

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	(i) The identification of sensitive noise receivers potentially impacted by the proposal;	
	(ii) The quantification of the existing acoustic environment at the receiver locations;	
	(iii) The formulation of suitable assessment criteria;	
	(iv) Details of any acoustic control measures that will be incorporated into the proposal;	
	(v) The identification of all noise that is likely to emanate from the boarding house and the subsequent prediction of resultant noise at the identified sensitive	
	receiver locations; and (vi) A statement certifying that the development is capable of	
	operating without causing a nuisance or result in an 'offensive noise' as defined in the Protection of the Environment Operations	
	Act 1997. C14 An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report prepared by a suitably qualified person, addressing as a	

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	(i) The prevailing traffic conditions; (ii) The likely impact of the proposed development on existing traffic flows and the surrounding street system; (iii) Pedestrian and traffic safety; and (iv) An assessment of the impacts from any proposed on-site parking. C15 Sources of noise, such as kitchen, communal rooms and parking areas, must be sited and designed to minimise the noise impact on adjoining properties. C16 Noise minimisation should be carried out for visitor movements. Arrivals/ departures and the use of outdoor open space areas outside the hours is restricted to 8:00am to 6:00pm. C17 In boarding houses classified as Class 3 by the BCA, each bedroom is to meet the fire safety standards of sole occupancy unit for a Class 3 building in the BCA, whether it is provided as a sole occupancy or not.	
	Sleeping Room Requirements	Complies
	C18 The gross floor area of a bedroom is to be at least: (i) 12m² (including 1.5m² required for wardrobe space); (ii) 4m² when a second adult	The boarding rooms outperform the required areas for each of the respective components of the boarding rooms.

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Controls	Response
occupant is intended (which must be clearly shown on plans); plus (iii) 2.1m² for any en suite (which must comprise a hand basin and toilet); (iv) 0.8m² for any shower in the en suite; (v) 1.1m² for any laundry (which must comprise a wash tub and washing machine); and (vi) 2m² for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave). C19 All facilities provided in boarding rooms should include energy and resource saving measures. C20 At least 1 of the bedroom provided must incorporate disabled access, meeting the requirements under the BCA. C21 Each bedroom must have access to natural light, from a window or door with a minimum aggregate area of 10% of the floor area of the room. Skylights are not to be the sole source of natural light. C22 The minimum ceiling height of any bedroom containing double bunks is 2.7 metres. Triple bunks are not permitted.	
	occupant is intended (which must be clearly shown on plans); plus (iii) 2.1m² for any en suite (which must comprise a hand basin and toilet); (iv) 0.8m² for any shower in the en suite; (v) 1.1m² for any laundry (which must comprise a wash tub and washing machine); and (vi) 2m² for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave). C19 All facilities provided in boarding rooms should include energy and resource saving measures. C20 At least 1 of the bedroom provided must incorporate disabled access, meeting the requirements under the BCA. C21 Each bedroom must have access to natural light, from a window or door with a minimum aggregate area of 10% of the floor area of the room. Skylights are not to be the sole source of natural light. C22 The minimum ceiling height of any bedroom containing double bunks is 2.7

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	to private open space with a minimum area of 4m² in the form of a balcony or terrace area.	
	Internal Communal Areas	Complies
	C24 All Boarding Houses are to include the following communal facilities - laundry, kitchen and dining, bathroom and living areas.	The proposed 21.5 sqm communal room is considered to be suitable for the size of the boarding house.
	C25 A communal kitchen is to be provided with a minimum area that is 6.5m² or 1.2m² for each resident occupying a bedroom without a kitchenette.	All boarding rooms are provided with a kitchen and laundry facilities which avoids the need for a communal kitchen and laundry.
	C26 The communal kitchen is to contain: (i) (One (1) sink for every 6 people, or part thereof, with running hot and cold water; and (ii) One (1) stove top cooker for	It is also confirmed that the provision of private balconies for each room avoids the necessity to provide for additional communal indoor/outdoor areas.
	every 6 people, or part thereof, with appropriate exhaust ventilation.	
	C27 The communal kitchen is to contain, for	
	each resident occupying a bedroom without	
	a kitchenette:	
	(i) 0.13 cubic metres of refrigerator storage space;	
	(ii) 0.05 cubic metres of freezer storage space; and	
	(iii) 0.30 cubic metres of lockable drawer or cupboard storage	

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Objectives	Controls	Response
A.4 Boarding Houses		
A.4.1 General Requirements		
	space. C28 An indoor communal living area with a minimum areas of 20m² or 1.25m² per resident with a minimum width of 3 metres is to be provided. The communal living area can include a dining area but cannot include bedrooms, bathrooms, laundries, reception	
	area, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors and the like. C29 Communal rooms are to be designed	
	and located to minimise noise impacts on boarding rooms and adjoining properties. C30 Indoor communal living areas are to be located:	
	(i) Near commonly used spaces, such as kitchen, laundry, lobby entry area or manager's office, with transparent internal door, to enable natural surveillance for resident circulation;	
	(ii) Adjacent to the communal open space; (iii) To receive a minimum 2 hours	
	solar access to at least 50% of the windows during 9am and 3pm in June;	
	(iv) On each level of a multi-storey boarding house, where	

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	appropriate; and (v) Where they will have minimal impact on bedroom and adjoining properties. C31 All Communal facilities must be of a design that is easy to maintain, clean and allows for disabled access.	
	Communal Open Space	Complies
	C32 Communal open space is to be provided with a minimum area of 20m² and a minimum dimension of 3 metres. C33 Outdoor communal areas may not be included at the front of the property. C34 Communal outdoor open space is to located and designed to: (i) Generally be north-facing to receive a minimum 2 hours of solar access to at least 50% of the area during 9am and 3pm on 21 June;	A communal outdoor terrace is provided in front of the communal room which has an area of 30 sqm and a minimum dimension of 3.5m. The communal terrace has a north and west orientation. There is additional communal open space at the rear of the site behind the parking facilities. Both communal open spaces are suitably
	(ii) Be provided at ground level in a courtyard or terrace area, where possible; (iii) Provide partial cover from weather; (iv) Incorporate soft or porous surfaces for 50% of the area; (v) Be connected to communal	screened and separated from rooms within the building and residential properties surrounding the subject site.

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ABC Planning Pty Ltd August 2018

14-16 Ramsgate Street, Botany

Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	living areas; (vi) Contain communal facilities such as barbecues, seating and pergolas where appropriate; and (vii) Be screened from adjoining properties and the public domain with plantings, such as trellis and	
	climbing vines. Bathrooms, Laundries and Drying Facilities	Complies
	C35 Communal bathroom facilities accessible to all residents 24 hours per day are provided with at least: (i) One (1) wash basin, with hot and cold water, and one toilet for every seven (7) residents, or part thereof, for each occupant of a room that does not contain an ensuite; and (ii) One shower or bath for every seven (7) residents, or part thereof, for each occupant of a room that does not contain a shower. C36 Laundry facilities are to be provided and are to include: (i) One (1) 5kg capacity automatic washing machine and one domestic dryer for every twelve (12) residents or part thereof; and	A communal laundry is provided and communal bathroom facilities are located in the communal room. Each boarding room also has these facilities.

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	(ii) At least one large laundry tub with hot and cold running water. C37 Drying facilities, such as clothesline located in a communal open space, are to be located to maximise solar access and ensure that the usability of space is not compromised.	
	Fire Safety C38 Each sleeping room in a Class 3	Complies The proposal satisfies all relevant BCA and fire
	building must be considered as a sole occupancy unit for the purposes of Section C and Part D1, D2 and F5 of the Building Code of Australia so as to ensure there is adequate fire safety in the building, and adequate sound insulation to provide reasonable amenity between sleeping rooms. C39 In a Class 3 building, public corridor and egress routes from sleeping room, must be fire separated from adjoining areas (including sleeping rooms, reception areas, linen and bagg age stores, garage room, recreation/living room and kitchen) to comply with Performance C40 Floor covering and materials in sleeping rooms and corridors must be of materials that resists the spread of fire, and limit the generation of smoke and heat in accordance with Section C of the Building Code of	matters.

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Objectives	Controls	Response
7A.4 Boarding Houses		
7A.4.1 General Requirements		
	Australia. C41 An automatic smoke detection and alarm system is to be provided throughout the common areas of the building in accordance with Building Code of Australia Specification E2.2a and Australian Standard AS1670.1. C42 Smoke alarms connected to the consumer mains power are to be installed in each bedroom in accordance with Building	
	Code of Australia Specification E2.2a and Australian Standard AS3786.	

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6. SECTION 4.15 CONSIDERATIONS

In considering this development application, Council must consider the relevant planning criteria in Section 4.15 of the Environmental Planning and Assessment Act, 1979.

This assessment has taken into account the following provisions:

STATUTORY POLICY AND COMPLIANCE - s.4.15 (1)(a)

The proposed boarding house has been assessed in relation to all relevant SEPPs, LEPs and DCPs above in the *Statement of Environmental Effects*.

SEPP Affordable Rental Housing 2009

Comment: The proposed boarding house satisfies the objectives of the SEPPARH 2009.

Botany Bay LEP 2013

Comment: The proposed boarding house is permissible within the R2 Low Density Residential zone whilst being of a height, bulk and scale that is consistent with the zone objectives, FSR and the 8.5m statutory height limit.

Botany Bay DCP 2013

Comment: The proposed boarding house exhibits a high degree of compliance when assessed against the relevant provisions of the Botany Bay DCP 2013.

NATURAL, BUILT ENVIRONMENT, SOCIAL AND ECONOMIC IMPACTS - s.4.15(b)

Throughout the period of construction, all measures will be taken to ensure that any noise, dust, and vibration will be kept to a minimum. All construction works will comply with the Building Code of Australia and any other relevant legislation for the duration of the works.

Upon completion of the proposed boarding house development, the day-to-day operations of the development are unlikely to cause undue impact in relation to noise, pollution, drainage and pedestrian / vehicular traffic flows.

The proposed boarding house development will not result in the loss of views or outlook from any surrounding public or private place.

There are no wilderness areas on the site while no endangered fauna have been identified on or around the site.

The proposed development does not involve the removal of any significant trees or vegetation on the site.

The proposed boarding house development is considered appropriate and will not be responsible for any adverse environmental impacts in relation to loss of privacy, loss of view, noise, or traffic and parking impacts.

The proposed development will not be detrimental to the social and economic environment in the locality.

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SUITABILITY OF THE SITE FOR DEVELOPMENT – s.4.15(c)

The size and shape of the site is suitable for the proposed boarding house and the proposal does not create any adverse bulk or scale impacts. The proposed boarding house will not result in any loss of amenity to neighbouring properties.

SUBMISSIONS MADE IN ACCORDANCE WITH THE ACT - s.4.15(d)

It is acknowledged that the consent authority must consider and assess all submissions made regarding this development application.

THE PUBLIC INTEREST - s.4.15(e)

Amenity impacts have been minimised and the proposal is considered to be a positive contribution to the built and natural environment in this section of Botany.

14-16 Ramsgate Street, Botany

7. CONCLUSION

This Statement of Environmental Effects has demonstrated that the demolition of the existing dwellings and replacement with a 2-storey boarding house represents a permissible form of development which contributes to the provision of affordable housing in the locality.

The proposed boarding house is compliant with the 8.5m height limit and the FSR standard of 1:1, thereby complying with both Botany Bay LEP controls.

The proposal satisfies with the key criteria for boarding houses under the State Environmental Planning Policy (Affordable Rental Housing) 2009. In this regard the proposal is compliant with:

- LEP building height
- LEP FSR
- Landscaped area
- · Accommodation size
- · Manager's room and private open space
- Indoor Communal Room
- · Outdoor communal open space
- Solar Access

The proposal is also compliant and consistent with the requirements and performance criteria of the boarding house provisions within Council's DCP.

The siting of the building and modest height maintains solar access to the primary living and private open space areas of the adjoining dwellings to the east and west.

The orientation of the majority of openings to the north and south, and setting-in of sidefacing openings preserves privacy to the eastern and western neighbours.

The landscaped setting has been enhanced on the subject site.

The site is suited to the proposed boarding house use being located in proximity to primary bus routes along Banksia Street and Botany Road whilst the site is also convenient to Botany Town Centre to the west.

Overall, it is considered that the replacement of the single dwellings with 35 high quality boarding rooms for the purposes of low cost accommodation represents a desirable outcome for the subject site.

Based on these considerations, the proposal is considered to be appropriate for the site and worthy of approval.

14-16 Ramsgate Street, Botany

APPENDIX 1

PLAN OF MANAGEMENT – BOARDING HOUSE 14-16 RAMSGATE STREET, BOTANY

SUBMITTED TO

BAYSIDE COUNCIL

PREPARED BY

ABC PLANNING PTY LTD

August 2018

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ABC Planning Pty Ltd

14-16 Ramsgate Street, Botany

PLAN OF MANAGEMENT - 14-16 RAMSGATE STREET, BOTANY

The primary purpose of this plan is to ensure the proposed boarding house for lodgers maintains a high level of amenity for neighbouring properties and for all lodgers residing in the premises.

SITE MANAGEMENT

- The boarding house shall operate in accordance with the terms of this Plan as well as all conditions of development consent DA No/2018.
- A copy of this plan is to be retained on Council's Development Application, Construction Certificate and Property File.
- 3. The boarding house shall be restricted to 35 boarding rooms, 1 manager room, and 1 communal room.
- The boarding rooms shall comprise of 24 Single Rooms, 9 Double Rooms and 2 Accessible Rooms.
- Maximum permanent resident occupancy shall be 46 persons (excluding manager).
 A schedule showing the numerical designation of each bedroom and the number of persons permitted to be accommodated in each room must be conspicuously displayed on the premises.
- Each room must be numbered in accordance with the schedule and there must be displayed clearly on the door, or in each bedroom, the maximum number of persons allowed to be accommodated in the bedroom.
- At no time is any room to be advertised or made available for short stay accommodation such as that associated with backpacker hostels, motels, hotels or the like.

ACCOMMODATION REGISTRATION

- 8. A hard copy of this plan is to be provided to each new lodger upon arrival. Failure to adhere to this plan will result in cessation of occupation.
- Each lodger is to be registered by the manager and a copy of the plan is to be signed by the lodger.
- An accommodation register will be maintained providing details of all occupants, length of stay and payment details.
- Each lodger is to sign an Occupancy Agreement and House Rules Agreement and the minimum term is 3 months.
- 12. Upon registering, each lodger will be given a welcome pack which clearly outlines the rules that are to be strictly adhered to. Any lodger found breaking these rules will be issued with a warning. An individual lodger has a maximum of three (3) warnings before their lease is terminated.

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INFORMATION FOR LODGERS

- 13. Upon arrival lodgers are issued with an information sheet. This document will provide general information about the premises as well as a note that there is residential development in the vicinity and that lodgers need to take the neighbours' interests into account when leaving and entering.
- 14. Upon signing the Occupancy Agreement, each lodger will be provided with a printed copy of the publication Guide to NSW Services for International Students and Factsheet 14: Boarders and Lodgers. A duplicate copy of the relevant publications will be signed by the lodger as acknowledgment that they have received the publications and is to be kept with the Occupancy Agreement held by the boarding house operator to verify that the materials has been issued.
- The publications and factsheets will be updated at least every 12 months and where not available similar information will be provided.

LODGER IDENTIFICATION

 The manager will require photo ID (e.g. typically either passport or driver's licence) prior to renting a boarding room.

MANAGERS RESPONSIBILITIES

- The manager shall be familiar with and aware of his or her responsibilities under such legislation as the OHS Act 2000, OHS Regulation 2001 and the Innkeepers Act
- 18. The manager must be a permanent resident and shall be present on the site during typical business hours on weekdays (9am-5pm) and on Saturday morning (9am-midday). When not present on site, the mobile phone number of the manager must be readily available. A sign (including the name and phone number of the manager) which is clearly visible must be displayed adjacent to the entrance of the premises.
- 19. The on-site manager must be over 18 years of age.
- The manager shall be responsible for keeping all common areas in an excellent state of cleanliness.
- 21. The manager shall ensure that no lodgers are using the communal area between 9pm and 7am daily.

OCCUPANCY/VISITORS

- 22. No more than 1 adult lodger and 1 visitor shall be permitted in the single rooms and 2 adult lodgers and 1 visitor shall be permitted in the double rooms.
- Visitors to the premises are only permitted between 9am and 9pm. Greater occupancy than those registered shall result in cessation of occupancy. Any lodger

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14-16 Ramsgate Street, Botany

inviting visitors to the premises must accept full responsibility for them and their behaviour. Visitors are not permitted to utilise the communal open space area.

COMPLAINTS

- 24. The manager is responsible for recording any complaints in a complaints register which is to be available to surrounding neighbours and Council upon request. The register shall detail how and when any complaints are dealt with.
- 25. The manager will be available during business hours, being 9am to 6pm, Monday to Saturday. The manager is to deal with any complaints as to the operation and management of the premises. An after-hours number is to be provided, with such phone number being publicly available. There will be a register of all complaints. The register will contain
 - a. Complaint date and time
 - b. Name of person/police/council making the complaint
 - c. Contact details
 - d. Nature of the complaint
 - e. Action taken (by whom and when)
 - f. Outcome and/or further action required

All complaints shall be dealt with by management within 24 hours of notification. The Complaints Register is to be made available to Police and Council upon request.

SIGNAGE

- 26. Signs are to be placed at the entrance of the building and within the foyer which provide a 24 hour phone number for neighbours and residents to call, shall there be any immediately concerning issues.
- No smoking signs are to be erected within the outdoor communal area. A breach of this will result in the lodger being issued with a warning.
- No alcohol signs are to be erected within the outdoor communal area. A breach of this will result in the lodger being issued with a warning.
- 29. Signs stating "please respect our neighbours" to be erected within the outdoor communal area and at the exit points of the building.
- Signage with the communal area stating "no music is to be played within the outdoor communal area."

ONGOING MAINTENANCE

- 31. A contracted gardener shall be engaged once every 3 months to maintain the health and appearance of all landscaped areas.
- 32. An accessible path of travel shall be maintained between the street entry and the accessible boarding rooms as well as to the common room and external courtyard.
- 33. Pest control by a professional contractor shall be carried out at least once a year.

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14-16 Ramsgate Street, Botany

34. The external presentation of the premises to maintained to a high standard with all rendered surfaces to be cleaned and painted as necessary.

WASTE MANAGEMENT

- 35. All lodgers shall be responsible for disposing their waste to the communal bin storage area and are to utilise the general waste, paper/cardboard and bottle/can recycling provisions. Separate sorting bins are to be provided within each boarding room.
- 36. The manager shall be responsible for taking the bins to and from the street on collection day.
- 37. A floor waste and hose cock is to be provided adjacent to the garbage store area to ensure that the room is kept in a high state of cleanliness.

HOUSE CLEANING

 The rooms, common areas and communal room are to be professionally cleaned by a contractor weekly.

HOUSE RULES

- 39. No alcohol is permitted to be consumed in the communal room or in the communal open space. No unauthorised drugs are permitted on the premises.
- 40. No live or amplified music is permitted in the communal open space area nor is music to be audible beyond individual rooms.
- 41. The common area is not to be used between 9pm and 7am the following day.
- 42. No glassware is permitted in the common area.
- 43. The premises are non-smoking. This includes within each room, within communal areas and communal open space areas.
- 44. The common walkways and access ways are not to be used for congregating or as communal areas

ROOM FURNISHING

- 45. All rooms are to be fully furnished and no lodger may bring their own furniture to the premises. Each room shall be provided with:
 - a. Single/Double bed including base, mattress and mattress protector
 - b. Wardrobe
 - c. Mirror
 - d. Table and chair
 - e. Suitable lighting including night light
 - f. Waste receptacles including recyclables
 - g. Curtains/blinds or other privacy device
 - h. Kitchenette to include sink, bench, storage, bar fridge and microwave

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- 46. No furniture or storage of any bulky household items are permitted to be stored on site.
- 47. The lodgers shall advise the manager of any broken furniture or faulty services within each room or laundry. The manager shall be responsible for replacement of furniture as required.
- 48. Each lodger shall permit the manager access as required to check cleanliness, condition of furniture and maintenance of services (fridge, microwave oven). The manager must give each lodger at least 1 days' notice of an inspection.

PUBLIC LIABILITY INSURANCE

49. The owners will maintain a public liability cover of \$10 million.

ENERGY EFFICIENCY

 Any replacement of fixtures or appliances are to be in accordance with the energy ratings required by the approved Section J Report/Capability Statement.

FIRE SAFETY/CERTIFICATION

- A copy of the annual fire safety compliance statement shall be displayed in a prominent location. Essential fire safety measures to comply with the Environmental Planning and Assessment Regulation 2000
- Mattresses, curtains and furniture will be of materials that resist the spread of fire, and limit the generation of smoke and heat.
- 53. An evacuation plan must be clearly displayed in each room and common room. A floor plan must be permanently fixed to the inside of the door of each sleeping room to indicate the available emergency egress routes from the respective sleeping room.
- 54. The manager's contact phone number must be clearly displayed at the entrance of the premises whilst also being available in each room. Other emergency contact details (police, fire ambulance) as well as utility information (gas, electricity, plumbing) are to also be clearly visible in each room.
- 55. Annual certification of Fire Safety Equipment and preparation of the Form 15a is carried out by a fire safety consultant. Annual certification required of any of the equipment is overseen by the owners.

SAFETY AND SECURITY

- Check in time for new lodger will be between 9am and 6pm daily with lodgers to be registered by the lodger manager.
- A swipe card will be issued to all lodgers with no additional cards to be issued to visitors.

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14-16 Ramsgate Street, Botany

- 58. Any lodger failing to observe the rules and any cases of serious misconduct will be dealt with by the manager who may require a lodger to leave the premises. Examples of serious misconduct include, but are not limited to, drug or alcohol abuse, sexual, racial or religious harassment, theft or violence. Lodgers are to advise the manager if another lodger is performing illegal acts on the property. The manager shall call the Police in such instance.
- 59. Additional safety and security measures for all residents may include but are not limited to such things as internal signage indicating the property manager and contact number, emergency contact numbers for essential services such as fire, ambulance, police, and utilities such as gas, electricity, plumbing, installation of perimeter lighting, appropriate fencing and secure gates, and all residents to have own keys.

OCCUPATION HEALTH AND SAFETY REQUIRMENTS

- 60. The manager and staff must be aware of their responsibilities under such legislation as the OHS Act 2000, OHS Regulation 2001, and the Innkeepers Act.
- 61. The WorkCover website lists the OHS Act and Regulations and other helpful information visit www.workcover.nsw.gov.au for boarding houses NSW

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APPENDIX 2

ON-STREET PARKING AVAILABILITY - RAMSGATE STREET

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On-street parking availability – 11 April 2018



On-street parking availability - 15 March 2018



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14-16 Ramsgate Street, Botany

On-street parking availability – 19 January 2018



On-street parking availability – 19 October 2018



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ABC Planning Pty Ltd



MANAGEMENT PLAN FOR THE CAR SHARE SPACE

14-16 Ramsgate Street in Botany

Prepared for: The Trustee for NGPV Investment Trust

N1916704A (Version 2a)

March 2019

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ABN 69 981 485 197



1. INTRODUCTION

ML Traffic Engineers was commissioned by The Trustee for NGPV Investment Trust to prepare a management plan for a car share space for the proposed boarding house at 14-16 Ramsgate Street in Botany.

The car parking is provided on ground level. The car share car space is providing an option to boarding house tenants to be able to use a share car scheme (such as go get) and park on site (and not on street).

Car sharing is a convenient, affordable and a more sustainable option (than owning a private car) for the boarding house tenants.

Typical schemes charge an annual membership fee and then an hourly rate that ranges from \$6 to \$13 per hour; the rental fee will cover a certain number of kilometres, with a small fee incurred for additional kilometres travelled thereafter. The fee typically includes fuel, insurance, registration, maintenance and all other cost associated with car ownership.

The car share space also recognises that tenants may have a driver's license but do not have own a car. Many of the tenants are comparatively short stay tenants. There is need for access to a car share scheme for many tenants. This, however, is in addition to public transport services which provides in inexpensive and convenient service.

Tenants will need to be a member of a car share scheme of their choice.

Information of the car share space and it rules of usage will be place on the Boarding House website. The availability of a car share scheme will be an incentive for some potential tenants. In addition to the car share scheme information on the boarding house website, information on public transport options will also be provided

The proposed boarding house has 35 rooms (one bed per room) and 14 car spaces. Not every tenant will be able to be able to park on site.

2. MANAGEMENT PLAN FOR THE CAR SHARE SPACE

The occupancy of the car share scheme is organised on "first come first use". A reservation scheme will be placed on the boarding house website. Tenants will need to log in (as part of their tenancy) and specify which day and period (morning, afternoon, evening).

Occupancy greater than two days will require a returnable deposit.

Management of a Car Share Space of a Proposed Boarding House Development in Botany A1916704N Car Share

Page 2



Only nominated car share schemes will be permitted (Go Get, Car Next Door, Popcar, Flexicar etc).

The management of the reservation scheme will be undertaken by the boarding house manager and who is on site during business hours. There will be no fee for the use of the car share space.

Cancelations will be notified in advance. Non use of the car share space will receive a warning by the Boarding House.

As part of a tenants use of the room, information of the shared car space will be provided at the commencement of the tenancy.

Only nominated car share cars will be permitted in the car space. Tenants using their private cars will be sanctioned.

3. REVIEW OF MANAGEMENT PLAN

Like every workplace, continual and regular assessment of traffic management and safety procedures on site is required. Consultation with the tenants, boarding house manager and if required, car share companies will be consulted.

Car share companies are expected to change with new businesses on offer. The management plan will reflect the changes in car share business plans.

4. CONCLUSIONS

The proposed car share space is expected to be regularly used by the boarding house tenants and provides an excellent option to use a car and park on site.



Bayside Local Planning Panel

23/04/2019

Item No 6.2

Application Type Development Application

Application No SF19/299 Lodgement Date 25/10/2018

Property 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

semi-detached dwellings and Torrens title subdivision into

tow (2) lots.

No. of Submissions Two (2) First Round

Cost of Development \$794,954

Report by Michael McCabe, Director City Futures

Officer Recommendation

- That the Bayside Local Planning 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.
- That the Bayside Local Planning Panel APPROVES Development Application No. DA-2018/1164 for Demolition of existing structures and construction of two semi-detached dwellings and Torrens title subdivision into two (2) lots at 10 Garden Street, Eastlakes, subject to the conditions attached in this report.
- That the objectors be advised of the determination made by the Bayside Local Planning Panel.

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Location Plan



Attachments

- Supplementary Planning Assessment Report $\underline{\mathbb{J}}$ Original Planning Assessment Report $\underline{\mathbb{J}}$ 1
- 2
- 3
- Amended Site Plan J
 Amended Landscape Plan J 4

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BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number: DA-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 two (2) lots.

Recommendation: Approve the development, subject to conditions.

Value: \$794,954

No. of submissions: Two (2) submissions (First round)

Author: Ana Trifunovska, Development Assessment Planner

Date of Report: 2 April 2019

Key Issues

On 12 March 2019, the subject Development Application was referred to the Bayside Local Planning Panel (BLPP) for determination. The Panel deferred the development application to allow the applicant the opportunity to amend the design for a more desirable streetscape presentation and vehicular access outcome. Comments were also made regarding landscaping and the preservation of the tree in the rear.

This supplementary report provides a response to the amended information provided by the applicant to address the outstanding matters raised by the Panel.

On 27 March 2019, the applicant provided Council with amended plans demonstrating the amended driveways and landscaping solution which would in turn improve the development's streetscape presentation. The front setback has been amended to reduce the hard paving from the vehicular access driveways. A larger portion of permeable landscaping has been provided as the driveways and entry pathways have been consolidated into a shared entry. This also allows for two (2) canopy trees to be planted within the front setback area. Bin storage is to be relocated from the front setback to the garage, furthermore improving streetscape presentation. It has also been confirmed that the canopy tree located within the north-western setback is to be retained and protected.

The additional information that is provided in response to the Panel's concerns has been reviewed and the application is recommended for approval subject to the conditions attached in this supplementary report.

Recommendation

It is RECOMMENDED that the Bayside Local Planning Panel resolve:

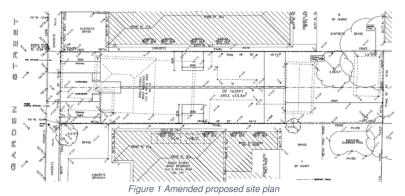
- That the Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of Botany Bay Local Environmental Plan 2013 and that the proposed development is in the public interest as it is consistent with the objective of the FSR Standard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

Assessment of the Panel's deferment

 The possibility of a central driveway crossing of minimum width; and shared entries on the driveways rather than individual pathways.

The Panel raised concerns regarding the driveways and the impact of hard paving on streetscape presentation along Garden Street. It was suggested that the applicant explore methods for reducing the amount of paving by consolidating the pedestrian entry way and the driveway into a shared entry point.

The applicant has explored the option of a central driveway crossing between the two dwellings, however it was found that such a driveway would affect the possibility for hardstand car parking spaces forward of the building line, therefore adding car parking pressure to the street. The applicant has therefore proposed permeable landscaping for the whole front setback, excepting the wheel tracks to each garage. Furthermore, the driveway and pedestrian pathway have been consolidated into one shared entry. This will increase the portion of landscaping within the front setback, allowing for two canopy trees to be planted and therefore improving the presentation of the front façade.



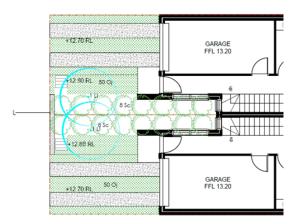


Figure 2 Proposed front setback landscaping

The proposed amendments are supported as the design of the front setback will improve the streetscape presentation of Garden Street while continuing to maintain appropriate vehicular and pedestrian access and car parking provision for the development.

Clarification of the canopy trees in the rear yard, in particular the one to be retained

The original plans had inconsistent information regarding the existing trees within the site including the existing canopy tree within the north-western corner of the site. It has been confirmed through amended drawings that this tree will be retained and protected during construction. The existing mango tree in the rear yard of the site is proposed to be removed. This is supported subject to the planting of a replacement tree within the rear yard (which has been illustrated on the amended landscape plan).

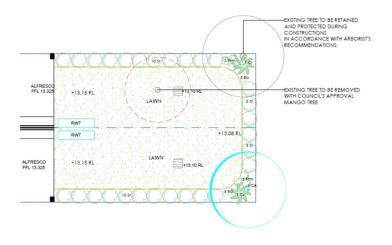


Figure 3 Proposed rear yard landscaping plan

3. The relocation of the bin storage within the garages.

The applicant had originally proposed bin storage within the landscaped indented section of the front setback. Considering the proposal incorporates boundary to boundary side setbacks, bin storage must be provided either within the front setback or within the proposed garages. It was deduced that the storage of waste within the front setback would adversely impact upon streetscape presentation given the narrow lot widths and limited space for entry ways and landscaping. Therefore, this is supported as the applicant has relocated bin storage to the garage, away from the street.

4. Conditions that have been modified and deleted in response to amendments.

- Condition 1 has been modified to amend the relevant plans including the Site Plan, Ground Floor Plan and Landscaping Plan.
- Condition 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,

Deleted as the street does not have a nature strip and the footpath is not wide enough to provide one.

• Condition 60(c), renamed Condition 59(c), has been modified to state the following in response to the amended landscape plan:

The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than the wheel tracks shown on the approved plans. Each lot shall contain one (1) native canopy tree capable of reaching a minimum mature height of six (6) metres in local conditions, within the front setback on completion of the building works and prior to the issue of any Occupation Certificate. 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.

 Condition 60(e), renamed Condition 59(e), has been modified to state the following in response to the amended landscape plan:

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 six (6) metres in local conditions shall be planted in rear yard of each proposed dwelling on completion of the building works and prior to any occupation certificate being issued.

Condition 61. 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, and 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.

Deleted as the street does not have a nature strip and the footpath is not wide enough to provide one.

Conclusion

Amended plans requested by the Local Planning Panel for Development Application No. 2018/1192 at 10 Garden Street, Eastlakes, have been considered and have addressed the key concerns that were raised at the Bayside Local Planning Panel meeting of 12 March 2019. Therefore, the development proposal is recommended for approval.

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 C: Site Plan	Rodney Albert Yannakis and Associates	Dated: 18 March 2019, Received by Council: 1 April 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 C: Ground Floor Plans	Rodney Albert Yannakis and Associates	Dated: 18 March 2019, Received by Council: 1 April 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

Drawing No.	Author	Dated Received
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 C: Landscape Plan	The Creative Practice Pty Ltd	Dated: 27 March 2019, Received by Council: 1 April 2019
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:

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Reference Documents Drawing No.	Author	Dated Received
, i		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 (8 Garden Street, CDC)	Rodney Albert Yannakis and Associates	Dated: 09 October 2019, Received by Council: 16 January 2019
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:
 - 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;
- 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.
- 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:
 - 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
 - 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:
 - 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
 - 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.
- 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.
- 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.
- The applicant must <u>prior to the issue of the Construction Certificate</u> 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. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal

Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.

- 13. 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.
- 14. 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.
- 15. 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.
- 16. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. 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.
- 17. 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.
- 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.
- 19. 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.
- 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 polices and guidelines and download the document "NSW Addressing User Manual".

http://www.gnb.nsw.gov.au/addressing/nsw addressing policies guidelines

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

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

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

- 22. 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: -

- Has been informed in writing of the licensee name and contractor licence number, and;
- 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: -
 - 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.
- 23. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - 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.
- 24. 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.
- 25. 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.
- Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
- This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 28. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.

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- 29. 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.
- 30. Dewatering is not permitted on this site without NSW-EPA approval.
- 31. 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, piering, 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:
 - . 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.
- 32. 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.)

- Permit to erect hoarding on or over a public place, including Council's property/road reserve
- 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)
- 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
- 33. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

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

- Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- 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;
- 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;
- 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;
- 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;
- I) 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

- 34. The proposed development shall comply with the following:
 - 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;
 - 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
 - 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.
- The demolisher shall comply with Australian Standard 2601 2001 "Demolition of Structures".
- 36. 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.
- 37. 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.
- 38. 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
 - NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
- 39. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:

- 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.
- 40. 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.
 - AS4361.2-1998 Guide to Lead Paint Management-Residential and Commercial Buildings
- 41. No demolition materials shall be burnt or buried on the site.

42.

- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - 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.
 - 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.
- 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.
- 43. 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.
- 44. 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.
- 45. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.

46. 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.

47.

- 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, piering, 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:
 - Protect and support the adjoining premises from possible damage from the excavation, and
 - Where necessary, underpin the adjoining premises to prevent any such damage.
- 48. 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

No Construction to take place on Sundays or Public Holidays.

d) Silencing

- (d) All possible steps should be taken to silence construction site equipment.
- 49. 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.

50.

- 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.
- 51. 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.
- 52. 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

 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

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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.
- 54. 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

- 55. 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.
- 56. 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).
- 57. 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.
- 58. 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.
- 59. <u>Prior to the issue of any Occupation Certificate(s)</u>, the applicant shall carry out the following works:
 - 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 the wheel tracks shown on the approved plans. Each lot shall plant one (1) native canopy tree that can reach a minimum mature height of six (6) metres in local conditions, within the front setback on completion of the building works and prior to the final inspection. Container size to be supplied shall be minimum 75 litres, and planted with three stakes. A list of suitable native

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- trees can be found in the BBDCP 2013 Part 10 Landscape Technical Guidelines for Development Sites.
- 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 six (6) metres in local conditions shall be planted in rear yard of each proposed dwelling on completion of the building works and prior to a final occupation certificate being issued.
- 60. All landscape works are to be carried out in accordance with the approved landscape plans <u>prior to the issue of an Occupation Certificate</u> for the approved development. The landscaping is to be maintained to the approved standard at all times.
- 61. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
- 62. Prior to 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.
- 63. 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.
- 64. <u>Prior to the issue of any Occupation Certificate(s)</u>, 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.
- 65. 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.
- 66. 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

67. 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 <u>does not include</u> 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.
- 68. 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.
- 69. 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, sluge 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.
- 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.

71.

- 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_{aeq 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.

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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:

- 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) semidetached 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.

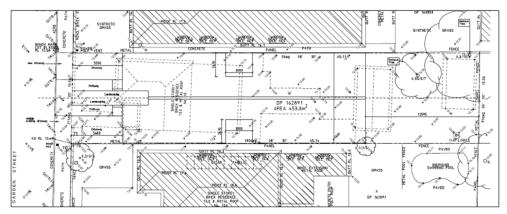


Figure 1: Proposed Site Plan

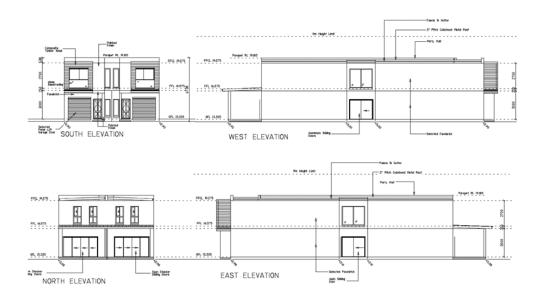


Figure 2: Proposed Elevations

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 BBDCP2013.



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

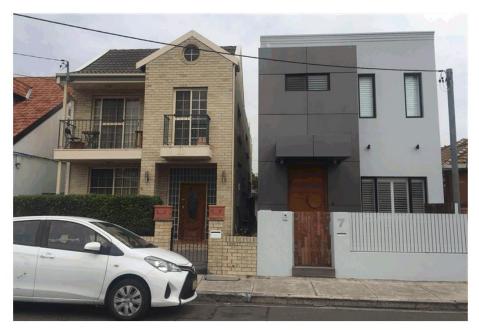


Figure 8: 7 & 7A Garden Street across the street from subject site. Examples of narrow lot widths



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;
- 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: • 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
What is the proposed Floor Space Ratio?	No- Refer to Note 1 below	The maximum Floor Space Ratio requirement is 0.5:1 for semi-detached dwelling houses.
Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?		Both lots have a site area of 226 sqm (based on the concept subdivision plan submitted with the application).
		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.
Is the site within land marked "Area 3" on the Floor Space Ratio Map?	No – Refer to Note 1 below	The site is located in an Area 3 zone. The proposal does not comply with the maximum FSR.
If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?		
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.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply—		
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.
• 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.
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.
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.
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:

- 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;
 - o An improved connection to external areas;
 - o 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:
 - o 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	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 'encourage an increased height (to a maximum of 9 metres) and density in the form of terrace style housing in Special Area H2.' 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.	Υ
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)	Both lots have a frontage to Garden	V
frontage to the street.	Street.	Υ

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).

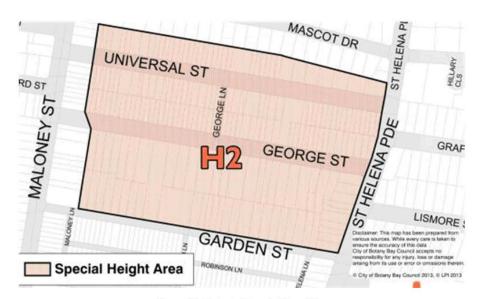


Figure 14: Extent of Special Area H2

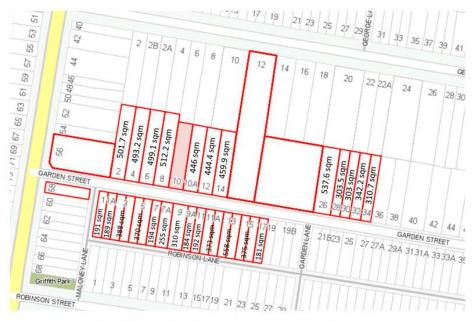


Figure 15: Lot configurations of the prevailing subdivision pattern



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).

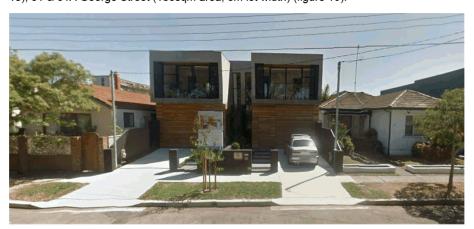


Figure 17: 15 & 15A George Street, Eastlakes



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		
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. C2 Development must be designed to reinforce and maintain the existing character of the streetscape. C3 Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).	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. 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.	Y
	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). The proposal will sit appropriately within a	
	street that incorporates a versatile and eclectic range of dwellings.	
C4 Buildings must appropriately address the street. Buildings that are intrusive or inconsistent with the established development pattern will not be permitted. C6 The entrance to a dwelling must be readily apparent from the street.	The proposed dwellings will both address Garden Street. Their proposed entrances are also readily apparent from the street. Bedroom 1 of each dwelling have windows facing the street, encouraging passive	Y
readily apparent from the street. C7 Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.	surveillance.	
C10 Development must retain characteristic design features prevalent in houses in the street including: verandas, front gables, window	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	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	Proposed lot width: 5.03m	Y – Refer to
metres is permitted in Special Area H2.	Complies, refer to Note 2.	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	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
minimised.		
4A.2.5 Height	M · U·U·O	
C1 The maximum height of buildings must be in accordance with the Height	Maximum Height: 9m	Y
of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	Proposed Height: 7.2m Complies.	
4A.2.6 Floor Space Ratio		
C1 The maximum FSR of development	Per Lot	No – Refer to
must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the	Maximum FSR: 0.5:1/ 113 sqm	Note 1
Botany Bay Local Environmental Plan	Site Area: 226 sqm	
2013 (refer to Figure 12).	Proposed Ground Floor GFA: 75.8sqm	
	Proposed First Floor GFA: 80.8 sqm	
	Total Proposed GFA: 162.6 sqm	
	Proposed FSR: 0.72:1	
4A.2.7 Site Coverage		
C2 For sites over 200m ² the maximum site coverage is:	Site area: 226 m ²	Y
200 – <250m2 65% of the lot	Site coverage: 48% (109 m ²) – excluding eaves and portico.	
250 – <300m2 60% of the lot	Complies.	
>300m2 50% of the lot		
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

Lot Width of less than 12.5m: Minimum front setback – comply with the prevailing street setback or 6 metres (min) Minimum side setback - Up to 2 floors 900mm (Council may require an increased setback due to streetscape and bulk considerations). Minimum rear setbacks – 6 metres (min) Zero tot lines (with Council Discretion) – On merit based on building type and open space provisions Eaves – 450mm minimum setback 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 meterials. 4A.2.9 Landscape Area C1 Landscaped areas are to be designed accordance with Part 3L – Landscaping. C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2. Table 2 requires the following minimum landscaped area: Less than 250 m² - 15% 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). 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). C3 The front setback 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). C3 The front setback 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). C3 The front setback 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). C3 The front setback area. C9 The front setback area 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. C9 The front setback area must contain driveways and entry paths are t			
the prevailing street setback or 6 metres (min) Minimum side setback - Up to 2 floors 900mm (Council may require an increased setback due to streetscape and bulk considerations) Minimum rear setbacks - 6 metres (min) Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions Eaves - 450mm minimum setback 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. A2.9 Landscape Area C1 Landscaped areas are to be designed accordance with Part 3L – Landscaping. C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2. Table 2 requires the following minimum landscaped area: Less than 250 m² - 15% 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). 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). C3 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. However, all areas other than the	Lot Width of less than 12.5m:		
900mm (Council may require an increased setback due to streetscape and bulk considerations) Minimum rear setbacks – 6 metres (min) Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions Eaves – 450mm minimum setback 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. 4A.2.9 Landscape Area C1 Landscaped areas are to be designed accordance with Part 3L – Landscaping. C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2. Table 2 requires the following minimum landscaped area of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping). 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). 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). 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). C3 Table 2 requires the following minimum 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). C3 Landscaped Area 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. 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.	the prevailing street setback or 6		
Case	900mm (Council may require an increased setback due to streetscape		
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	C9 The front setback area must contain	,	

at least one tree for frontages up to 11.5 metres in width and 2 trees for frontages greater than this and properties located on corner blocks.	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		
C3 Materials, colours, architectural details and finishes must be sympathetic to the surrounding locality. 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. C10 The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.	A schedule of colours and finishes was provided with the application. The proposal is to incorporate a range of materials including: 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) The materials, colours, architectural detail and finishes are sympathetic to the surrounding locality, and add interest to the façade. 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.	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		
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	The window selection and location is considered appropriate in providing internal amenity to the proposal, whilst minimising privacy impacts to neighbouring properties. The semi-detached dwellings have side	Y
dwellings, particularly those of living areas. C2 Visual privacy for adjoining properties must be minimised by: 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.	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.	
C3 First floor balconies are only permitted when adjacent to a bedroom.	The front facing balconies to both dwellings will be located adjacent to Bedroom 1.	Y
C6 Balconies are to be designed to minimise overlooking to other properties.	The balconies will be overlooking the street and will therefore pose negligible overlooking impacts.	
4A.4.2 Acoustic Privacy		
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).	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).	Y- Conditioned to Comply
4A.4.3 Solar Access		
C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and to 50% of the primary private open space areas of both the subject site and adjoining properties.	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. Living areas and primary private open spaces have been orientated towards the	Y – Refer to Note 4 – Solar Access & Public Submissions

	north, meaning they will gain an acceptable amount of solar access throughout the majority of each day.	
	Impacts on adjoining properties on 21st June	
	8 Garden Street	
	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.	
	10A Garden Street:	
	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.	
	Refer to Note 4 – Solar Access and Public Submissions section of this report for further assessment.	
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		
C1 Each dwelling is to have a private open space that:	78.4m² of private open space is provided at the rear of each proposed dwelling,	Y
(i) Has at least one area with a minimum area of 36m²;	including the outdoor alfresco area and the internal courtyard.	
(ii) Is located at ground level with direct access to the internal living areas of the dwelling;	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	
(iii) Maximises solar access;	are appropriately landscaped and screened to ensure privacy.	
(iv) Is visible from a living room door or window of the subject development;	screened to ensure privacy.	
(v) Minimises overlooking from adjacent properties;		
(vi) Is generally level;		
(vii) Is oriented to provide for optimal year round use;		
(viii) Is appropriately landscaped; and		
(ix) Is located or screened to ensure privacy;		
Note: Private open space is not to include:		

(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.	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	No – Conditioned to comply
C3 Driveways must be designed to comply with AS2890.1 (also refer to Part 3A - Car Parking).	driveway access servicing the eastern dwelling shall be amended and moved west to provide a 1m clearance from the existing power pole.	
C4 Vehicular crossings shall be sited so that existing street trees, bus stops, bus zones, power lines and other services are not affected.		
C6 The number of vehicle crossings is to be limited to one (1) per allotment.	Only one (1) vehicle crossing is provided per allotment.	Υ
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

C9 Garages, parking structures (i.e. carports & car spaces) and driveways are not to dominate the street.

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.

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.

Υ

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 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.

<u>Comment</u>: 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.

<u>Comment:</u> 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.

<u>Comment:</u> 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.

<u>Comment:</u> 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.

<u>Comment:</u> 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.

<u>Comment:</u> 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." Condition 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

<u>Submission's Comment</u>: "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."

<u>Planner's Comment</u>: 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."

<u>Planner's Comment:</u> 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

<u>Submission's Comment:</u> "The opening position of the new proposed dwelling located just opposite our living area and bedroom that give impact to our privacy."

<u>Planner's Comment</u>: 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

<u>Submission's Concern</u>: "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 inacceptable," and "request no removal of any of our fences and make good or replacement if any damage."

<u>Planner's Comment:</u> 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:

- o "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."

<u>Planner's Comment:</u> 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.

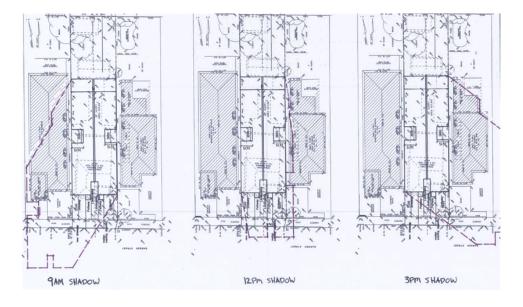


Figure 20: Shadow Diagrams of proposal – 21 June (Mid winter)

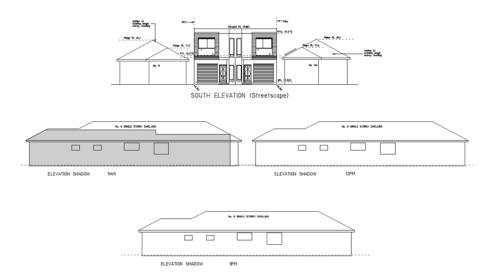


Figure 21: Shadow elevation diagrams of proposal – 21 June (Mid winter) – effect on 8 Garden Street, Eastlakes. Note neighbour is not additionally overshadowed a considerable amount in comparison to the diagrams below. The additional window that is overshadowed by the proposal is a bathroom window and not considered a primary habitable space.

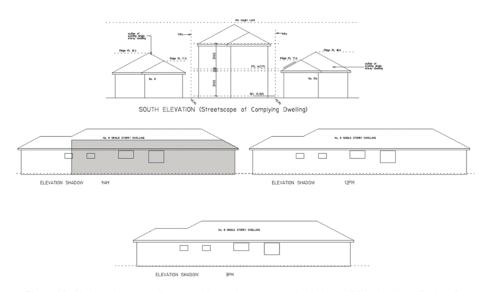


Figure 22: Shadow elevation diagrams of complying proposal – 21 June (Mid winter) – effect on 8 Garden Street, Eastlakes. Note neighbour is overshadowed only from 9am - midday

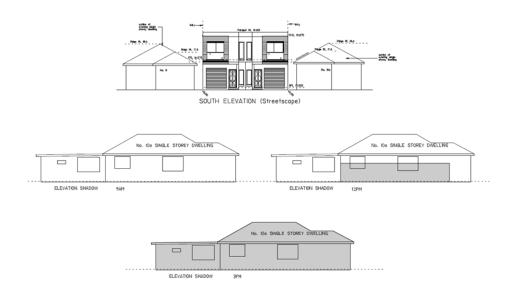


Figure 23: Shadow elevation diagrams of proposal – 21 June (Mid winter) – effect on 10A Garden Street, Eastlakes. Note neighbour is not additionally overshadowed a considerable amount in comparison to the diagrams below. The Bedroom and Living room window towards the front of the house will be additionally overshadowed by a negligible percentage.

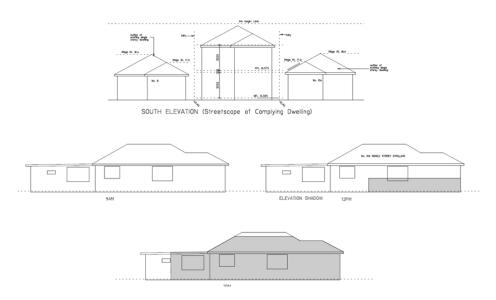


Figure 24: Shadow elevation diagrams of complying proposal – 21 June (Mid winter) – effect on 10A Garden Street, Eastlakes. Note neighbour is overshadowed from midday onwards

Property Devaluation and Financial Hardship

<u>Submission's Concern:</u> "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."

<u>Planners Comment:</u> 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.

		I
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

B.6		
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:
 - 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.
- 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:
 - 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:
 - 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
 - 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.
- 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. <u>Prior to the issue of the Construction Certificate</u> 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.
- 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.
- 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.
- 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 polices 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 in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap 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 SATSIFIED 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: -
 - Has been informed in writing of the licensee name and contractor licence number, and:
 - 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: -

- 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:
 - 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
 - i) 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.
- 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, piering, 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:
 - 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.)

- Permit to erect hoarding on or over a public place, including Council's property/road reserve
- 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)
- 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 prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

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

- Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- 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:
- 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;
- 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 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
- 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.
- 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
 - 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:
 - 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.
 - 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: -
 - 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.

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- 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;
- 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, piering,

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:
 - Protect and support the adjoining premises from possible damage from the excavation, and
 - 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.

 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:
 - 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.
 - 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

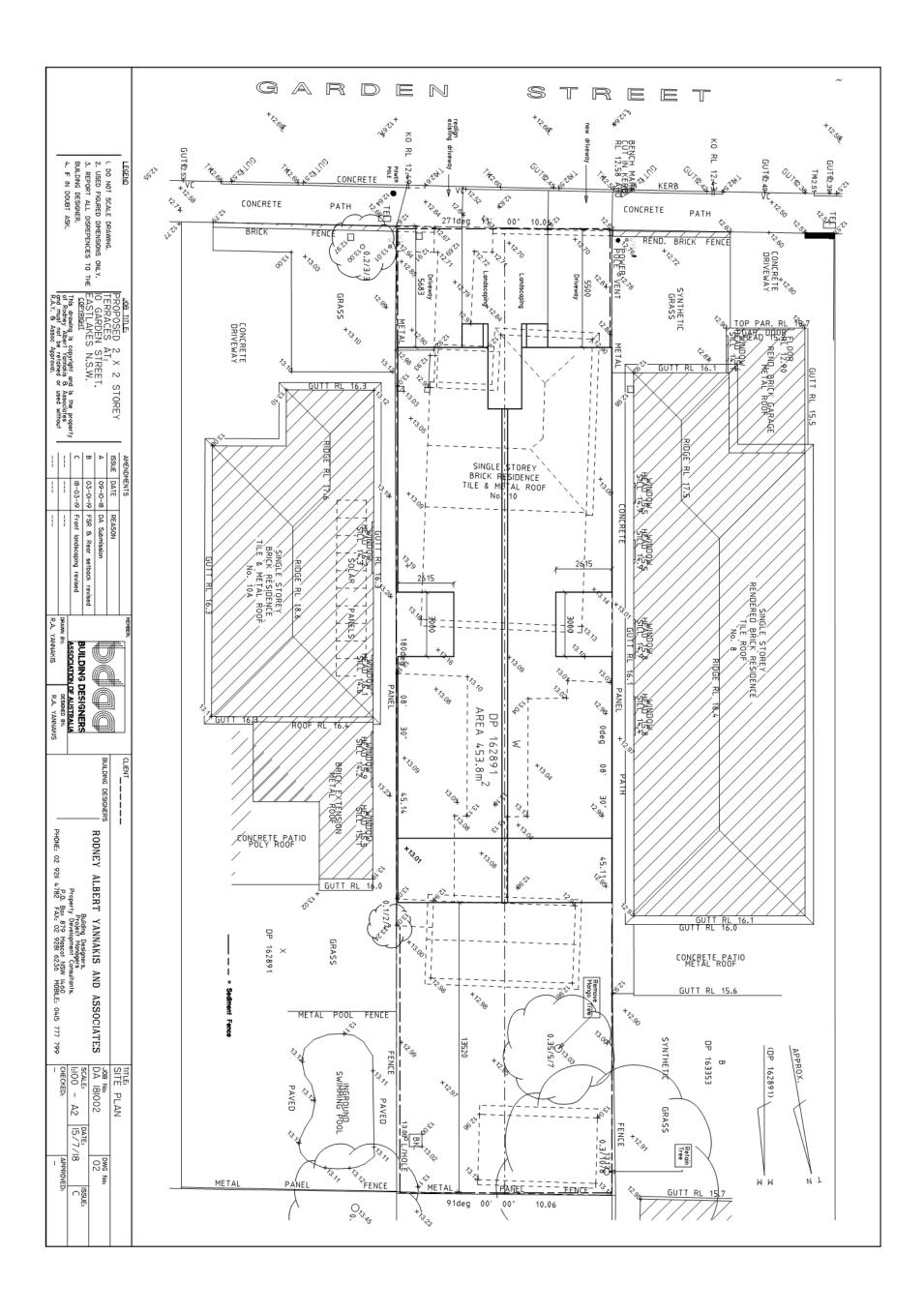
CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

- 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 <u>does not include</u> 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, sluge 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.

- 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.

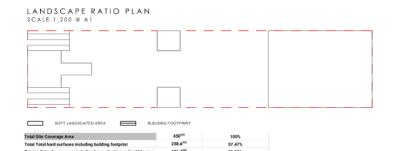


Item 6.2 – Attachment 3

Bayside Local Planning Panel 23/04/2019

LANDSCAPE PLAN SCALE 1:100 @ A1

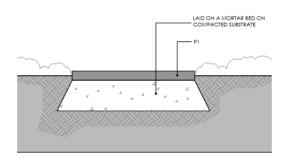




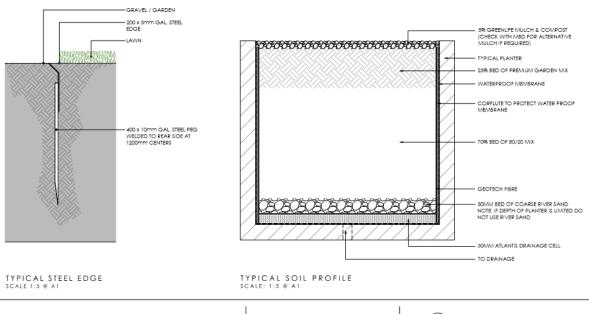
LANDSCAPE SCHEDULE

Trees/Palms	SYMBOL	BOTANICAL NAME	COMMON NAME	QUANTITY	POT SIZE	MATURE SIZE	STAKING
	CA	Cupaniopsis anacardioides	Tuckeroo	1	100L	7-8m	Yes
	u	Lagerstroemia indica	Crepe Myrtle	2	100L	6m	Yes
	ML	Magnolia laevifolia 'White Caviar'	Michelia Figo	2	200L	3m	Yes
Shrubs, Hedges & Perennials							
	An	Alpinia nutans	Sweet Cardamom	10	300mm	Im	NA.
	Cr	Cycas revoluta	Sago Palm	2	300mm	1.2m	NA
	Gf	Gardenia augusta	Gardenia	10	300mm	1.2m	NA.
	Ptm	Pittosporum 'Miss Muffet'	Pittosporum 'Miss Muffet'	12	300mm	0.8m	NA
	Sc	Syzigium 'Cascade'	Cascade Lily Pily	16	300mm	1,6m	Yes
	Sr	Syzigium 'Resilience'	Resilience Lify Pily	26	300mm	2.5m	Yes
	Oj	Ophiopogon jaburan	Mondo Grass	100	100mm	0.4m	NA
	Ptm	Pittosporum 'Miss Muffet'	Pittosporum 'Miss Muffet'	26	300mm	0.8m	NA.
	Vs	Vibumun suspensum	Viburnun suspensum	6	300mm	1,8m	Yes
Turf							
	Buffalo Turf 'Sapphire		Sapphire Buffalo	105 ^{m2}	Rolls	NA	NA.

LANDSCAPE DETAILS SCALE NOTED @ A1



TYPICAL GARDEN STEPPER





Item 6.2 – Attachment 4



Bayside Local Planning Panel

23/04/2019

Item No 6.3

Application Type Section 8.2 Review

Application No S82-2019/1 Lodgement Date 13/02/2019

Property 11 Gertrude Street, Wolli Creek

Ward Mascot

Owner Powerland Property Pty Ltd

Applicant Mario Mourad

Proposal Section 8.2 Review Application of Integrated Development

Application No. DA-2017/555 for demolition of existing structures and construction of a nine (9) storey boarding house comprising 59 boarding rooms including a manager's residence; partial basement and above ground parking;

landscaping and associated site works.

No. of Submissions One (1)

Cost of Development \$9,170,000

Report by Michael McCabe, Director City Futures

Officer Recommendation

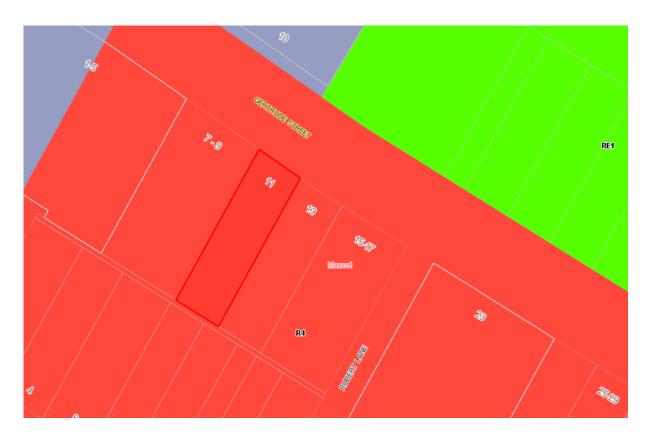
- 1. That the Division 8.2 Review (S82-2019/1) of Development Application No. DA-2017/555 for demolition of existing structures and construction of a nine (9) storey boarding house comprising 59 boarding rooms including a manager's residence, partial basement and above ground parking, landscaping and associated site works at 11 Gertrude Street, Wolli Creek be REFUSED pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - a. 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. In this regard, the application was not accompanied by a Plan of Management, shadow diagrams, the stormwater plans are inconsistent with the architectural plans, an updated landscape plan, acoustic assessment/BCA report and Access report were not submitted and the Geotechnical report is inadequate.
 - b. The application has not had adequate regard to the NSW Land & Environment Court Planning Principles in respect of the isolation of the neighbouring property at 13 Gertrude Street.
 - c. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not comply with the maximum allowable Floor Space Ratio within Clause 29 of State Environmental Planning Policy (Affordable Rental Housing) 2009.

Item 6.3 204

- d. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not comply with Clause 29(2)(d)(ii) of State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the width of the Manager's private open space area is insufficient.
- e. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the Rockdale Local Environmental Plan 2011, including:
 - Clause 6.2 Earthworks: The submitted Geotechnical investigation is insufficient and does not adequately consider likely impacts on adjacent properties.
 - ii. Clause 6.6 Flood Planning: The proposed platform lift at the front of the site on the ground floor plan is not supported as accessible access unless it can be adequately flood proofed.
 - iii. Clause 6.7 Stormwater: The submitted stormwater plans are inconsistent with the architectural drawings and are therefore inadequate for assessment.
- f. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the Rockdale Development Control Plan 2011, including:
 - Part 4.1.3 Flood Risk Management
 - Part 4.1.9 Lot size and Site Consolidation
 - Part 4.4.3 Natural Lighting and Ventilation (insufficient ceiling heights)
 - Part 4.5.2 Social Equity Equitable Access
 - Part 4.6 Car Park Location and Design
- g. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the manoeuvring of vehicles.
- h. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be suitable for the site.
- i. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the non-compliances with the planning controls, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
- 2. That the objector be advised of the Bayside Local Planning Panel's decision.

Item 6.3 205

Location Plan



Attachments

- Section 8.2 Review Planning Assessment Report
 Assessment Report Original DA
 Photomontage
 Car Stacker System
 Statement of Environmental Effects
 Elevations Roof Plan & Sections 1
- 2
- 3
- 4
- 5
- 6

Item 6.3 206

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number: S82-2019/1 Date of Receipt: 13 February 2019

Property: 11 Gertrude Street, WOLLI CREEK (Lot 35 DP 4301)

Owner: Powerland Property Pty Ltd

Applicant: Mr Mario Mourad

Proposal: Section 8.2 Review Application of Integrated Development

Application No. DA-2017/555 for demolition of existing structures and construction of a nine (9) storey boarding house comprising 59 boarding rooms including a manager's residence; partial basement and above ground parking; landscaping and

associated site works.

Recommendation: Refusal
No. of submissions: One (1)
Author: Patrick Nash
Date of Report: 3 April 2019

Key Issues

The key issues which have been identified in the assessment of this Section 8.2 Review relate to:

- Unsatisfactory amenity for the proposed boarding rooms due to the insufficient floor to ceiling height proposed. The floor to floor height is proposed to be 2.7m. The final floor to ceiling height would be lower than this once the slab thicknesses, services, floor coverings etc are taken in consideration and does not comply with the requirements of Part 4.4.3 of Rockdale DCP 2011.
- Insufficient amount of accessible car parking spaces and various concerns in respect of the proposed means of access to and from the site and the manoeuvring of vehicles.
- Non-compliance with the floor space ratio development standard due to incorrect calculation of gross floor area.
- Insufficient geo-technical analysis noting that the basement design is required to be fully tanked and will intercept groundwater.
- Insufficient regard to the relevant NSW Land & Environment Court planning principles concerning site isolation.
- Insufficient information submitted to enable a proper and thorough assessment of the proposed development.

Whilst the proposed development does satisfactorily resolve some of the reasons for refusal in DA-2017/555, there are a number of outstanding planning matters. As

1

such, on review of the proposed amended development, refusal is recommended.

Recommendation

- 1. That Division 8.2 Review Application No.S82-2019/1 be **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - 1. 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. In this regard, the application was not accompanied by a Plan of Management, shadow diagrams, the stormwater plans are inconsistent with the architectural plans, an updated landscape plan, acoustic assessment/BCA report and Access report were not submitted and the Geotechnical report is inadequate.
 - 2. The application has not had adequate regard to the NSW Land & Environment Court Planning Principles in respect of the isolation of the neighbouring property at 13 Gertrude Street.
 - 3. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not comply with the maximum allowable Floor Space Ratio within Clause 29 of State Environmental Planning Policy (Affordable Rental Housing) 2009.
 - 4. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not comply with Clause 29(2)(d)(ii) of State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the width of the Manager's private open space area is insufficient.
 - 5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the Rockdale Local Environmental Plan 2011, including:
 - Clause 6.2 Earthworks: The submitted Geotechnical investigation is insufficient and does not adequately consider likely impacts on adjacent properties.
 - Clause 6.6 Flood Planning: The proposed platform lift at the front of the site on the ground floor plan is not supported as accessible access unless it can be adequately flood proofed.
 - Clause 6.7 Stormwater: The submitted stormwater plans are inconsistent with the architectural drawings and are therefore inadequate for assessment.
 - 6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the Rockdale Development Control Plan 2011, including:

Part 4.1.3 - Flood Risk Management

Part 4.1.9 - Lot size and Site Consolidation

Part 4.4.3 - Natural Lighting and Ventilation (insufficient ceiling heights)

Part 4.5.2 - Social Equity - Equitable Access

Part 4.6 - Car Park Location and Design

- 7. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the manoeuvring of vehicles.
- 8. Pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not considered to be suitable for the site.
- 9. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the non-compliances with the planning controls, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
- 2. That the objector be advised of the Bayside Local Planning Panel's decision.

Background

History DA-2017/555

 DA-2017/555 for Integrated Development - Demolition of existing structures and construction of a nine (9) storey boarding house comprising 59 boarding rooms including a manager's residence; basement level parking; landscaping and associated works was refused under Delegated Authority on 15 November 2018.

S82-2019/1

- The subject Section 8.2 Review of the refusal of DA-2017/555 was submitted to Council on 13 February 2019.
- <u>22 February 2019 1 April 2019</u> the application was notified in accordance with the requirements of Rockdale DCP 2011. One (1) submission was received.

Proposal

The subject application seeks consent for demolition of the existing structures and construction of a nine (9) storey boarding house comprising 59 boarding rooms including a manager's residence; partial basement and above ground parking; landscaping and associated site works. The proposed development is further summarised as follows:

Lower Basement

 This level contains a car parking pit associated with the proposed mechanical car lift.

Ground Floor

- · Vehicular access from Gertrude Street;
- Pedestrian access to the building from Gertrude Street. A platform lift is proposed in the front setback area;
- Reception, storage space, communal laundry, waste area and two lifts;
- · One accessible car parking space;
- Mechanical car lift with integrated parking stacker system at lower basement level (capable of accommodating 30 vehicles);
- Bicycle storage facilities;
- · Nine (9) motorcycle spaces; and
- Access to deep soil area within the rear setback.

Level 1

- · Managers residence;
- 6 x boarding rooms; and
- · Outdoor Communal open space.

Levels 2-7

• 8 x boarding rooms each level.

Level 8

- 4 x boarding rooms;
- Indoor communal area; and
- · Outdoor communal open space.

No details containing proposed number of lodgers per room were submitted. Similarly, a boarding house Plan of Management was not submitted.

Externally, the building is proposed to be finished with a combination of render, aluminium louvres, timber cladding and glass/solid balustrading. The eastern side elevation is proposed to contain a cladding panel finish. The floor to floor heights for levels 1 to 8 are proposed to be 2.7m.

Site location and context

The subject site (Lot 35 DP 4301) is a rectangular allotment with a 12.85m splayed frontage to Gertrude Street and overall surveyed site area of 559sq/m. The subject site is currently vacant albeit for a shed abutting the rear boundary of the property and appears to be utilised for the temporary storage of building materials. The site is zoned R4 High Density Residential, is relatively flat, affected by flooding, potential contamination, class 3 acid sulphate soils and the OLS. Along the rear boundary of the site an open box drainage reserve spans the width of the site, this is 1.22m in

width.

The site and its directly adjoining eastern neighbour which is in separate ownership at 13 Gertrude Street are the last two remaining lots fronting Gertrude Street in the subject street block bound by Gertrude Street, Princes Highway, Innesdale Road and Robert Lane. This street block is zoned R4 High Density Residential. The context of approvals and established building forms in the immediately surrounding area and is identified in the image below. A number of detached single storey dwelling houses currently exist at 8-18 Innesdale Road.

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*.

S8.2 – S8.5 – Review of Determination

The relevant matters to consider under S8.2 – S8.5 are listed below.

8.2 - Determination and decisions subject to review

- (1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:
 - (a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),
 - (b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),
 - (c) the decision of a council to reject and not determine an application for development consent.
- (2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division:
 - (a) a complying development certificate,
 - (b) designated development,
 - (c) Crown development (referred to in Division 4.6).
- (3) A determination or decision reviewed under this Division is not subject to further review under this Division.

<u>Comment:</u> The subject review is of a determination of an application made by Council and it does not constitute any of the exemptions detailed within Section 8.2(2).

8.3 - Application for and conduct of review

- (1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.
- (2) A determination or decision cannot be reviewed under this Division:
 - (a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or
 - (b) after the Court has disposed of an appeal against the determination or decision.

<u>Comment:</u> The request was made (and is required to be determined) within the 6 month period set out by this clause.

(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.

<u>Comment:</u> The applicant has made some amendments to the proposed development. However, Council is satisfied that it remains substantially the same development in accordance with the requirements of this clause.

8.4 - Outcome of review

After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.

<u>Comment:</u> The application has been reviewed and it is recommended that the initial refusal decision is confirmed.

8.5 - Miscellaneous provisions relating to reviews

<u>Comment:</u> The miscellaneous provisions have been considered and noted. No further comments are made in this regard.

S4.46 - Development that is Integrated Development

The proposal includes excavation works for a proposed car stacker pit on site that will transect the water table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91A of the Environmental Planning and Assessment Act 1979, and requires approval from the NSW Office of Water (NOW). In the assessment of the original application, the NSW Office of Water deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 23rd March 2018.

The subject Review application was re-referred back to the NSW Office of Water given that the amended proposal would significantly increase the depth of the excavation works proposed. To date, no response has been received.

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

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Affordable Rental Housing) 2009

	Part 2 – New Affordable Rental Housing			
Division 3 – Boarding Houses				
Clause	Requirement	Proposed	Complies	
26 - Land to which this division applies	SEPP applies to R4 land	R4 zoned site	Yes	
27 – Accessible Area	Site to be located within an "accessible area" i.e. 400m walking distance of bus stop with regular service/800m distance to public entrance to train station	170m to bus stop on Princes Highway, 725m walking distance from Wolli Creek Railway Station.	Yes	
29 -Standards that cannot be used to refuse consent	FSR – 2.7:1 (1509.3m²) (bonus 0.5:1 as permitted by clause 13(2)(a)(i) of SEPP)	The information submitted in the application states that the FSR proposed is 2.69:1 (1508m²) and is therefore compliant. However, it is noted that this calculation does not include one (1) car parking space which is proposed in excess of the	No	

		minimum requirements of the consent authority. This space is required to be included in the FSR in accordance with the definition of <i>gross floor area</i> in RLEP 2011. Inclusion of such would result in a non-compliance with the FSR development standard. No clause 4.6 exception was submitted. As a result, the consent authority has no legal power to consent to the application.	
Heigh maxin	t – 29.5m	27.4m - complies	Yes
Lands setba	cape front ck – atible with	1.2m high fence, enclosed fire booster and landscaped front setback which is acceptable. However, an updated landscape plan was not provided.	Yes
3hrs r	Access – nidwinter to unal living	3 hours midwinter sunlight achieved to top floor communal living room at the front of the site.	Yes
Space 20sq/i	e Open e – 1 x m with min sion 3m for	The size of the communal open space area complies.	Yes
Space	e Open e - Manager 1 m with 2.5m	The useable area of the Managers balcony is less than 2.5m in depth and therefore does not comply.	No
space (58x0 1 Mar space	ng – 0.5 s per room .5 = 29) nager = 1 car required =	The proposal provides a total of 31 car parking spaces and is therefore compliant with the numerical requirements. However, reference is made to the comments from Council's Development Engineer later in this report who has raised a number of	Yes

8

	Accommodation Size – 12sq/m per single room excl kitchen / bathroom OR 16sq for multiple Facilities – Can be	concerns with respect to the proposed vehicular access and car parking arrangements. All rooms comply with the 12m² minimum requirement, excluding the kitchen/bathroom.	Yes
	shared or independent e.g. kitchen / bathroom	bathrooms/kitchens are provided to each room.	
30 - Development Standards	5+ rooms / min one communal living room	A communal living room is proposed at the eastern end of the Level 8 plan.	Yes
	Boarding room max size 25sq/m	No boarding rooms exceed 25m² (excluding kitchen/bathroom).	Yes
	Boarding room max 2 adult person occupancy	The application was not accompanied by any information stating what the proposed occupancy of each of the rooms is. However, based on their size, it is assumed each room is intended to contain 1 adult person which is acceptable.	Yes
	Provision of kitchen / bathroom facilities for each lodger	Individual ensuites/kitchenettes provided in each room which is acceptable.	Yes
	No ground level residential accommodation if zone is for commercial purposes.	R4 zone permits ground level residential uses. The proposal provides a residential lobby at the ground floor level which is acceptable.	Yes
	Boarding House Manager required on site if boarding house has capacity to accommodate 20 or more lodgers. Boarding room or dwelling to	Boarding room with kitchen/bathroom facilities provided for on site manager adjoining communal space at level 1.	Yes

	be provided for manager. 12 bicycle & 12 motorcycle spaces required	12 bicycle spaces and 12 motorcycle spaces are identified on the ground floor.	Yes
30A - Character of local area	Development to be compatible with local area	The proposal would have an external appearance which is generally compatible with the existing and desired future character of the local area.	Yes
52 - Subdivision	No subdivision of boarding houses	No subdivision proposed	Yes

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

The applicant has submitted a compliant BASIX Certificate for the proposed development.

State Environmental Planning Policy No 55—Remediation of Land

The property is identified in Council's records as being potentially contaminated. Clause 7 of State Environmental Planning Policy 55 – Remediation of Land requires the consent authority to be satisfied prior to determination that the site is or can be made suitable for the proposed development.

The refused DA was accompanied by a Detailed Site Investigation Report which concluded that the levels of contamination of soils in the subsurface of the site do not prohibit the site from being made suitable for the proposed land use. A further Remediation Action Plan (RAP) has been submitted which recommends remediation and validation works required to occur on site.

The reports submitted to Council have been reviewed by Councils Environmental Scientist, who raised no objections to the conclusions of the reports. The proposal satisfies the requirements of SEPP 55.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with	Compliance with
	objectives	standard/provision
2.3 Zone R4 High Density	Yes	Yes - see discussion
Residential		
4.3 Height of buildings	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.4 Floor space ratio - Residential zones	No - see discussion	No - see discussion
6.1 Acid Sulfate Soil - Class 3	Yes	Yes - see discussion
6.2 Earthworks	No - see discussion	No - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood Planning Land	Yes	Yes - see discussion
6.7 Stormwater	No - see discussion	No - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone R4 High Density Residential

The proposed boarding house is permissible within the R4 High Density Residential Zone. The proposal is consistent with the objectives of the zone.

4.3 Height of buildings

A maximum height limit of 29.5m applies to the subject site. The proposal has a maximum height of 27.4m which complies with this requirement. However, the floor to floor heights proposed for levels 1 to 8 are 2.7m which is unsatisfactory and does not promote an acceptable level of amenity. The provision of a more suitable, larger floor to floor height would be likely to cause the overall building height to breach the 29.5m development standard.

The following plan extracts depict the 2.7m floor to floor height proposed:

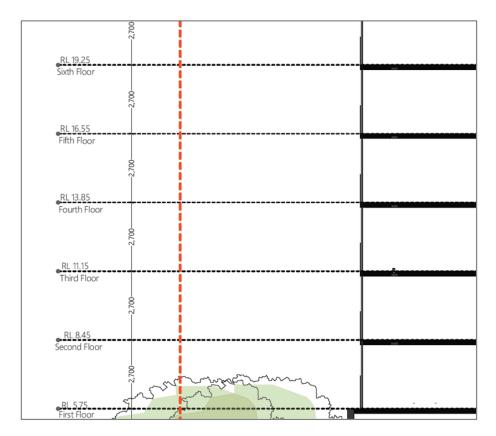


Figure 1: Section extract showing 2.7m floor to floor heights

4.4 Floor space ratio - Residential zones

The provisions of SEPP ARH 2009 in relation to FSR prevail against the provisions of this clause. The maximum allowable FSR is 2.7:1 or 1509.3m². This is inclusive of a 0.5:1 bonus available in accordance with SEPP ARH 2009.

The information submitted in the application states that the FSR proposed is 2.69:1 (1508m²) and is therefore compliant.

However, it is noted that this calculation does not include one (1) car parking space which is proposed in excess of the minimum requirements of the consent authority. This space is required to be included in the FSR in accordance with the definition of *gross floor area* in RLEP 2011. Inclusion of such would result in a non-compliance with the FSR development standard. No clause 4.6 exception was submitted. As a result, the consent authority has no legal power to consent to the application.

6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 affect the property. Development Consent is required as the proposal involves works below the natural ground level and the

works may lower the water table. Excavation is proposed at a depth greater than 1m. In this regard, the submitted Remediation Action Plan details Acid Sulfate Soils Management measures for the site. Should the proposal have been supported, conditions of consent could have been imposed in order to ensure appropriate management of ASS on site. The proposal is consistent with the objectives and requirements of clause 6.1.

6.2 Earthworks

The application was referred to Council's Development Engineer who has raised the following concerns:

Groundwater levels are measured to be at 0.7m bgl and estimated by the geotechnical engineers in this location to fluctuate between 1-2m bgl. Excessive vertical excavation for the proposed mechanical car parking facility is not supported. Currently proposed RL's for the bottom of the basement are well below the water table at an RL of -7m AHD. The adjoining developments basement structures are approx. RL -1.2m AHD.

Details must be supplied regarding the proposed structural basement design as a fully tanked structure and an assessment of the impacts of hydrostatic pressure (both lateral and uplift pressures) on the proposed basement structures and a geotechnical investigation regarding the drawdown of groundwater and the impacts it will have on adjacent properties. This is necessary and the current report is lacking in this assessment and is currently not supported.

In view of the above, there is insufficient information to satisfy the objectives of clause 6.2 in RLEP 2011 concerning earthworks.

6.4 Airspace operations

The proposed development is affected by the 51AHD Obstacle Limitation Surface (OLS). The proposed building height has a maximum height of RL28.91 and is therefore below the OLS. The original development application was referred to Sydney Airports who approved a maximum height to 30AHD. No further concerns are raised in this regard.

6.6 Flood Planning Land

The site is subject to flooding and flooding requirements in the Wolli Creek locality which require the habitable areas to be protected to at least the level of the 0.5% AEP + 500mm freeboard. Council's Development Engineer has indicated that the proposal complies with these requirements in so far as it relates to the minimum habitable floor levels. However, the proposed platform lift at the front of the site on the ground floor plan is not supported as accessible access unless it can be adequately flood proofed. This has not been demonstrated by the applicant.

6.7 Stormwater

The application was reviewed by Council's Development Engineer who has indicated that the submitted stormwater plans are inconsistent with the architectural drawings and are therefore inadequate for assessment.

6.12 Essential services

Services will generally be available to the subject site given its location in an urbanised area. The proposal satisfies the provisions of this clause.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with	Compliance with
	objectives	standard/provision
4.1.1 Views and Vista	Yes	Yes
4.1.3 Water Management	No - see discussion	No - see discussion
4.1.3 Flood Risk Management	No - see discussion	No - see discussion
4.1.3 Groundwater Protection	No - see discussion	No - see discussion
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes
4.1.9 Lot size and Site Consolidation -	No - see discussion	No - see discussion
isolated sites		
4.4.1 Energy Efficiency - Residential	Yes	Yes
4.4.2 Solar Access - General Controls	No - see discussion	No - see discussion
4.4.3 Natural Lighting and Ventilation -	No - see discussion	No - see discussion
Residential		
4.4.5 Visual privacy	Yes	Yes
4.4.5 Acoustic privacy	No - see discussion	No - see discussion
4.5.2 Social Equity - Equitable Access	No - see discussion	No - see discussion
4.6 Car Park Location and Design	No - see discussion	No - see discussion
4.7 Air Conditioning and Communication	Yes	Yes
Structures		
4.7 Waste Storage and Recycling	Yes	Yes
Facilities		
4.7 Servicing - Wolli Creek and bonar	Yes	Yes
Street		
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes
4.7 Hot Water Systems	Yes	Yes
7.1.5 Wolli Creek Road Network and	Yes	Yes
Vehicular Access		
7.1.9 Wolli Creek - Environmental	No - see discussion	No - see discussion
Management		

4.1.3 Water Management

Matters relating to stormwater management have been previously discussed in this report.

4.1.3 Flood Risk Management

Matters relating to flood risk management have been previously discussed in this report.

4.1.3 Groundwater Protection

Refer to previous discussion under Clause 6.2 - Earthworks of RLEP 2011.

4.1.9 Lot size and Site Consolidation - isolated sites

The isolation of the adjoining property at 13 Gertrude Street, Wolli Creek was detailed as a reason of refusal of the DA as follows:

The proposed development restricts the redevelopment potential and results in the isolation of the adjoining property at 13 Gertrude Street Wolli Creek, to the extent that this property will be incapable of being redeveloped in compliance with the current planning controls. As a consequence the proposal does not promote the orderly and economic use and development of land.

The original assessment report made the following remarks in respect of this matter:

The applicant sought to address the matter of site isolation and submitted to Council, 2 letters of offer made to the adjoining owner and a property valuation of 13 Gertrude Street. This information was submitted to Council on 10 August 2018 following an earlier formal written request by Council in April 2018.

The property valuation document submitted to Council was prepared by Mr Adrian Staltari of Meadow Real Estate in Carlingford. Concern is raised in relation to the submitted valuation, as it incorrectly describes the location of the site in Part 5, appears to be incomplete and is not dated. As such it cannot be ascertained or confirmed when this document was prepared. The applicants two letters of offer to the neighbouring property owner at 13 Gertrude Street are as follows:

- a) 8th May 2017 Offer of \$2,722,500.00. Offer ceased on 22 May 2017.
- b) 5th June 2017 Offer of \$2,722,500.00. Offer ceased on 19 June 2017.

A review of the information submitted and confirmation of delivery from Australia Post indicates that both letters of offer were delivered to the neighbouring property owner via registered post on 6 September 2017. This is several months following the dates specified on correspondence within the offers made. This is also 9 weeks prior to the lodgement of the formal development application with Council.

Given the above circumstances, it cannot be confidently stated that the applicant has appropriately followed, adhered to, nor satisfied the principles of site isolation and it is unable to be ascertained whether amalgamation of the sites is or is not feasible.

The information submitted in the subject Review application states the following:

The section 82(a) is accompanied by an additional statement signed and verified by

the owner of the adjoining development at 13 Gertrude Street Wolli Creek. The statement confirms the owner of adjoining development at 13 Gertrude Street, has review the two offers and valuations and wishes to refuse both offers. In addition, the neighbouring owner is in support of the proposed boarding house at 11 Gertrude Street Wolli Creek.

The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non-compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity. To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement).

A schematic design accompanies this submission and relies heavily on a similar built form to the proposed, including setbacks, height, building separation and landscaped areas

Planning comments

- The schematic design of the isolated site referenced by the applicant is a front (street) elevation drawing only. The remaining elevations, floor plans and sections were not supplied. The level of detail provided is therefore insufficient to accurate assess this aspect of the development.
- The concerns made in the original assessment in respect of the valuation report
 and offers made to the adjoining development at 13 Gertrude Street remain valid
 The offers are outdated and there are inaccuracies in the valuation report. No
 evidence of current offers and an updated valuation report were submitted as
 documentary evidence;
- It would appear to be beneficial to amalgamate 11 and 13 Gertrude Streets in
 order to maximise the redevelopment potential of these lots, enable compliance
 with relevant planning controls, achieve a superior streetscape response,
 maximise amenity to future occupants on both sites and limit the overall number
 of vehicular crossings to Gertrude Street; and
- The engineering concerns raised with respect to the mechanical car parking system and shortfall in accessible spaces can be attributed, at least in part, to the long narrow nature of the subject allotment. Amalgamation with the adjoining site would provide a more suitably sized allotment, enabling a workable basement level to be achieved.

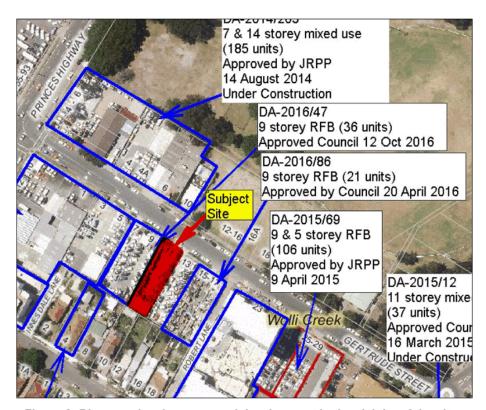


Figure 2: Diagram showing approved development in the vicinity of the site.

No.13 Gertrude is left as a residual lot.

4.4.2 Solar Access - General Controls

The application was not accompanied by shadow diagrams to enable an assessment of the development against the applicable criteria in the DCP.

4.4.3 Natural Lighting and Ventilation - Residential

The controls in this part of RDCP 2011 requires habitable spaces in residential buildings to have 2.7m ceiling heights.

The proposed boarding rooms contain 2.7m floor to floor heights which is insufficient bearing in mind that the slab thicknesses, services, ceilings and floor coverings must come out of this height. The final floor to ceiling height is likely to be below 2.4m which does not promote an acceptable level of residential amenity.

4.4.5 Acoustic privacy

The original development application was accompanied by an Acoustic assessment report addressing aircraft, traffic and internal noise transmission. However, an updated report was not submitted with the subject Review application in light of the design changes made.

4.5.2 Social Equity - Equitable Access

The application was not accompanied by an Access Report to demonstrate consistency with the BCA and the Access to Premises Standard. As noted in this report, the proposal provides a shortfall in accessible car parking spaces and concern is raised regarding the proposed platform lift at the front of the site in respect of flood protection.

4.6 Car Park Location and Design

The application was reviewed by Council's Development Engineer who does not support the proposed car parking and vehicular access arrangements. The following concerns were raised:

 Accessible parking spaces are to be provided for each accessible room in accordance with the disability (access to premises) act which states:

Table D3.5 Carparking spaces for people with a disability

Class of building to which the Class 7a building or carparking area is associated		Number of accessible carparking space required	
Class	1b and 3	5	
Boarding house, guest house, hostel, lodging house, backpackers accommodation, or the residential part of a hotel or motel.	To be calculated by multiplying the total number of carparking spaces by the percentage of:		
	(a) accessible sole-occupancy units to the total number of sole-occupancy units; or		
	 (b) accessible bedrooms to the total number of bedrooms; and 		
		the calculated number is to be taken to the next whole figure.	

There are 4 accessible SOUs and 59 rooms in total. 31*4/59 = 2.1 accessible parking spaces are required. Only one accessible parking space is proposed and this is not acceptable in regards to the Disability (Access to Premises) Act.

• Entrance from the two way roadway into a one way roadway will require an overtaking bay. There is insufficient area in front of the lift for an inbound driver to give way to a car leaving the lift and the access point into the property prior to entering the ramp does not allow for two vehicles to pass one another. This is because the driveway/ramp is not wide enough for two way travel and there is no queue space at the property line within the property for an inbound driver to give way to an outbound driver. This creates a development which has multiple vehicular conflict points and a situation where a car is likely to queue in the public area which is not supported especially on Gertrude Street which receives a large amount of vehicular movements per day as it operates as a collector road. The design of the parking facility does not comply with AS/NZS 2890.1:2004.

- Insufficient details have been provided for the mechanical parking stacker facility
 and the lift regarding its operation, speeds, queue times, sizing, operation etc.
 and no provision for maintenance access to the mechanical parking facility is
 provided which is not supported.
- A queueing analysis was not provided for the development.
- Pedestrian sight distances are not in accordance with AS/NZS 2890.1:2004.
- A dedicated car wash bay is to be provided in accordance with Section 7.5.5 of Rockdale technical specification stormwater management.

In view of the above, the proposed development is unsatisfactory with respect to Part 4.6 of RDCP 2011.

7.1.9 Wolli Creek - Environmental Management

As previously discussed within this report, it is reiterated that the proposal has not adequately addressed Councils stormwater and flooding (as it relates to the proposed platform lift) requirements. The proposal is unsatisfactory in this regard.

S4.15(1)(a)(iv) - Provisions of regulations

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal. No concerns are raised in this regard.

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

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls and found to be unacceptable.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. The site is not considered to be suitable for the proposed development given the design issues raised with the proposal.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and one (1) submission has been received. The issues raised in the submission are discussed below:

<u>Issue 1</u>: The submission states that objection is raised on the basis of the proposed usage as a boarding house which is unacceptable for a predominately residential area.

<u>Comment</u>: Boarding houses are a permissible use in the R4 zone and fall within the definition of *residential accommodation* in the LEP. The proposed use is acceptable.

S4.15(1)(e) - Public interest

The proposal is not in the public interest having regard to the non-compliances with the applicable planning controls.

S7.11 Contribution towards provision or improvement of amenities or services

Should the proposal be supported, s7.11 contributions would be required in order to accommodate for the proposed increase in residential density on the subject site.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number: DA-2017/555 **Date of Receipt:** 6 November 2017

Property: 11 Gertrude Street, WOLLI CREEK (Lot 35 DP 4301)

Owner: Powerland Property Pty Ltd

Applicant: Mr Mario Mourad

Proposal: Integrated Development - Demolition of existing structures and

construction of a nine (9) storey boarding house comprising 59 boarding rooms including a manager's residence; basement level parking;

landscaping and associated site works

Recommendation: Refused **No. of submissions:** One (1)

Author:Fiona ProdromouDate of Report:15 November 2018

Key Issues

The isolation of 13 Gertrude Street Street Wolli Creek was considered in the assessment of this application. The applicant inadequately addressed the relevant Land & Environment Court Planning Principles in relation to Site Isolation. The proposal has the potential to isolate and restrict the development potential of the adjoining eastern lot. This is discussed further within this planning report.

The proposal does not comply with the on site car parking requirements of SEPP Affordable Rental Housing 2009. The proposal has a deficiency of 18 on site car spaces and is not supported in this regard. Further, the car stacker system proposed to be installed on site will require significant changes to the architectural design of the development and will result in the deletion of the accessible car parking space. This is unsatisfactory.

The proposal does not comply with the height or FSR standards for the site. Nil Clause 4.6 - Exception to Development Standards has been submitted by the applicant.

Plans and accompanying documentation submitted with the application comprise numerous errors and inaccuracies and do not allow for a comprehensive assessment of the proposed development.

A valid and accurate BASIX certificate does not accompany the revised drawings submitted to Council on 10 August 2018.

The proposal as designed does not comply with the relevant flood planning and stormwater requirements of Council.

The proposal is recommended for Refusal.

Recommendation

That this Development Application be **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:

- 1. The proposed development restricts the redevelopment potential and results in the isolation of the adjoining property at 13 Gertrude Street Wolli Creek, to the extent that this property will be incapable of being redeveloped in compliance with the current planning controls. As a consequence the proposal does not promote the orderly and economic use and development of land.
- 2. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with State Environmental Planning Policy BASIX.
- 3. 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 provisions of Clause 29(2)(e)(iia) Parking of State Environmental Planning Policy Affordable Rental Housing.
- 4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with Clause 30A Character of Local Area as per State Environmental Planning Policy Affordable Rental Housing.
- 5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.3 Height of Buildings of Rockdale Local Environmental Plan 2011.
- 6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.4 FSR of Rockdale Local Environmental Plan 2011.
- 7. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.6 Flood Planning Land of Rockdale Local Environmental Plan 2011.
- 8. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.7 Stormwater of Rockdale Local Environmental Plan 2011.
- 9. Insufficient and inaccurate information has been submitted with the application, which does not facilitate a comprehensive assessment of the potential impacts of the proposal.

Background

History

6 August 2017

Pre DA completed

Construction of a nine (9) storey, sixty one (61) room boarding house development under remit of SEPP (Affordable Rental Housing) 2009.

6 November 2017 DA submitted to Council

Demolition of existing structures and construction of a nine (9) storey 'new generation' boarding house development under the Affordable Rental Housing State Environmental Planning Policy comprising 60 boarding rooms; manager's residence; basement level parking; landscaping and associated site works

27 November 2017 - 5 January 2018 Public notification of proposal.

14 December 2017

Design Review Panel meeting.

9 April 2018

Letter to applicant advising of issues with the proposed application. These issues include but are not limited to site isolation, design quality, safety & security, insufficient information & a range of engineering issues.

10 August 2018

Amended plans and information submitted to Council.

Proposal

The proposal seeks to undertake the demolition of existing structures on site and construct a nine (9) storey boarding house with 59 rooms (including 1 managers residence) and associated stacked car parking facility on site, with associated landscaping and stormwater drainage works.

The proposal comprises as follows in more detail;

Ground Floor / Car Stacker System

A 3.1m wide driveway is located adjoining the south-eastern boundary of the property. A vertical car stacker pit and system with capacity to accommodate, park and retrieve vehicles on site. The car stacker system proposed accommodates a total of 12 vehicles stacked over three levels in rows of four. 12 bicycle and 12 motorbike spaces are also provided on site. A waste storage room, communal laundry, lobby and two (2) lifts are also located at this level.

Vehicular and pedestrian access are both via separate access ways from Gertrude Street. A wheelchair lift is proposed adjoining the steps to the residential entry. The front of the site incorporates a landscaped area which is generally level with the public domain. A 1.2m high masonry rendered fence is proposed along the front boundary of the site. A fire booster enclosure is positioned at the frontage of the site, this is screened with louvres and adjoins the pedestrian access way.

Level 1

This level incorporates a total of 7 single rooms, including a managers residence. Each boarding room comprises independent kitchenette and ensuite facilities along with storage space and a small balcony.

The rear of level 1 incorporates a podium level communal open space area with a toilet, bbq area with awning and periphery planting along the western side. Glass balustrading is proposed along the

southern edge of this space.

Levels 2 to 7 (8 single rooms per floor)

A total of 48 single rooms each with bathroom and kitchenette facilities per floor. Each of the rooms features a small balcony and internal storage.

Level 8

This level incorporates 4 single boarding rooms with associated kitchenette and ensuite facilities along with a small balcony and storage.

A north facing communal area and room are proposed fronting Gertrude Street. Communal areas include indoor and outdoor spaces with periphery planting to external areas and a bbq area. A feature roof covers a portion of the outdoor communal space.

The indoor communal room features a bathroom and kitchen facility with associated furniture and fittings i.e. wall mounted television.

Landscaped area with deep soil provision is provided within the front and rear portions of the site. The landscaped area along the rear of the site adjoins an open channel drainage reserve.



Site location and context

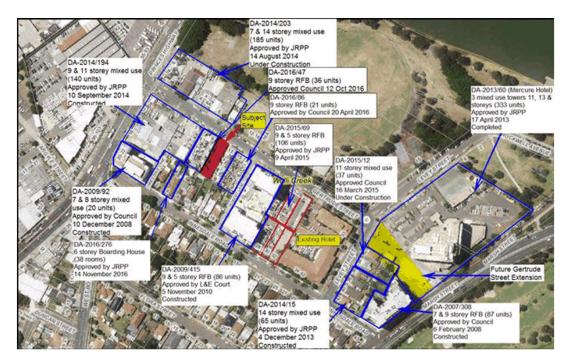
The subject site (Lot 35 DP 4301) is a rectangular allotment with a 12.85m splayed frontage to Gertrude Street and overall surveyed site area of 559sq/m. The subject site is currently vacant albeit for a shed abutting the rear boundary of the property and appears to be utilised for the temporary storage of building materials.

The site is zoned R4 High Density Residential, is relatively flat, affected by flooding, potential contamination, class 3 acid sulphate soils and the OLS. Along the rear boundary of the site an open box

drainage reserve spans the width of the site, this is 1.22m in width.

The site and its directly adjoining eastern neighbour which is in separate ownership at 13 Gertrude Street are the last two remaining lots fronting Gertrude Street in the subject street block bound by Gertrude Street, Princes Highway, Innesdale Road and Robert Lane. This street block is zoned R4 High Density Residential.

The context of approvals and established building forms in the immediately surrounding area and is identified in the image below. A number of detached single storey dwelling houses currently exist upon 8-18 Innesdale Road.



Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S4.46 - Development that is Integrated Development

The proposal includes excavation works for a proposed car stacker pit on site that will transect the water table and require temporary dewatering during the construction phase. The proposal is therefore Integrated Development pursuant to Section 91A of the Environmental Planning and Assessment Act 1979, and requires approval from the NSW Office of Water (NOW). The NOW deemed that the construction dewatering proposed for the project would be an 'aquifer interference activity' in accordance with the definition in the Water Management Act 2000, and issued General Terms of Approval (GTA's) appropriate to this activity on 23rd March 2018.

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

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Affordable Rental Housing) 2009

	Division 3 – Boarding Houses			
Clause	Requirement	Proposed	Complies	
26 - Land to which this division applies	SEPP applies to R4 land	R4 zoned site	Yes	
27 – Accessible Area	Site to be located within an "accessible area" i.e. 400m walking distance of bus stop with regular service / 800m distance of public entrance to train station	170m to bus stop on Princes Highway 725m walking distance from Wolli Creek Railway Station	Yes	
29 - Standards that cannot be used to refuse	FSR – 2.7:1 (1509.3sq/m) (bonus 0.5:1 as permitted by clause 29(1)(c)(i) of SEPP)	2.87:1 (1605.3sq/m GFA) 6.3% FSR variation proposed.	No - 96sq/m surplus GFA. Nil 4.6 submitted.	
consent	Height – 29.5m maximum	29.84m (31.39RL) to top of the lift overrun	No - Height variation of 0.34m. Nil 4.6 submitted.	
	Landscape front setback	1.2m high fence & enclosed fire booster enclosure & landscaped front setback.	Yes	
	Solar Access – 3hrs midwinter to communal living room	3 hours midwinter achieved to north facing top floor communal room	Yes	
	POS Boarding House Manager 1 x 8sq/m POS with 2.5m dimension	10.2sq/m POS area	Yes	

	POS Communal – 1 x 20sq/m with min dimension 3m for lodgers	>20sq/m COS areas within development. 1 x podium & 1 x rooftop communal open space	Yes
	Parking – 0.5 spaces per room rooms = 29 car spaces 1 Manager = 1 car space Total required =30 spaces	12 spaces	No – 18 car spaces deficient
	Accommodation Size – 12sq/m per single room excl kitchen / bathroom	Single rooms = 13sq/m – 18sq/m excluding kitchen / bathroom	Yes
	Facilities – Can be shared or independent e.g. kitchen / bathroom	Individual ensuite /kitchenette and cupboards to boarding rooms.	Yes
	5+ rooms / min one communal living room	2 communal living areas / rooms provided	Yes
Standards	Boarding room max size 25sq/m	Max room size = 18sq/m excluding kitchen / bathroom	Yes
	Boarding room max 2 adult person occupancy	58 x single occupancy rooms includingmanagers room	Yes
	Provision of kitchen / bathroom facilities for each lodger	Individual ensuites/kitchenettes provided per room. Communal kitchen facilities provided within development.	Yes
	No ground level residential accommodation if zone is for commercial purposes.	R4 zone permits ground level residential uses. Proposal provides a residential lobby at ground level to complement the future desired high density residential character of the area.	Yes

	boarding house has capacity to accommodate 20 or more lodgers.	independent facilities i.e. kitchen /	Yes
	12 bicycle & 12 motorcycle spaces required	12 Bicycle and 12 motorbike areas provided on site.	Yes
1	Development to be compatible with local area	To be assessed.	Partial – See discussion below.
52 - Subdivision	No subdivision of boarding houses	No subdivision proposed	Yes

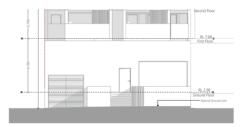
30A - Character of Local Area

The subject site is located in an area of transition from a low key industrial locality to an emerging high rise residential area.

The subject street block of which the property is positioned within incorporates a number of existing constructed residential / mixed use developments. Those currently under construction or recently completed include, a 9-11 storey mixed use development at the corner of the Princes Highway and Gertrude Streets with 140 units, 7-14 storey mixed use development opposite to the north with 185 units, 9 storey development adjoining directly to the west with 36 units, a boarding house to the south west (rear) currently under construction at 4 Innesdale Road etc.

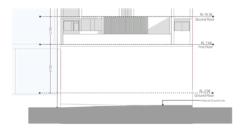
The proposal as designed seeks to mimic the overall built form, scale and height of developments in the immediate vicinity of the site. The upper levels of the development, including the choice of materials and finishes are satisfactory and considered appropriate with the future desired character of the area.

Concern is raised however in relation to the ground level of the development, which incorporates excessive blank walls and lack of articulation to the façade fronting Gertrude Street. This is a consequence of the design of the proposal which incorporates a higher floor to floor level at ground level in order to accommodate the proposed car stackers. Further design refinement is required to this façade.



Further to the above, the raised floor to floor height at ground level results in an excessively high wall along the width of the site to the rear. This wall is 6m high and positioned 0.8m from the rear physical boundary of the site adjoining the canal.

Whilst planting is proposed, this is limited to a mature height of 2.5m and would in no way obscure the visual prominence of this blank wall. Further design refinements are required. The rear setback at ground level should be increased, in order to accommodate a greater green buffer between proposed building and future development of properties to the rear.



Given the subject site is located in an area which is yet to be redeveloped to its full potential, particularly in relation to properties directly behind the site, it is essential that all components and facades of the development are designed in a manner which responds appropriately to the streetscape and minimises the bulk / scale of the development when observed from neighbouring properties.

It cannot be confidently stated that the proposal adequately complies with this clause.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004Following the revision of plans, the proposal was reduced from 61 to 59 boarding rooms. A revised BASIX certificate was not submitted accompanying amended plans. As such, it cannot be stated that the proposal adequately satisfies the provisions of the SEPP.

State Environmental Planning Policy No 55—Remediation of Land

The property is identified in Council's records as being potentially contaminated. Clause 7 of State Environmental Planning Policy 55 – Remediation of Land requires the consent authority to be satisfied prior to determination that the site is or can be made suitable for the proposed development.

The application was accompanied by a Detailed Site Investigation Report dated October 2018 undertaken by Canopy Enterprises. The report Conclusion states:

"14. Subject to the recommendations as stated in the Detailed Site Investigation (DSI) herein and actions being satisfactorily implemented, it is Canopy's opinion that the levels of contamination of soils in the subsurface of the Site do not prohibit the Site from being made suitable for the proposed

high density residential land use. Demolition and construction preparatory works can and should proceed without further environmental assessment under the auspice of a Commencement Certificate (Stage 1) or similar mechanism; and

15. Remedial/waste classification works will be required to be undertaken in accordance with an appropriate Remediation Action Plan (RAP). Subsequently a final site validation assessment must be undertaken by a suitably qualified consultant and a Site Validation Report issued to confirm the suitability of the Site for the proposed high density residential land use prior to the substantial commencement of construction."

A Remediation Action Plan (RAP) dated October 2018, was submitted to Council by the applicant and recommends remediation and validation works required to occur on site.

The reports submitted to Council have been reviewed by Councils Environmental Scientist, who raised no objections to the conclusions of the reports. The proposal satisfies the requirements of SEPP 55.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R4 High Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes
4.3 Height of buildings	No - see discussion	No - see discussion
4.4 Floor space ratio - Residential	No - see discussion	No - see discussion
zones		
6.1 Acid Sulfate Soil - Class 3	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	No - see discussion	No - see discussion
6.6 Flood Planning Land	No - see discussion	No - see discussion
6.7 Stormwater	No - see discussion	No - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone R4 High Density Residential

The proposed boarding house is permissible within the R4 High Density Residential Zone. The proposal complies with the objectives of the zone.

4.3 Height of buildings

A maximum height limit of 29.5m applies to the subject site. The proposal has a maximum height of 29.84m (31.39RL) to the top of the lift overrun and does not comply with this requirement. The proposal indicates a variation of 0.84m.

The application has not been accompanied by a Clause 4.6 - Exception to Development Standards.

Given the aforementioned, the proposal does not comply with the height standard applicable to the site.

4.4 Floor space ratio - Residential zones

The provisions of SEPP ARH 2009 in relation to FSR prevail against the provisions of this clause. The proposal does not comply with the FSR requirements of the SEPP and is unsatisfactory in relation to the objectives of this clause.

6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 affect the property. Development Consent is required as the proposal involves works below the natural ground level and the works may lower the water table. Excavation is proposed at a depth greater than 1m.

In this regard, the submitted Remediation Action Plan dated October 2018 and prepared by Canopy Enterprises, details Acid Sulfate Soils Management measures for the site.

Should the proposal have been supported, conditions of consent could have been imposed in order to ensure appropriate management of ASS on site. The proposal is consistent with the objectives and requirements of clause 6.1.

6.2 Earthworks

The proposal involves excavation within the site in order to accommodate a 4 car wide car stacker pit and associated excavation for footings, stormwater and landscape works. The impacts of the proposed earthworks have been considered in the assessment of this proposal and earthworks as proposed result in minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

6.4 Airspace operations

The proposed development is affected by the 51AHD Obstacle Limitation Surface (OLS). The proposed building height has a maximum height of 30.25RL to the highest point of the skillion roof form at the top level.

The proposal was referred to Sydney Airports who approved a maximum height to 30AHD. This is 0.25m less than the height of the proposed skillion and it is unclear whether the lift overrun required is within this height range.

Given the above, it cannot be stated that the proposal is satisfactory with regards to this clause.

6.6 Flood Planning Land

The subject site is flood affected by the 1% AEP (RL 2.20m AHD) and 0.5% AEP flood levels (RL 2.35m AHD). Accordingly, measures to mitigate flooding must be incorporated into the design of the development. The minimum non-habitable floor level required is RL 2.35m AHD and the minimum habitable floor level required is RL 2.85m AHD.

Proposed habitable areas comply with the required minimum floor levels, yet proposed motorcycle parking spaces are located at a level that will be inundated in the 0.5 and 1% flood events.

Given the aforementioned, the proposal does not comply with the objectives or requirements of this clause and is unsatisfactory in this regard.

6.7 Stormwater

Inadequate design details regarding Stormwater Management, have been provided in relation to the proposed development.

The proposal does not provide sufficient design detail in relation to the collection and re-use of rainwater and does not address stormwater runoff from the rear areas of the proposed development above the parking facility.

Plans do not illustrate the 20,000L underground rainwater tank which is referred to within correspondence by the applicants Engineering consultant.

The application does not confirm that the proposal will satisfy Councils standards for Water Sensitive Urban Design which is in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are to ensure that 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. No MUSIC modelling has been provided demonstrating that the development meets the requirements laid out above.

Given the above, it cannot be stated that the proposal satisfies the requirements of this clause.

6.12 Essential services

Services will generally be available to the subject site given its location in an urbanised area. Conditions of consent generally require consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.3 Water Management	No - see discussion	No - see discussion
4.1.3 Flood Risk Management	No - see discussion	No - see discussion
4.1.3 Groundwater Protection	Yes	Yes
4.1.4 Soil Management	Yes	Yes - see discussion
4.1.5 Contaminated Land	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated	No - see discussion	No - see discussion
sites		
4.3.1 Open Space and Landscape Design -	No - see discussion	No - see discussion
Residential Flat Buildings		
4.4.1 Energy Efficiency - Residential	No - see discussion	No - see discussion
4.4.2 Solar Access - General Controls		
4.4.5 Visual privacy	Yes	Yes - see discussion

Relevant clauses	Compliance with	Compliance with
	objectives	standard/provision
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	No - see discussion	No - see discussion
4.6 Driveway Widths	Yes	Yes
4.6 Mechanical Parking Systems	No - see discussion	No - see discussion
4.7 Air Conditioning and Communication Structures	No - see discussion	No - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Servicing - Wolli Creek and bonar Street	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	No - see discussion	No - see discussion
7.1 Wolli Creek		
7.1.2 Wolli Creek Vision	Yes	Yes
7.1.3 Wolli Creek Structure Plan	Yes	Yes
7.1.4 Wolli Creek Land Use Strategy	Yes	Yes
7.1.5 Wolli Creek Road Network and Vehicular Access	Yes - see discussion	No - see discussion
7.1.6 Wolli Creek Open Space and Movement	Yes	Yes
7.1.7 Wolli Creek Built Form: Building Heights and	Yes	Yes
Density		
9-13 Storeys	Yes	Yes
7.1.8 Wolli Creek Street Character and Setbacks	No - see discussion	Yes - see discussion
7.1.8 - Wolli Creek Residential Street Frontage	Yes	Yes
7.1.9 Wolli Creek - Environmental Management	No - see discussion	No - see discussion

4.1.1 Views and Vista

The proposed development does not result in adverse view loss impacts.

4.1.3 Water Management

Matters relating to stormwater management have been previously discussed in this report.

4.1.3 Flood Risk Management

Matters relating to flood risk management have been previously discussed in this report.

4.1.4 Soil Management

A Soil & Water Management Plan has been submitted and general erosion and sediment control strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimized. Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site. The proposal satisfies the provisions of this clause.

4.1.5 Contaminated Land

The matter of contamination and remediation has been previously discussed within this report.

4.1.9 Lot size and Site Consolidation - isolated sites

In Karavellas v Sutherland Shire Council [2004] NSWLEC 251, the Land and Environment Court established that the general questions to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are;

- · Firstly, is amalgamation of the sites feasible?
- · Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?

The principles to be applied in determining the answer to the first question are set out by Brown C in Melissa Grech v Auburn Council [2004] NSWLEC 40 as follows:

- 1. Negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.
- 2. Written evidence of efforts to acquire that lot to amalgamate it with the current site. Reasonable offer to purchase & expenses to be incurred must have been made. Recent independent valuation is required. Potential economic development of that lot should no negotiations be reached.
- 3. The level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application.

The above was considered in the assessment of the application.

The applicant sought to address the matter of site isolation and submitted to Council, 2 letters of offer made to the adjoining owner and a property valuation of 13 Gertrude Street. This information was submitted to Council on 10 August 2018 following an earlier formal written request by Council in April 2018.

The property valuation document submitted to Council was prepared by Mr Adrian Staltari of Meadow Real Estate in Carlingford. Concern is raised in relation to the submitted valuation, as it incorrectly describes the location of the site in Part 5, appears to be incomplete and is not dated. As such it cannot be ascertained or confirmed when this document was prepared.

The applicants two letters of offer to the neighbouring property owner at 13 Gertrude Street are as follows;

- a) 8th May 2017 Offer of \$2,722,500.00. Offer ceased on 22 May 2017.
- b) 5th June 2017 Offer of \$2,722,500.00. Offer ceased on 19 June 2017.

The applicant advises that neither offer was accepted by the adjoining owner, yet nil documentation indicating the aforementioned was provided for assessment.

A review of the information submitted and confirmation of delivery from Australia Post indicates that both letters of offer were delivered to the neighbouring property owner via registered post on 6 September 2017. This is several months following the dates specified on correspondence within the

offers made. This is also 9 weeks prior to the lodgement of the formal development application with Council.

Given the above circumstances, it cannot be confidently stated that the applicant has appropriately followed, adhered to, nor satisfied the aforementioned principles of site isolation and it is unable to be ascertained whether amalgamation of the sites is or is not feasible.

In order to respond to the second question raised by Commissioner Tuor in Karavellas v Sutherland Shire Council [2004] NSWLEC 251, the commissioner refers to Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189, where Commissioner Brown stated:

The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.

To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.

The subject application may need to be amended, such as by a further setback than the minimum in the planning controls, or the development potential of both sites reduced to enable reasonable development of the isolated site to occur while maintaining the amenity of both developments.

In response to the above, the applicants schematic representation of the redevelopment of the neighbouring property is of insufficient detail. Two floor plans were submitted to Council, neither clarifying intended use, nor confirming heights, FSR, car parking requirements and the like. Insufficient detail has been provided of which would enable a thorough assessment of the redevelopment potential of the adjoining site, or the impacts of the proposal on a future development upon this property.

Schematic plans submitted for the adjoining property illustrate a building design akin to the subject proposal. As detailed within this report, there are a number of design issues with the current proposal and site constraints which exist upon this and the adjoining eastern neighbouring lot. As such, a design mimicking the current application on the adjoining eastern lot is unsatisfactory.

Concern is therefore raised that the proposal has the potential to isolate and restrict the redevelopment potential of the adjoining eastern property at 13 Gertrude Street, Wolli Creek.

Given the constraints of this and the neighbouring site, it would be beneficial to amalgamate 11 and 13 Gertrude Streets in order to maximise the redevelopment potential of these lots, enable compliance with relevant planning controls, achieve a well resolved streetscape response, maximise amenity to future occupants on both sites and limit the overall number of vehicular crossings to Gertrude Street.

The proposal has the potential to isolate the adjoining lot and its redevelopment potential given the aforementioned. The proposal does not ensure the orderly and economic use and development of the subject site and neighbouring allotment and is unsatisfactory in this regard.

As such, given the above, it is considered that the applicant has not undertaken reasonable efforts to seek to avoid the isolation of the adjoining property and has further been unable to demonstrate that the adjoining lot could be economically developed at a future date.

The proposal is unsatisfactory in relation to site isolation.

4.3.1 Open Space and Landscape Design - Residential Flat Buildings

It is noted that the proposal is a boarding house.

The provisions of this clause require a minimum 15% (83.85sq/m) of the site to be retained as landscaped area for proposed 'residential flat buildings'. Further, should the Apartment Design Guide have applied to the proposal, a total of 7% (39.13sq/m) of the site would be required to be provided as landscaped area.

Whilst the aforementioned requirements strictly apply to 'residential flat buildings', given the zoning of the site and high density residential character of the area as envisaged by the zoning, it is deemed appropriate that landscape requirements for similar residential development types be a consideration in the assessment of the proposal.

Given the above, the proposal comprises a total of 49sq/m (8.7%) of landscaped area on site. The provision of landscaping on site is within the front and rear building setbacks.

Landscaping on site can further be improved particularly within the rear of the site via a reduction in the length of the building footprint at ground floor level. The development under construction adjoining the site to the west provides a 5.5m rear building setback at ground level at this common boundary with the site. This enables the provision of a dense landscaped area along the rear of the site.

It is the assessing officers view that the landscaped buffer created adjoining the site should be continued within the rear of the subject site and in future that of the adjoining neighbour further to the east to provide a landscaped corridor to the rear of properties fronting Gertrude Street.

The proposal as designed seeks to avoid the construction of a basement level and as such extends the building footprint as far as possible towards the rear of the site. In this regard, landscaped areas on site are minimal and tokenistic.

4.4.1 Energy Efficiency - Residential

The applicant has submitted a valid revised BASIX Certificate for the proposed development.

4.4.5 Visual privacy

The proposed development provides a building which is built to side boundaries. Balconies fronting Gertrude Street and the rear of the site are provided with blade walls, which ensure overlooking of adjoining properties does not arise.

The development incorporates a 13m building setback to the rear property boundary and as such appropriate building separation can be achieved with the future redevelopment of properties to the rear fronting Innesdale Road.

The proposal is considered to be satisfactory with respect to visual privacy.

4.4.5 Acoustic privacy

The proposal was accompanied by an Acoustic Report prepared by Acoustic Logic dated 20/04/2017. The report considered aircraft, traffic and internal noise transmission, making recommendations to ensure appropriate internal acoustic amenity is achieved. The proposal is considered to be satisfactory with regard to acoustic amenity and satisfies the objectives of this clause.

4.4.7 Wind Impact

A Wind Impact Assessment, prepared by Vipac Engineers and Scientists Limited and dated 30 April 2018 was submitted with the application. The report concluded as follows:

- a) The development would be expected to generate wind conditions in the ground level footpath areas within the walking criterion;
- b) The development would be expected to generate wind conditions in building entrance areas within the standing criterion.
- c) The communal terrace at Level 1 is expected to have wind conditions within Walking criterion. The BBQ area under the roof above is expected to meet the more stringent comfort criterion for Standing.
- d) The terrace at Level 8 is expected to have wind conditions within the recommended criteria.
- e) The apartment balconies would be expected to have wind conditions within the walking criterion.

As such, Vipac makes no recommendations to alter the building form design for the pedestrian level winds.

Given the above, the proposal is satisfactory in relation to the provisions of this clause.

4.5.2 Social Equity - Equitable Access

The proposal illustrates access for persons with a disability from the public domain, into and throughout the building, to boarding rooms, car parking and communal areas. The proposal was further accompanied by an Access Report prepared by Accessible Building Solutions, dated 12/05/2017. The report concludes that the proposal as designed is capable of compliance with the Access provisions of the Building Code of Australia and the Access to Premises Standard. In this regard the proposal is satisfactory with the provisions of this clause.

4.6 Vehicles Enter and Exit in a Forward Direction

The proposal has been designed with internal maneuvering areas to enable vehicles to enter and exit the site in a forward direction. The location of the proposed car parking areas on site do not dominate or detract from the appearance of the development or the streetscape. The proposal is consistent with the requirements and objectives of this clause.

4.6 Basement Parking - General

Proposed car parking areas on site extend substantially beyond the footprint of the proposed development.

As a result of the car stacker system and minimal excavation proposed on site, the southern wall of the car parking area, which is 6m in height, is located 1.5m from the centreline of the canal to the rear and 0.8m from the physical rear boundary of the site.

The aforementioned results in a narrow physical building setback and resultant planter, with insufficient planting so as to obscure the extensive blank wall which is a consequence of the proposed design.

The proposed on-site car parking area is considered to detract from the appearance of the development and the proposal therefore does not satisfy the objectives or requirements of this clause.

4.6 Mechanical Parking Systems

Councils Engineer reviewed the mechanical car parking system proposed on site and stated as follows;

"The proposed architectural design does not reflect the product specifications provided by Levanta Park of which the applicant intends to utilise for the proposed stacker parking installations. The product specifications require a socket pit width of 2.83m and a headroom clearance of at least 4.5m, of which the developments design disregards. Based on the product specifications, in order to fit six (6) stackers in a row on the ground floor parking area, the aisle length will need to be at least 18.3m in length (including blind aisle) which will require significant changes to design and will result in the deletion of the accessible parking space which is not supported."

Given the above, the proposal is unsatisfactory and does not satisfy the objectives or requirements of this clause.

4.7 Air Conditioning and Communication Structures

Documentation submitted with the proposal indicates the provision of 1-phase air conditioning to proposed boarding rooms. Plans however do not illustrate the location of proposed air conditioning units. As such the proposal does not satisfy the provisions of this clause.

4.7 Waste Storage and Recycling Facilities

The proposal incorporates a suitably sized and located waste storage room at ground level with direct access to the car parking area, to facilitate access to the street at waste collection. Given the height, size and scale of the proposal, the development would benefit further from the incorporation of waste chutes within the development. The aforementioned could be conditioned should the proposal have been supported. The proposal is satisfactory with regards to this clause.

4.7 Servicing - Wolli Creek and bonar Street

The provisions of this clause require the developer to relocate undergound electricity cables to the Gertrude Street frontage of the site at no cost to Council. Should the proposal have been supported, the proposal could have been conditioned accordingly.

4.7 Laundry Facilities and Drying Areas

Plans illustrate the provision of a communal laundry within the ground level of the development with a total of 8 washers / dryers. The proposal is satisfactory in this regard.

4.7 Letterboxes

Plans illustrate the provision of a wall mounted letterbox adjoining the booster / pump room and main pedestrian entry from Gertrude Street. The proposal is satisfactory in this regard.

4.7 Hot Water Systems

Plans do not illustrate the proposed location of hot water systems for the proposed development. The proposal does not satisfy the provisions of this clause.

7.1.5 Wolli Creek Road Network and Vehicular Access

The proposal does not comply with the requirements of this clause, in that vehicular access to the subject site is proposed via the Gertrude Street frontage. It is noted that the site is constrained by a drainage easement to the rear of the property, with the development at 7-9 Gertrude Street not burdened by any easement to enable vehicular access to the subject site.

A recent approval at 15-17 Gertrude Street incorporates vehicular access via Robert Lane, yet given 13 Gertrude Street is not as yet subject to a development proposal, the subject site does not comprise any other alternative means for vehicular access.

Given the above, the provision of vehicular access via Gertrude Street is not considered to be unreasonable in this instance.

7.1.8 Wolli Creek Street Character and Setbacks

The ground level façade of the development can be improved as previously discussed in this report.

7.1.9 Wolli Creek - Environmental Management

As previously discussed within this report, it is reiterated that the proposal has not adequately addressed Councils stormwater and flooding requirements. The proposal is unsatisfactory in this regard.

S4.15(1)(a)(iv) - Provisions of regulations

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

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

<u>Health</u>

The proposal was reviewed by Councils Health Inspector who raised no objection to the proposed development on health grounds and nominated standard conditions of consent should the proposal have been supported.

Plan of Management

The proposal has been accompanied by a Plan of Management, (POM) dated May 2017 and comprising a cover page indicating it was prepared by Urbana Plan.

Concern is raised in relation to the accuracy of the POM as numerous errors and inaccuracies exist within the submitted report.

The report is inaccurate in relation to the number of boarding rooms, number of boarders, location size and fixtures of communal areas, number of washer / dryers within the communal laundry and incorrectly refers to "Innesdale Road" as the site frontage.

Given the above, the submitted POM is unsatisfactory.

Miscellaneous

Plans submitted with this application comprise a number of errors, are inaccurate and a missing a

range of information vital to the assessment of any application.

Plans submitted to Council incorrectly reference 'Canterbury City Council' as the Local Government Authority. This is incorrect.

Additionally, plans and elevations do not comprise a legend / annotations confirming proposed colours, finishes and materials of external facades. Further, elevations do not correlate with floor plans. i.e. ground level chair lift not depicted on elevation and fencing RLs are not illustrated on elevations and the northern / southern elevations inaccurately depict the adjoining approved development form.

Sections inaccurately depict the proposed building form. i.e. 'section through pit' illustrates protruding structures within the front setback of the development at levels 1 & 2.

Lift overruns illustrated on sections are inaccurately depicted i.e. RL of lift overrun is higher than roof level (31.39RL), yet roof level line is indicated as higher (30.25RL).

The southern elevation does not depict proposed structures within the podium level communal open space area i.e. toilet, pergola structure. Nil detail is provided in relation to the aforementioned pergola structure.

Should a further application be sought by the applicant, a thorough and comprehensive set of plans is required as part of any future application.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal.

The subject site is severely constrained given its narrow lot width and site frontage. The site is further contaminated, requires remediation and is significantly flood affected.

The proposal in its current form has not adequately addressed the flood affectation of the site in the design of the proposal.

Further the development, at ground level, is not designed in a manner which would enhance or provide for a cohesive streetscape response and further design improvements are necessary.

The proposal in its current form is not considered to be suitable for the subject site.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and one (1) submission has been received. The issues raised in the submission are discussed below:

Short term low cost rental property will bring in undesirable elements into the immediate area.

Comment: The proposal is a permissible use within the R4 zone subject to consent. Opposition to boarding houses, in some cases reflects a lack of awareness of the people who are likely to occupy boarding houses. There is a social stigma attached to the boarding house industry, with many perceiving the traditional boarding house as primarily accommodating undesirable people.

Many of the new generation boarding houses are more akin to a block of studio apartments with communal facilities i.e. kitchen, living and communal open space areas. New generation boarding houses offer an investment opportunity to develop housing stock for a wide clientele including students, single women, young working singles and couples. These are ordinary citizens and it cannot be assumed that they will generate different and / or negative social impacts because they are living in a particular type of building. In addition, many of the occupants of boarding houses have jobs, often key workers who are looking for accommodation close to the place where they work, study or otherwise.

There is no evidence submitted to substantiate the objectors claim.

There is no identified managers apartment on the plans

Comment: Revised plans illustrate the managers residence at level 1 adjoining a communal open space area and within close proximity to the residential building entrance.

Minimum 3 month stays will make traffic into and out of the building be considerably greater than buildings around the site

Comment: The proposal does not comply with the relevant car parking provisions of the SEPP as previously discussed in this report.

The owners of 11 Gertrude St have made minimal effort to purchase the adjoining property, as evidenced by the fact that drawing and plans for the DA were well advanced in November 2016 and offers only made in June 2017. This to me does not constitute making an effort to purchase the land on order to develop a sustainable development in keeping with surrounding properties / The owners of 11 and 13 Gertrude St, should be encouraged to sell to a developer who will develop both properties in a like minded fashion, just as all the other developments in the area.

Comment: The matter of site isolation has been previously addressed in this report.

In the Plan of Management, the onsite manager is responsible for the site from 9am to 6pm. It then states that visitors are only permitted between 9am and 11pm. How is this to be policed if the building is only managed 9am to 6pm Mon to Sat. This is wholly inadequate where residents will be relatively short stays of only 3 months or more. The Plan says there will be a register of complaints - how is a complaint to be made outside these hours?

Comment: The Plan of Management requires further refinement and is not supported in its current form.

S4.15(1)(e) - Public interest

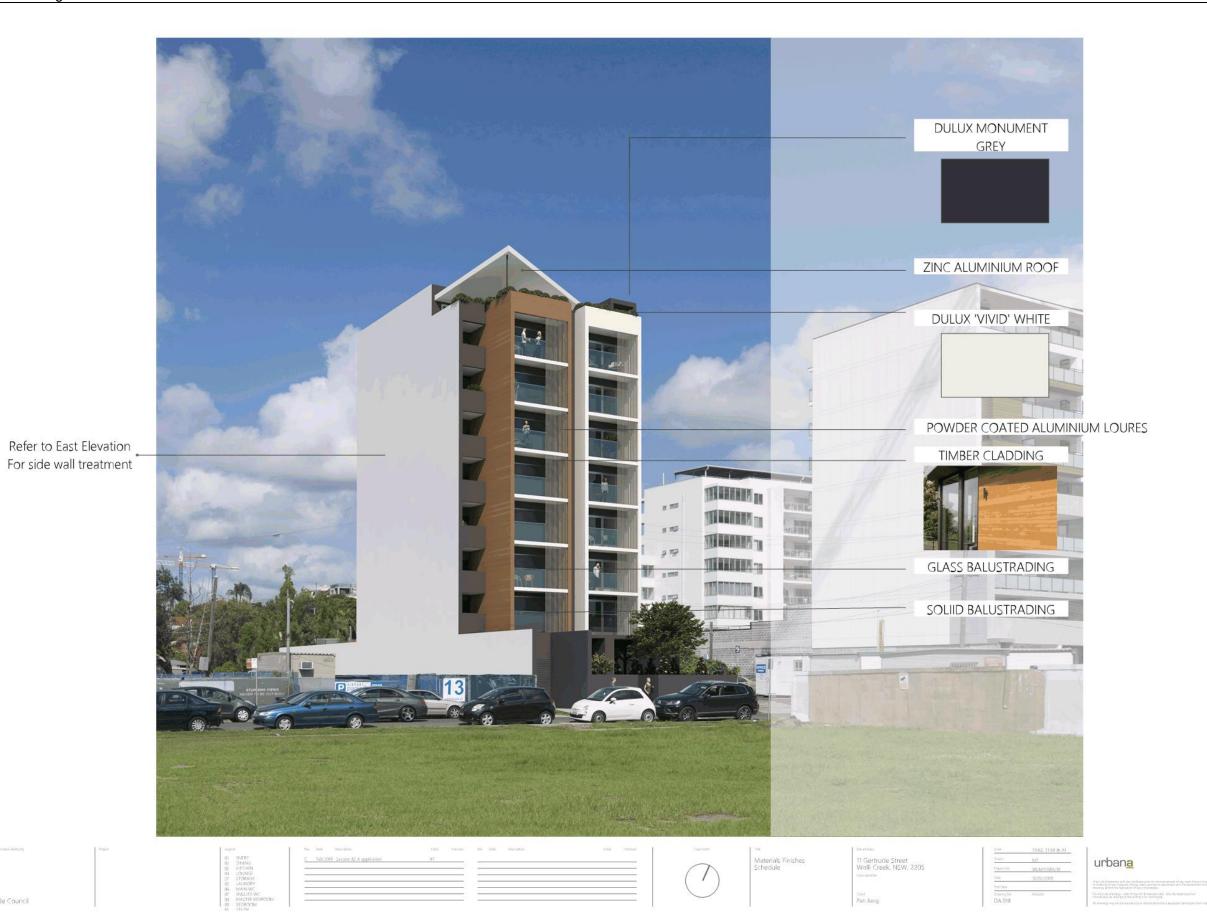
The proposal is not in the public interest for the reasons previously outlined within this report.

S7.11 Contribution towards provision or improvement of amenities or services

Should the proposal have been supported, s7.11 contributions would be required in order to accommodate for the proposed increase in residential density on the subject site.

Schedule 1 - Draft Conditions of consent

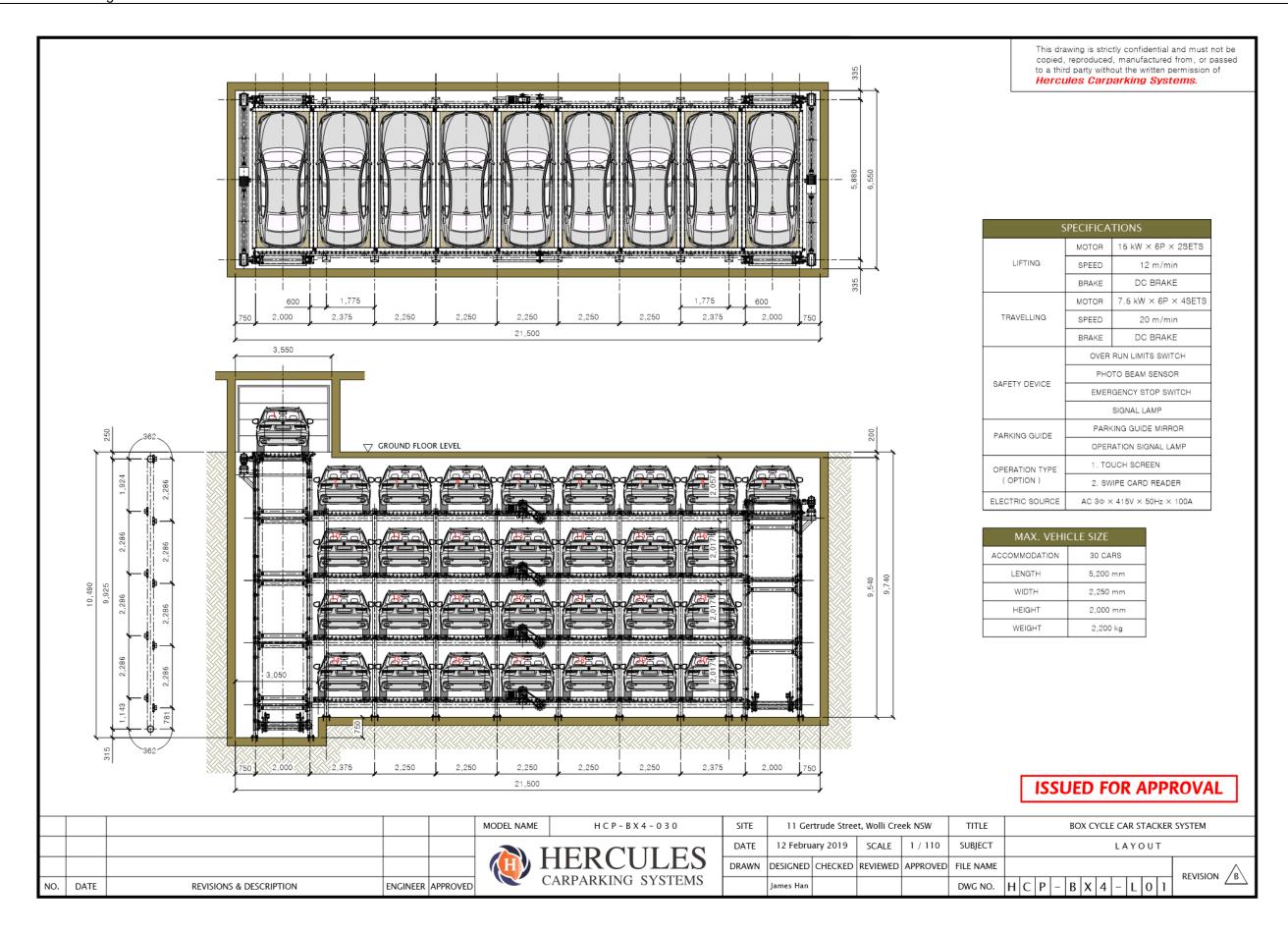
Bayside Local Planning Panel 23/04/2019



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Bayside Council

Bayside Local Planning Panel 23/04/2019



Item 6.3 – Attachment 4

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Section 82 (a)

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Section 82(a) Review of Determination

Our ref

19.UPL.MMNS/SEE

Date

Wednesday, 13 February 2019

Prepared for

Powerland Property Group Pty Ltd

Project Address

11 Gertrude Street Wolli Creek, NSW, 2200

LGA

Bayside Council

Folio identifier

Lot 35 | DP 4301

design+ project + construction managers

| statement of environmental effects |11 Gertrude Street Wolli Creek NSW |

Item 6.3 – Attachment 5

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Section 82 (a)

1.1 Introduction

1.1. Introduction

Urbana Plan has been commissioned to prepare a Section 82(2) review of determination relating to DA2017/555 - Demolition of existing structures and construction of a nine (9) storey boarding house comprising 59 boarding rooms including a managers residence, basement level parking, landscaping and associated site works.

1.2. Particulars

The development application (reference DA2017/55) for the proposed boarding house development was refused by Council on 15 November 2018. The subject Section 82A application of the Environmental Planning & Assessment Act 1979 seeks to review the determination. There are minimal amendments to the original scheme and therefore the Section 82A is substantially the same development as that determined. The amendments are listed below:

- Integration of a fully automated car lift and stacker parking system to accomodate 30 vehicles. The parking system specifications accompany this application and provided by Hercules Parking System. In addition, the parking system is support by a traffic and car park certification report prepared by Motion Traffic Engineers.
- The integration of this parking system reduced the basement size significantly. This reduction ensures deep soil zones to the front and rear of the site.
- 3. The deep soil zones to the rear are consistent with the landscaped setting of adjoining developments situated at 7-9 Gertrude Street Wolli Creek.
- Reduction in height of rear wall to the parking level. The wall is consistent with the height of the parking Wall of adjacent development at 7-9 Gertrude Street Wolli Creek.
- 5. Integration of AC Units to the balconies of each units.
- Relocation of Bicycle parking spaces above the flood level.

Urbana Plan pic.

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Section 82 (a)

This statement supports the Section 82A review and the proposed boarding house whilst it is to be read in conjunction with the accompanying plans, planning submission and revised consultant reports. The reason for refusal have been addressed below:

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 The proposal development restricts the development potential and results in the isolation of the adjoining property at 13 Gertrude Street Wolli Creek, to the extent that this property will be incapable of being redeveloped in compliance with the current planning controls. As a consequence the proposal does not promote the orderly and economic use and development of land.

Planning Comment

The section 82(a) is accompanied by an additional statement signed and verified by the owner of the adjoining development at 13 Gertrude Street Wolli Creek. The statement confirms the owner of adjoining development at 13 Gertrude Street, has review the two offers and valuations and wishes to refuse both offers. In addition, the neighbouring owner is in support of the proposed boarding house at 11 Gertrude Street Wolli Creek.

Having regard to the above, the isolated planning principle established in Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189 is of particular relevance to the proposal. This planning principle established the following:

The key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non-compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity. To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.

As such, a suitable development outcome would be a bulk and scale similar in nature to the proposed development. The neighbouring development will benefit from compliant height, setbacks and sit within an established landscape setting similar to the development proposed as part of this application. We wish to note, the current and revised scheme complies stringently with the planning controls, namely, height, FSR, Landscaping, Solar access and amenity related controls.

A schematic design accompanies this submission and relies heavily on a similar built form to the proposed, including setbacks, height, building separation and landscaped areas.

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Section 82 (a)

We understand, there was a an error in the dating of the previous correspondence relating to acquisition of number 13 Gertrude Street Wolli Creek. As such, the signed statement by the owner that accompanies this application seeks to verify and confirm the owner received both offers and valuations.

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 Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with State Environmental Planing Policy - BASIX.

Planning Comment

The section 82a application is accompanied by a BASIX Certificate and a section J report prepared by Australian Energy and Efficiency Consulting. The BASIX Certificate provides for a pass in the Water, Thermal comfort and Energy components of this certificate.

 Pursuant to the provisions of section 4.15(1)(a)(i) of he Environmental Planning and Assessment Act 1979, the proposal does not comply with the provisions of Clause 29(2)(e)(ia) - Parking of State Environmental Planning Policy Affordable Rental Housing.

Planning Comment

The revised plans ensure the provision of 31 parking spaces to accomodate for the proposed 59 boarding rooms (including one managers residence). 30 of these spaces is to be accommodated within the new integrated car lift and mechanical stacker parking as supplied by Hercules Parking Systems. The residual spaces is situated to the ground floor and is an accessible space with a shared zone.

The revised scheme ensures stringent compliance with the parking provisions of the SEPP (Affordable Rental housing). In addition, the ground floor parking level accommodates for 12 Bicycles and 12 motorcycle spaces as required by the SEPP.

This application is accompanied by a Manufacturer product specification plan for the Car Lift and Stacker System. In addition, a traffic and car park certification seeks to confirm the car park system compliance with the relevant AS and BCA codes.

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Section 82 (a)

 Pursuant to the provisions of section 4.15(1)(a)(i) of he Environmental Planning and Assessment Act 1979, the proposal is inconsistent with Clause 30a - Character of Local Area as per State Environmental Planning Policy Affordable Rental Housing.

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Planning Comment

The revised plans sought to modify the development so as to complement the recently approved development at No. 7 - 9 Gertrude Street Wolli Creek and the envisaged streetscape of Gertrude Street. The following design amendments have been incorporated to assist tin keeping of the local character.

- Reduction of Basement Area to integrate front and rear deep soil zones to allow for mature plantings. In addition the dimensions and area of the deep soil zones are consistent with the landscape setting of No 7 - 9 Gertrude Street Wolli Creek.
- The reduction of the rear ground level parking wall to complement the height
 of adjacent parking wall of No 7 9 Gertrude Street. This wall is further softened with a large area of deep soil zones to the rear. This area would be lush
 and provide adequate green space between any future developments to the
 rear.
- 3. The development is well below the maximum prescribed height limit and is of a bulk and scale that is similar to recently approved developments. Noting, the proposal sits below the height of No 7-9 Gertrude Street Wolli Creek. An outline of the adjoining building envelope is also contained in the elevational plans that accompany this submission.
- The proposed development complies with the floor space ratio as prescribed the ARHSEPP.

The aforementioned design elements work well to present a compliant building form which reflects the character and form of recently approved developments and any future redevelopment within Gertrude Street.

 Pursuant to the provisions of section 4.15(1)(a)(i) of he Environmental Planning and Assessment Act 1979, the proposed development does not satisfy clause 4.3 - Height of Buildings of Rockdale Local Environmental Plan 2011.

Planning Comment

The plans which formulate part of this section 82a application ensure a maximum height of 27.519 metres and ensures comfortable compliance with the maximum prescribed height limit of 29.5 metres. The elevations clearly show a projected height plane to all elevations to demonstrate compliance with this standard.

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Section 82 (a)

 Pursuant to the provisions of section 4.15(1)(a)(i) of he Environmental Planning and Assessment Act 1979, the proposed development does not satisfy clause 4.4 - FSR of Rockdale Local Environmental Plan 2011.

Planning Comment

A gross floor area calculation sheet accompanies this submissions and ensures compliance with the maximum prescribed FSR of 2.7:1, inclusive of the bonus FSR provisions afforded by the SEPP (ARHSEPP). Please refer to GFA calculation sheet as contained within the architectural set.

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- Pursuant to the provisions of section 4.15(1)(a)(i) of he Environmental Planning and Assessment Act 1979,, the proposed development does not satisfy Clause 6.6- Flood Planning Land of Rockdale Local Environmental Plan 2011.
- 8. Pursuant to the provisions of section 4.15(1)(a)(i) of he Environmental Planning and Assessment Act 1979,, the proposed development does not satisfy Clause 6.7- Stormwater of Rockdale Local Environmental Plan 2011.

Planning Comment

The hydraulic engineer has leased with the hydraulic consultant commissioned by the registered owners of the property. We understand, the hydraulic requirements have now been satisfied and revised hydraulic drawings accompany this application. The following comments have been made by the hydraulic engineer.

The site area is 559m2, considerably small. Therefore to satisfy Council's Water Sensitive Design requirements, (as discussed with Council's Development Engineer Abdel Albaba) the stormwater plan has been amended to show the ro of water to be collected by a 20,000L underground rainwater tank/s system. The overflow will drain by gravity into the stormwater system via a silt arrestor pit. The recycled water will be connected to all toilets, at least one outdoor tap and an irrigation system .

Tony Ahal (TAA Consulting Engineers

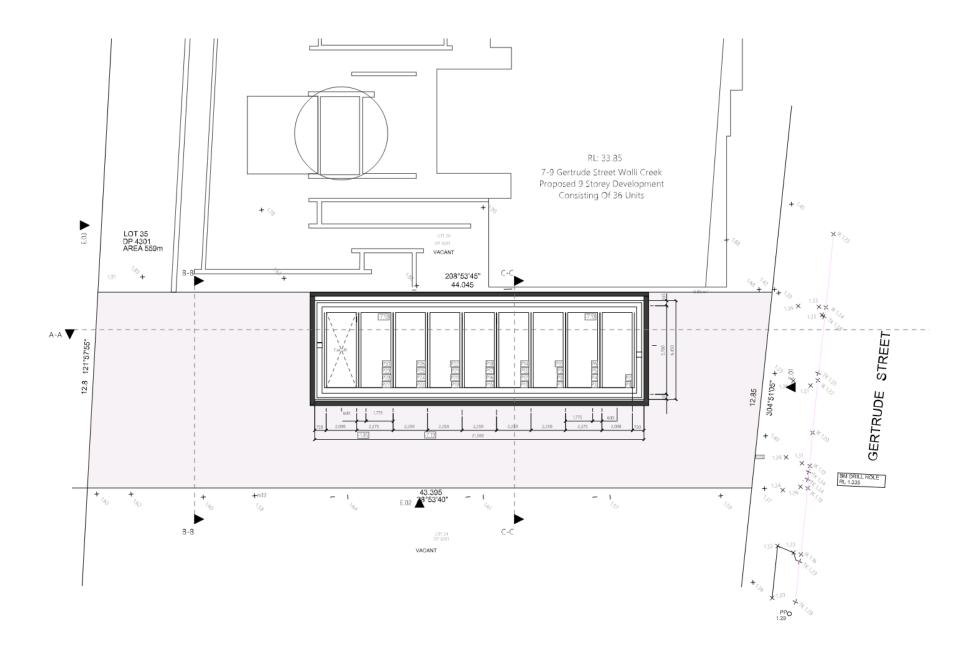
In conclusion, we trust this section 82A application has addressed all council concerns and we look forward to a determination by way of Consent for the proposed boarding house development.

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drawingregister DWG No. DESCRIPTION SCALE DA.000 COVERSHEET DA-002 LOWER BASEMENT PLAN DA-003 GROUND FLOOR DA-004 LEVEL 1 DA-008 LEVEL 5 1:100 DA-009 LEVEL 6 DA-010 LEVEL 7 DA-013 NORTH/SOUTH ELEVATION 1:100 DA-014 EAST ELEVATIONS DA-015 WEST ELEVATIONS DA-016 SECTION A 1:100 B DA-017 Schematic Design 1:100 B DA-018 Material Finishes Schedule NTS B 11 Gertrude Street Wolli Creek, NSW, 2205 Proposed Boarding House Apartment

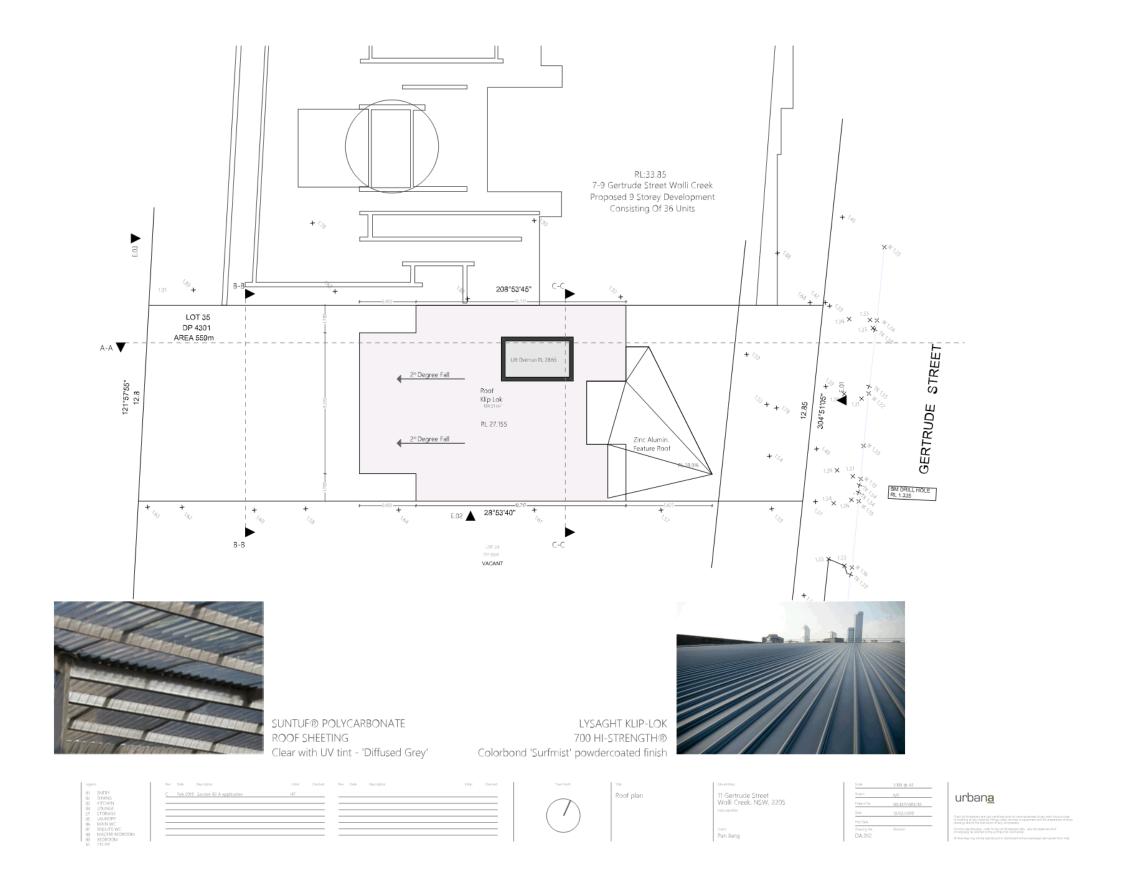
drawing title DA.000 coversheet

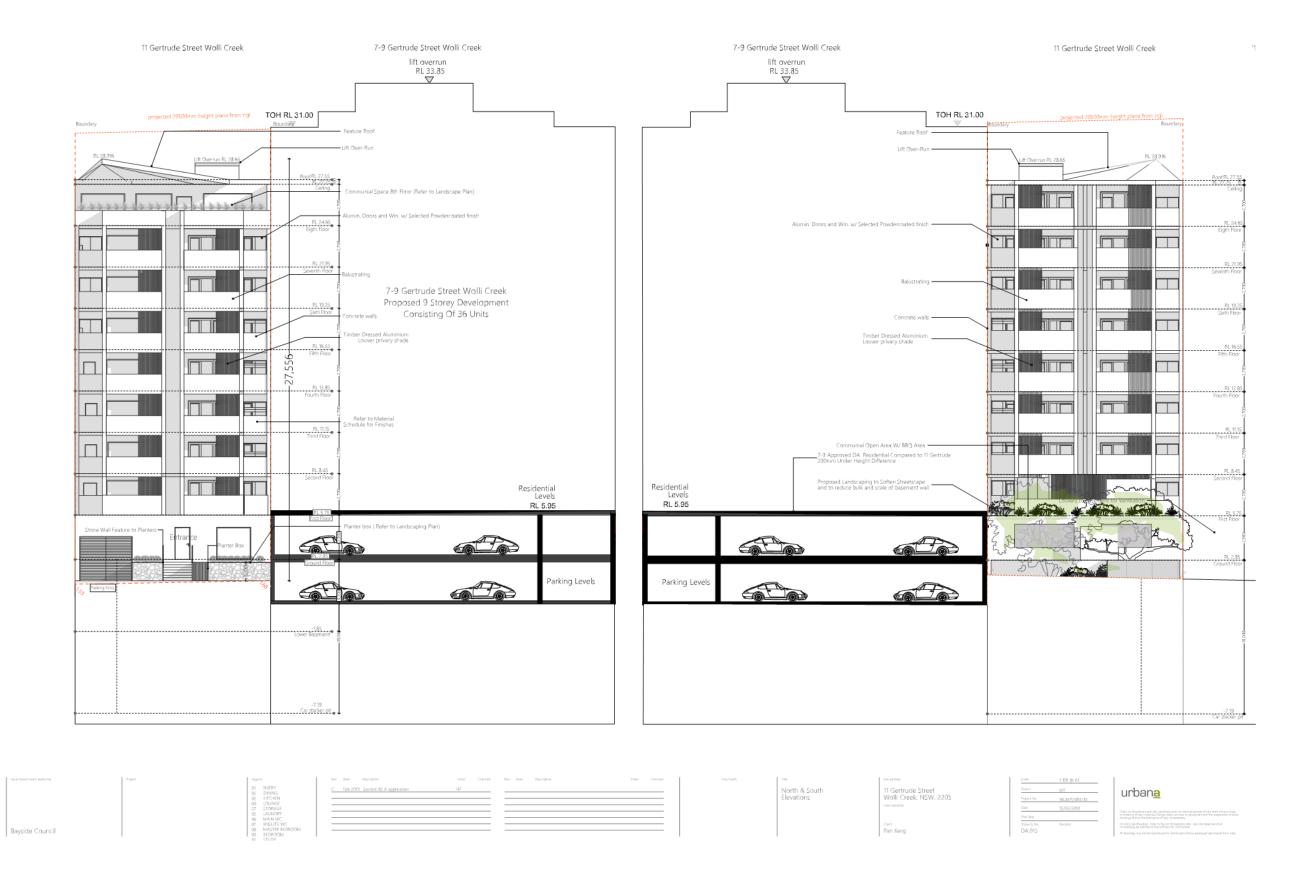
Bayside Local Planning Panel

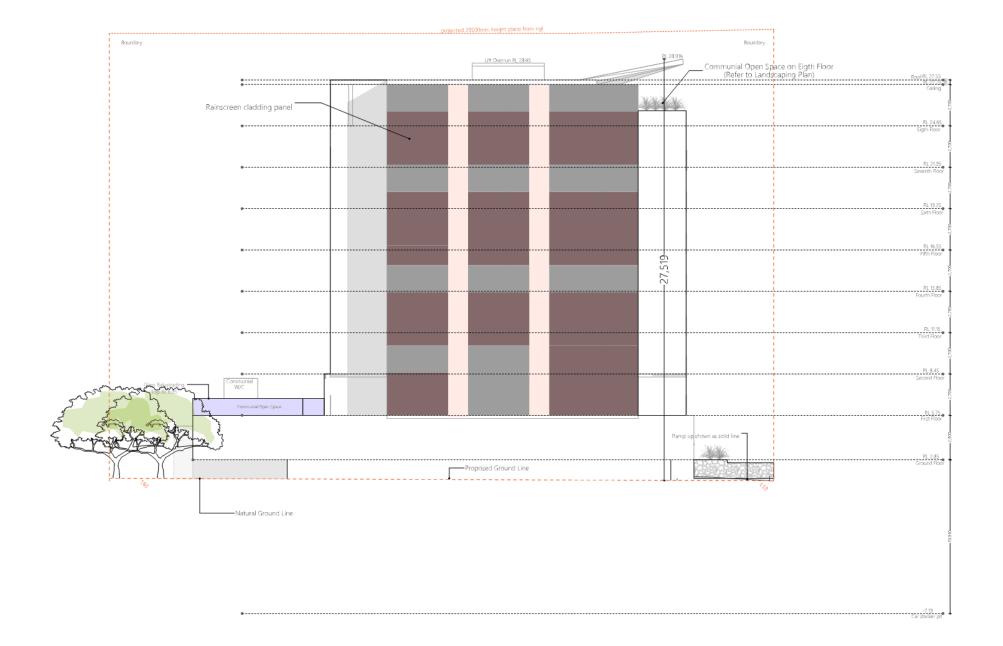




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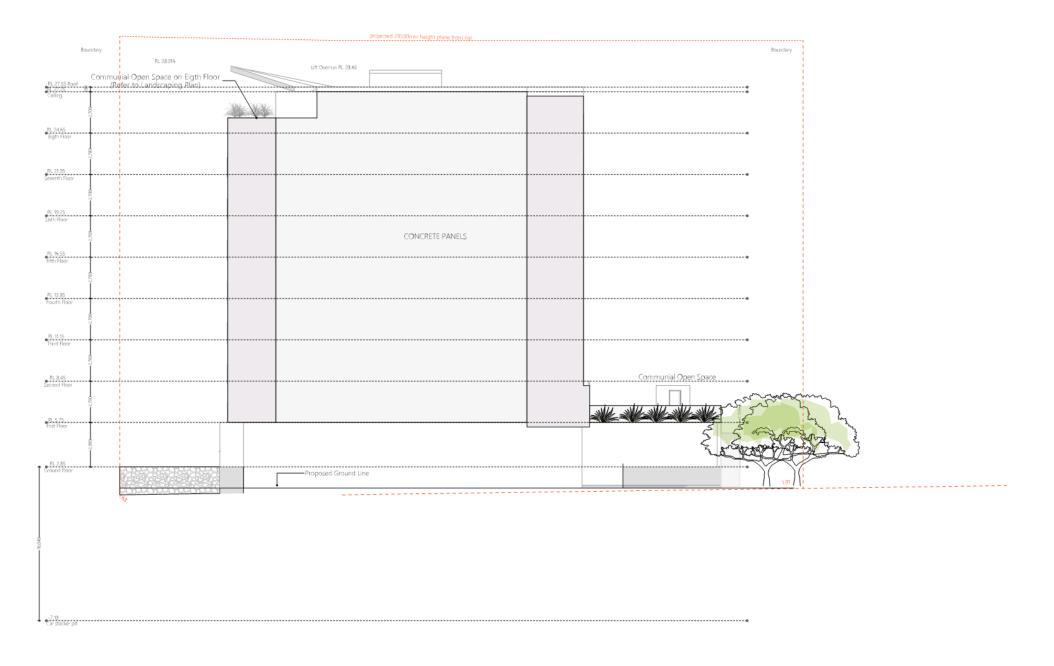
Trespa® Meteon® panel-Side Wall Treatment

Weather Resistance and Colour Stability
Trespa® Meteon® performs exceptionally outdoors and stays looking great for many years.
Sun and rain will have no significant effect on the panel's surface.

Low Maintenance and Easy to Clean The closed surface of Trespa® Meteon® practically withstands dirt accumulation, keeping the product smooth and easy to clean.

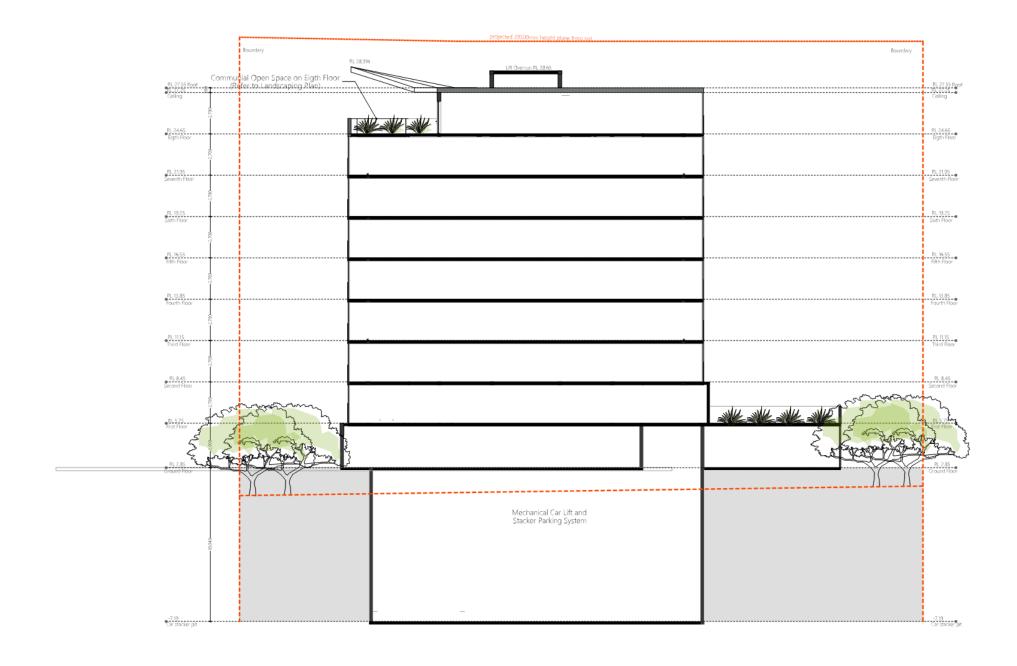


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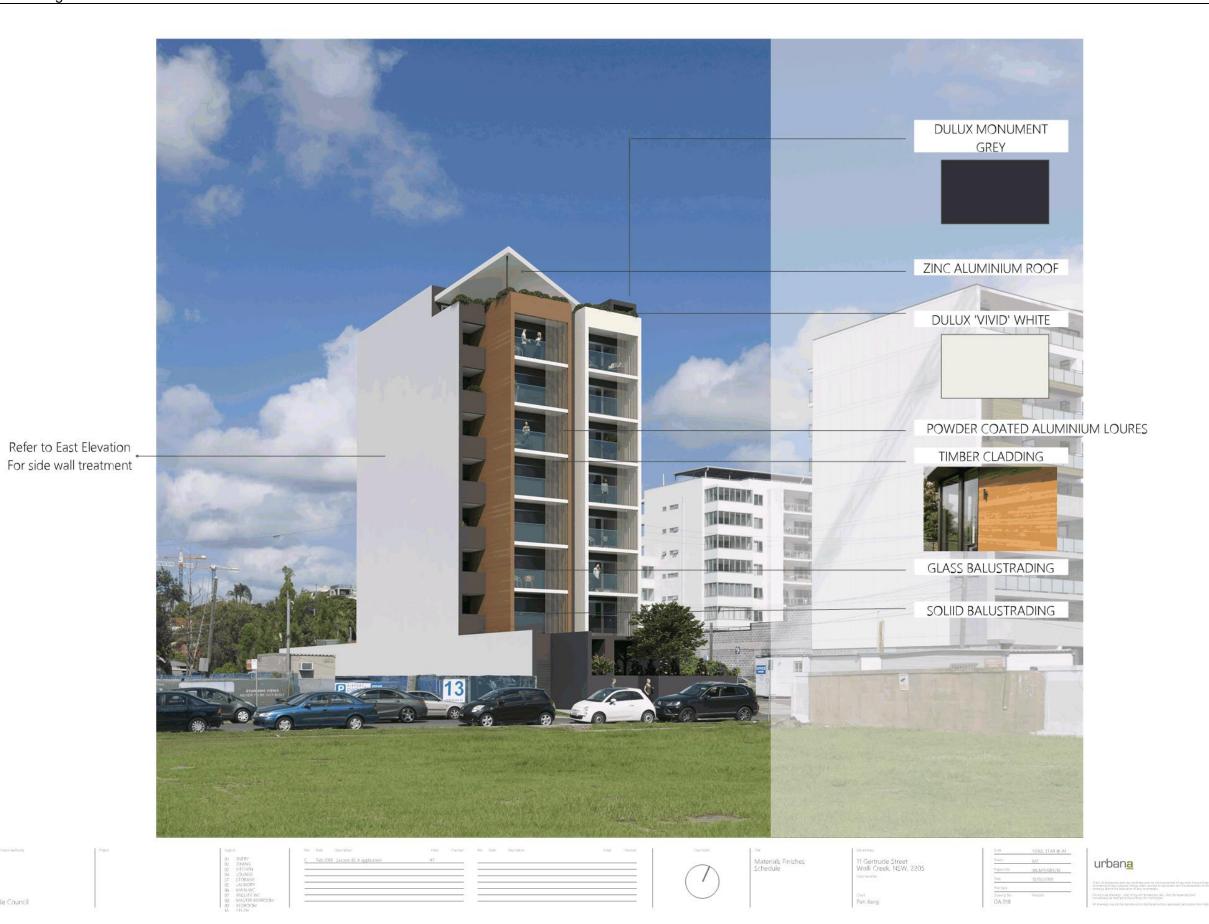


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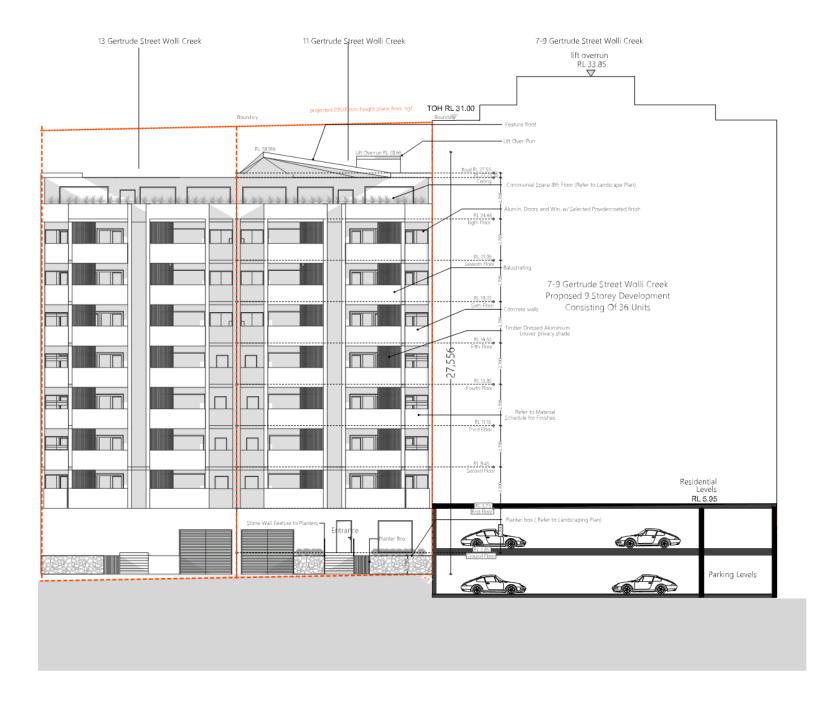






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Bayside Council



| Say | Say



Bayside Local Planning Panel

23/04/2019

Item No 6.4

Application Type Development Application

Application No DA-18/1182 Lodgement Date 02/10/2018

Property 24 Carinya Avenue, Mascot

Ward Mascot

Owner Mr R C Anta and Ms M Kapapa

Applicant Michael Francis – Champion Homes Sales Pty Ltd

Proposal Demolition of existing building and structures, Torrens Title

subdivision into two (2) lots and construction of two x two (2)

storey semi-detached dwellings.

No. of Submissions Nil

Cost of Development \$621,359

Report by Michael McCabe, Director City Futures

Officer Recommendation

- That the Bayside Planning Panel has considered the Clause 4.6 request to vary the FSR standard contained in Clause 4.4 of the BBLEP 2013 and is not 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 not in the public interest to vary the control.
- That Development Application DA-2018/1182 for demolition of the existing building and structures, Torrens Title subdivision into two (2) lots and construction of two x two (2) storey semi-detached dwellings at 24 Carinya Avenue Mascot be REFUSED for the following reasons:
 - a. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.4 of Botany Bay LEP 2013 relating to floor space ratio and the Clause 4.6 written variation request submitted by the applicant is not supported, and
 - b. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Clause 3E of Botany Bay DCP 2013 which relates to the subdivision of land and integrity of the existing subdivision pattern within an existing street block. As such, the proposal will result in adverse impacts on the amenity of the surrounding precinct and will set an undesirable precedent, and
 - c. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act, the proposed development is excessive in terms of bulk, size and density, and is inconsistent with the character of the area and streetscape, and would adversely impact upon the amenity of the locality, and

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- d. The proposal is inconsistent with the objectives of the R2 Low Density Residential zone under Botany Bay Local Environmental Plan 2013 and as such fails to satisfy Section 4.15(1)(a)(i) & (ii) of the Environmental Planning & Assessment Act 1979, and
- e. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Clauses 2.4, 2.8, 3G, 4.1, 4A & 4.3 of Botany Bay DCP 2013 which relate to streetscape, stormwater management (stormwater drainage and flooding), privacy, car parking, and will result in impacts on the amenity of the surrounding precinct, and
- f. Having regard to the above and pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts, the proposed development will set an undesirable precedent and is not considered to be in the public interest.

Location Plan



Attachments

- 1 Planning Assessment Report 24 Carinya Avenue Mascot Michael Maloof J
- 2 Clause 4.6 Variation 24 Carinya Ave Mascot !
- 3 Survey Plan !
- 4 Site Analysis Plan J
- 5 Elevations Plan U
- 6 Subdivision Plan U

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BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number: DA-2018/1182
Date of Receipt: 2nd October 2018

Property: 24 Carinya Avenue Mascot

Lot 18 in DP 14834

Owner: Mr R C Anta and Ms M Kapapa

Applicant: Michael Francis - Champion Homes Sales Pty Ltd

Proposal: Demolition of existing building and structures, Torrens Title subdivision

into two (2) lots and construction of two x two (2) storey semi-detached

dwellings

Recommendation: Refusal No. of Submissions Nil

Author: Michael Maloof – Senior Development Assessment Planner

Date of Report: 29th March 2019

Key Issues

- Subdivision pattern
- Flooding
- Impact on surrounding precinct
- Stormwater Catchment Cover Mascot West Catchment
- ANEF Contour 20-25

Recommendation

The Development Application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for REFUSAL for the following reasons:

 Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.4 of Botany Bay LEP 2013 relating to floor space ratio and the Clause 4.6 written variation request submitted by the applicant is not supported, and

1 of 19

- 2. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Clause 3E of Botany Bay DCP 2013 which relates to the subdivision of land and integrity of the existing subdivision pattern within an existing street block. As such, the proposal will result in adverse impacts on the amenity of the surrounding precinct and will set an undesirable precedent, and
- Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment
 Act, the proposed development is excessive in terms of bulk, size and density, and is inconsistent
 with the character of the area and streetscape, and would adversely impact upon the amenity of
 the locality, and
- Inconsistent with the objectives of the R2 Low Density Residential zone under Botany Bay Local Environmental Plan 2013 and as such failure to satisfy Section 4.15(1)(a)(i) & (ii) of the Environmental Planning & Assessment Act 1979, and
- 5. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Clauses 2.4, 2.8, 3G, 4.1, 4A & 4.3 of Botany Bay DCP 2013 which relate to streetscape, stormwater management (stormwater drainage and flooding), privacy, car parking, and will result in impacts on the amenity of the surrounding precinct.
- 6. Having regard to the above and pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts, the proposed development will set an undesirable precedent and is not considered to be in the public interest.

Background

History

Council's records revealed that the subject property does not have any recent history of development applications or building works.

Proposal

The development application seeks Council consent to demolish the existing building and structures, carry out the Torrens Title subdivision of the site into two (2) lots and construct two x two (2) storey semi-detached dwellings at 24 Carinya Avenue, Mascot. The proposal will include the following:

- Subdivision of the site (322.1m²) into two Torrens Title lots each with areas of 160.1m2 (lot 1) and 162m2 (lot 2) and frontage of 7.505m and 7.81m respectively to Carinya Avenue.
- Ground Floor The ground floor of each dwelling is accessed externally from a paved front
 porch entry area. The ground floor of each dwelling includes a single garage, lounge/living
 room, bathroom, an open kitchen, side patio door, family/dining area that opens out to an
 alfresco terrace area and rear yard. The ground floor also includes a staircase to the first floor
 of the dwelling.
- First Floor The first floor of each dwelling includes a master bedroom with walk in robe and
 en-suite bathroom, two (2) additional bedrooms, a void at the front, a bathroom, a laundry
 cupboard, and staircase to the ground floor. The first floor does not contain any balconies at
 the front or rear of the first floor:

24 Carinya Avenue Mascot

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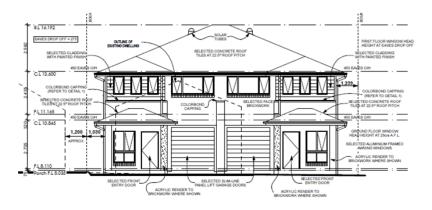


Figure 1: Front Elevation of the semi-detached dwellings.

Site Location and Context

The subject site is located on the southern side of Carinya Avenue, located in between O'Riordan Street to the east and Botany Road to the west. The subject site is rectangular in shape with an area of 322.1m², with a 15.315m frontage to Carinya Avenue. The side boundaries are 21.355m & 21.335m respectively. The subject site is relatively flat and is located within the R2 Low Density Residential Zone. A one storey brick cottage style dwelling is currently located on the site (see figure 1). A small metal shed and a small brick garage is also located along the westerns side boundary of the site.



Figure 2: Site Location Plan

24 Carinya Avenue Mascot

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Figure 3: Subject site - 24 Carinya Avenue, Mascot

Development surrounding the site consists of mostly single storey and two storey detached dwellings apart from the adjoining property to the west which contains single storey villa dwellings all of which are located within the R2 Low Density Residential Zone. The properties surrounding the site are consistent in respect to their lot size and subdivision pattern. Adjoining properties include No. 26 Carinya Avenue to the west (containing the villa development) and, No. 22 Carinya Avenue to the east containing a single storey dwelling house. The properties opposite the site all contain one storey cottage style dwellings. Diagonally opposite the site at 25 Carinya Avenue is a single storey dwelling house which is currently used as a child care centre. The rear adjoining property is a brick and tile roof single storey dwelling house with detached brick garage located at No. 13 Henry Kendall Crescent.

Statutory Considerations

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The proposal involves two new residential dwellings, therefore a BASIX Certificate is required for each. BASIX Certificate (No. 942412S and No. 942395S) were submitted to Council inclusive of the application.

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State Environmental Planning Policy No. 55 - Remediation of Land

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

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

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

Botany Bay Local Environmental Plan 2013

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is R2 – Low Density Residential Zone under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed semi-detached dwellings are permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the	No	The proposed development is inconsistent with the following objective in the R2 Zone:
zones?		To provide for the housing needs of the community within a low density residential environment.
What is the height of the building?	Yes	The Botany Bay LEP2013 allows for a maximum building height of 8.5m.
Does the height of the building exceed the maximum building height?		Dwellings Building Height: Approx. 8.492 m (RL 16.192m – RL 7.7)
What is the proposed FSR?	No	The site is within "Area 3" on the FSR map and
Does the FSR of the building exceed the maximum FSR?		subclause 2 would permit a dwelling house with an FSR of 0.70:1 on a lot with an area of between 301-350m ² under clause 4.4A(3)(a).
		However, the proposal is for semi-detached dwellings, not a dwelling house and is therefore restricted to an FSR of 0.5:1 under clause 4.4A(3)(d).

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Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		The site has an area of: 322.1 m ²
		The proposed subdivision will result in the following site areas:
		Lot 1 — 160.1m2
		Lot 2 — 162m2
		These lot sizes will permit a FSR of:
		Lot 1 — 0.5:1
		Lot 2— 0.5:1
		The resultant FSR for each lot is:
		Lot 1 — (111/160.1) 0.69:1
		Lot 2 — (111/162) 0.69:1
		The proposed FSR exceeds the maximum permissible and the applicant has submitted a Clause 4.6 variation. The variation is not supported for the reasons discussed below in response to Clause 4.6.
Is the site within land marked "Area 3" on the FSR Map?	N/A	Site area: 322.1m ²
If so, does it comply with the sliding scale for FSR in Clause 4.4A?		The site lies within land marked as Area 3, however as noted above the proposal is restricted to a maximum floor space ratio of 0.5:1 which applies to semi-detached dwellings.
The following provisions in Par	t 6 of the LEP ap	
6.1 – Acid Sulphate Soils	Yes	6.1 Acid Sulphate Soils (ASS) – Class 4 affects the property. Development consent is not required as no excavations are proposed, nor will affect the existing soils on-site.
6.3 – Stormwater management	No	6.3 Stormwater management – The proposed semi-detached dwellings will include a new on site stormwater system.
6.9 – Development in areas	Yes	The site is flood affected. The application was referred to Council's Development Engineer who advised that no flood advice letter was obtained from Council and a geotechnical report is required to determine the absorption rate for the site. As such, the current proposal does not comply with Council's Technical Specification – Stormwater management and is not acceptable in this regard. 6.9 Development in areas subject to aircraft
subject to aircraft noise	169	noise - The subject site is located in the 20-25

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Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		ANEF contour. Development is a potential habitable structure and is required to meet indoor design sound levels pursuant to AS2021 – 2000. The SEE submitted with the application confirms that a condition can be imposed in this regard should the application be approved.

The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application. The proposal does not comply with the objectives of and is considered unsatisfactory in terms of the BBLEP 2013.

Clause 4.6 Variation to floor space ratio

The site is nominated as having a maximum floor space ratio (FSR) of 0.5:1 in accordance with Clause 4.4A(3)(d) of the BBLEP 2013. The proposed semi-detached dwellings will result in a FSR of 0.69:1, which is a variation of 19%. The site is located in Area 3. Clause 4.4A of BBLEP 2013 permits higher density for dwelling houses based on the size of the lot. The subject property has a site area of 322.1 sq.m. Under Clause 4.4A(3)(d), a semi would be allowed to have a maximum FSR of 0.5:1.

The applicant has provided a written Clause 4.6 variation request, providing justification for the proposed variation to the 0.5:1 FSR requirement, stating that it is unnecessary and unreasonable in the particular circumstances.

In Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 and previously Wehbe v Pittwater Council [2007] NSW LEC 827 (Wehbe), the Land and Environment Court set out the following five different ways in which an objection to a development standard may be well founded:

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

In Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 & NSW LEC 90 (Four2Five), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines that

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Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of Botany Bay Local Environmental Plan 2013, which is considered below.

4.6 Variation request assessment

Clause 4.6(3)

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

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

The applicant has argued the FSR standard is unreasonable or unnecessary in the following four points:

- An alternative compliant, more substantial two-storey design with more floor space could be proposed, (dwelling house) however, this would have a greater environmental impact on the adjoining property and not achieve wider planning outcomes of affordable and diverse housing choice.
- That is, deleting or making rooms smaller just to achieve strict compliance will result in a
 less orderly development of the site, which in turn significantly impacts on the economic
 viability of even developing the site, given the expectations of prospective purchasers to
 have such amenities.
- The intent or objectives behind the development standard have been achieved through skilful design, therefore, strict compliance would be unnecessary (i.e., it is achieved anyway) and unreasonable (no purpose would be served).
- From an urban design viewpoint, the development (in its current form) is consistent with the building character in the locality and will generally enhance the amenity of the streetscape,

Comments:

The development application proposes a development that will result in a building form that is larger in bulk, scale and appearance than the existing dwellings in the area. The excessive bulk and scale of the proposal will result in detrimental impacts on the neighbouring properties in regard to overshadowing and dominance. As can be seen from the submitted plans, the footprint and bulk of the proposed building extends beyond the footprint and bulk of the existing buildings in Carinya Avenue.

The streetscape at the eastern end of Carinya Avenue is characterised by a mix of bungalow dwelling houses none of which are two storey with most containing ground floor additions predominantly to the side or rear of each dwelling house. The desired future character of the locality remains as existing, supported by the subdivision pattern and development style along Carinya Avenue.

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Compliance with the development standard will permit semi-detached dwellings with a lesser bulk and size and subsequent lesser negative impacts to be built on the site. Compliance will not hinder the orderly and appropriate development of the land.

Accordingly, application of the FSR development standard is not considered unreasonable or unnecessary in the circumstances of this case.

(b) That there are sufficient environmental planning grounds to justify contravening the development standard

The applicant argues there is sufficient grounds to justify the variation in the below extract from the written variation request:

In addition to the benefits to broader planning grounds, such as:

- · Public benefit arising from additional housing, and
- · An increase in the variety of housing stock.

The more specific environmental planning grounds [Four2Five Pty Ltd v Ashfield Council] are that specific design measures are required to address the opportunities of the site, that being an regular shaped allotment, which as a consequence of providing articulation and design measures, minimise the bulk and scale for development, has resulted in an exceedance to the FSR requirement (i.e., the proposed FSR would achieve better internal and external amenity outcomes, such as, solar access, privacy and streetscape presentation, than a larger complying two storey development with an even greater floor area).

Likewise, a compliant "semi-detached" development with less floor area would not, for all intents and purposes, achieve a better environmental outcome in the zone or enhance the residential amenity of residents living in the dwellings. In fact, compliance with the development standard would in this particular case, result in:

- Bedrooms being lost (Note: it is important that housing caters to a wide spectrum of the community, including a growing family situation, especially in areas where the population is aging and existing infrastructure, such as, schools is underutilised or on the verge of being lost to developing areas); or
- o Crucial internal living areas being reduced in size.

From an urban design viewpoint, the development (in its current form) is consistent with the building character in the locality and will generally enhance the amenity of the streetscape, thus satisfying the planning principles established in Project Venture Developments v Pittwater Council [2005] NSWLEC 191.

It provides for all residential amenities, including off-street car parking expected for the lifestyle of its occupants, without any significant adverse environmental impacts to adjoining properties. There will be sufficient accommodation and realistic leisure areas to ensure the building is fit for its designed purpose. The design has sensible living areas that are not in any way considered excessive.

Although there is an exceedance in the numerical FSR standard for residential accommodation other than dwelling houses, the building is designed to limit bulk and scale i.e., less impacts than that of a larger, but compliant, more substantial two-storey dwelling house.

As such, environmental planning benefits of approving the development in its current form outweigh the need for strict compliance.

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Comments:

There are no environmental planning grounds to justify contravening the development standard. The site is a standard rectangular lot and not otherwise constrained by steepness, easements, heritage items or other matters of the like which would hinder the orderly development of the land, and justify varying the development standard. The land is flood affected but this has not been taken into account in the design of the development (e.g. the applicant has not applied for a flood advice letter). The design of the semi-detached dwellings are not consistent with the predominant built form or character within this part of Carinya Avenue.

A development application for sensitively and appropriately designed dwelling house which complied with the FSR control and had regard for neighbouring development would be permissible on the site and is likely to be supported.

Clause 4.6(4)

Clause 4.6(4) states consent may not be granted for development that contravenes a development standard unless:

- (a) The consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)

Comment: Council is not satisfied that the written request has adequately addressed the matters required to be demonstrated in subclause (3) because the negative impacts the proposal will result in have not been addressed nor an attempt to mitigate them made, no particular circumstances for the subject site have been identified which make a variation reasonable or necessary, and sufficient planning grounds to justify a variation have not been demonstrated.

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

Comment: The following matters pursuant to Clause 4.6 are therefore also considered:-

- · Objectives of the Floor Space Ratio Standard.
- · Objectives of the R2 Low Density Residential zone
- Public interest
- Objectives of Botany Bay LEP 2013 Clause 4.6

Objectives of Clause 4.4 Floor space ratio

The objectives of Clause 4.4 FSR of the Botany Bay Local Environmental Plan 2013 are:

- To establish standards for the maximum development density and intensity of land use,
- To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
- To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation.
- To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,
- To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

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- To provide an appropriate correlation between the size of a site and the extent of any development on that site,
- To facilitate development that contributes to the economic growth of Botany Bay.

Additionally, Clause 4.4A contains the following objectives:

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

Comments:

The proposal is inconsistent with the objectives of the FSR development standard for the following reasons:-

- The proposal exceeds a reasonable density and intensity of use on the site. The proposal will
 result in unacceptable impacts on neighbouring properties due to the intensity of the proposed
 development.
- The resulting bulk and scale of the proposal is incompatible with the existing character of the locality, particularly with reference to the dwelling houses to the east along Carinya Avenue. It is also excessive for the likely desired future character of the locality, as should each site of a similar size in Carinya Avenue be redeveloped with a similar variation to the permitted FSR the future character of the locality will become dominated by dwellings with excessive bulk, limited to no landscaping, repeated detrimental impacts to neighbours and an overall unattractive streetscape and public domain.
- Carinya Avenue is not currently undergoing a substantial transformation nor is it anticipated to do
 so in the foreseeable future. It is not included in any State plan or policy which will change the
 development potential of the land. As such the maintenance of the relationship between the
 existing character in the locality and any new development would best be achieved through
 compliance with the relevant development standards.
- The proposed buildings are anticipated to adversely affect the streetscape when viewed from the
 road because of the bulk and style design of the buildings, in a street where there are
 predominantly single storey detached dwellings with very few first floor levels to the east and those
 few are predominantly set back or have an integrated design with the ground floor beneath.
- An FSR of 0.5:1 to redevelop the subject site is considered appropriate for semi-detached dwellings or 0.65:1 for a dwelling house to maintain the character of the locality.
- The development standard can facilitate development which could contribute to the economic growth of Mascot without a variation to that standard.

Objectives of the R2 Low Density Residential zone

The Objectives of the R2 Low Density Residential zone is as follows:

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

Comments:

The proposed semi-detached dwelling houses are a permissible use within the R2 Low Density Residential Zone.

The proposal provides additional housing to serve the housing needs of the community however the size of the proposed dwellings are not consistent with the low density scale of development in Carinya Avenue.

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The proposal may encourage walking and cycling as it is located close to employment, recreation, schools and retail opportunities.

Public Interest and Public Benefit

The proposed variation is not in the public interest as it will result in adverse impacts to neighbouring properties and the character of the locality by way of streetscape and subdivision pattern integrity.

Objectives of Clause 4.6 Exceptions to development standards

The objectives of Clause 4.6 (pursuant to Clause 4.6(1) of Botany Bay Local Environmental Plan 2013) are:

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

Comments:

The subject site is not constrained by any particular environmental issues, such as rocky outcrops, steepness and the like which would warrant flexibility in applying development standards to achieve better outcomes for and from development of the site. Good planning outcomes can be achieved on site while complying with the FSR standard.

Summary

The Clause 4.6 variation request to the floor space ratio control has been assessed in accordance with relevant case law, being the principles of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Wehbe v Pittwater Council [2007] NSW LEC 827 and Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 & NSW LEC 90 (Four2Five). The proposal is inconsistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 controls which while compliant with some are non-compliant in significant and unsupportable ways.

It has been established that the proposed development is inappropriate and adherence to the development standard in this instance is reasonable and necessary.

The applicant's Clause 4.6 request is not well-founded and the major departure in FSR development standard for 24 Carinya Avenue, Mascot is not in the public interest. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the Botany Bay Local Environmental Plan 2013 should not be varied.

S.4.15C(1)(a)(ii) - Provisions of any Draft Environmental Planning Instrument's

There are no current Draft EPIs that are applicable to the subject site.

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

The following Development Control Plan is relevant to this application;

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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 C2 Table 1 of Part 3A of the DCP requires dwelling houses with more than two (2) bedrooms, provide 2 off-street car parking spaces. The proposed semi-detached dwellings will contain two spaces per dwelling with a single car garage and one driveway parking spaces for each. One garage space and one driveway space aligned with the garage are allocated to each dwelling. Both garages are behind the front building line, however the driveways and pedestrian access are not separated from each other. The proposal includes one double driveway 6m wide at the front of the site with direct access from Carinya Avenue.

As the pedestrian and driveway access points are not separated, the proposal is not compliant with the onsite car parking requirements under Part 3A of the BBDCP 2013.

Part 3E - Subdivision and Amalgamation

Prevailing Subdivision Pattern

The DCP states that Council generally considers the prevailing subdivision pattern to be the typical characteristic of up to ten allotments on either side of the subject site and corresponding number of allotments directly opposite the subject site. It is noted that the DCP does not provide any exclusions to how this subdivision pattern should be calculated in terms of zoning, strata subdivided properties or subdivided developments approved prior to the gazettal of the Botany Bay Local Environmental Plan 2013.

The objectives of Part 3E.2.1 – General Torrens Title Subdivision and Amalgamation of the Botany Bay Development Control Plan 2013 is to provide a building envelope that can accommodate an appropriately sized dwelling without resulting in adverse impacts on the surrounding properties. As stated in the assessment of the development application, the proposed dwellings on 24 Carinya Avenue comply with some of the DCP controls for semi-detached dwellings but do not comply with the streetscape and bulk and scale controls.

Site Area and Site frontage

In summary, the site will be subdivided into two individual allotments namely 24 (Lot 1) Carinya Avenue (160.1sqm) and 24A (Lot 2) Carinya Avenue (162sqm). An assessment of the lot sizes and street frontage widths of ten properties on either side of the subject site as well as the properties to the rear of the site has been undertaken.

The subdivision pattern for the ten (10) dwellings to the east on each side of Carinya Avenue (Nos. 2 to 20) up to Botany Road exhibit a similar shape being consistent shallow lots but of varied allotment sizes ranging from 284m2 to 288m2. However, the subdivision pattern to the west to O'Riordan Street (Nos. 28 to 56 Carinya Avenue) includes larger and deeper lots after the adjoining villa development at No. 26 Carinya Avenue. These lots to the east on both sides of Carinya Avenue vary considerably between 240m2 and 400m2 while those lots that have been subdivided with a semi-detached dwelling were much larger with an area of 540m2 prior to subdivision.

The lots to the east predominantly contain a single storey brick and tile roof dwelling house with small additions to the side or rear of each. Few are two storey however, they have been designed appropriately to integrate the first floor building form (e.g. reduce footprint located within a pitched roof form). This part of Carinya Avenue represents an intact series of lots and dwellings that is worthy of

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retention in respect to the subdivision pattern. The subject site is the end of this row of lots having the same frontage and shape, but with a small increase in the size and area similar to the lot directly opposite at No. 23 Carinya Avenue. In this regard, the site forms part of a consistent lot within the existing subdivision arrangement. As such, the proposal will set a precedent as it will detract from the established row of shallow lots and from the integrity of the existing subdivision arrangement.

Based on the above, it is considered that the proposed site areas are inconsistent with the neighbouring lots in the surrounding area.

The map below demonstrates that the immediate area and the surrounding areas:



Figure 4. Study area used to determine the existing subdivision pattern for the locality



Figure 5. Aerial photograph of the site and surrounding precinct

The proposed subdivision is not consistent with the desired future character of the area under Part 8 of the Botany Bay DCP 2013. This is addressed later in this report. The proposal will detrimentally affect the existing streetscape and the existing subdivision pattern within the existing street block. As such, the proposal does not comply with the controls C1 and C2 in Part 3E of Council's DCP 2013. In respect to C3, the subdivision does not have similar characterises to the prevailing street pattern of lots within the same part of Carinya Avenue. Furthermore, the resulting lot sizes (160.1m2 and 162m2) are so small that they do not demonstrate that future development of the site

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can comply with all parts of the DCP. Accordingly, the proposal is not consistent with control C3 and C4 under the Botany Bay DCP 2013.

The proposal does not satisfy the Parrot Planning Principle which is essentially a cautionary principle designed to ensure that lot sizes and lot configurations approved by a subdivision application are not, subsequently, going to produce unacceptable environmental impacts on adjoining properties as a consequence of the size and configuration of the lots. While a development scheme for the site has been included, the proposal does not demonstrate that impacts have been it ameliorated as a result of the proposed subdivision pattern. The Principles were set out by (former) Senior Commissioner Roseth in Parrot v Kiama (2004) NSWLEC 77.

Based on the above, the proposal is not consistent with the objectives of Part 3E of the Botany Bay DCP 2013 and is not acceptable in respect to the subdivision of land.

Part 3G – Stormwater Management

The proposal does not comply with control C1 which states development shall not be carried out on or for any lands unless satisfactory arrangements have been made with and approved by Council to carry out stormwater drainage works. Council's Development Engineer has advised that insufficient information has been submitted with the proposal which does not comply with Council's requirements relating to stormwater drainage. The subject site is flood affected and a geo-technical report is required to confirm the applicable absorption rate along with a flood advice letter. None of this information has been provided and the application cannot be supported in this regard.

Part 3J - Aircraft Noise & OLS

The subject site is located within the ANEF 20-25 and is directly affected by aircraft noise. This has been addressed previously in this report.

Part 3N - Waste Minimisation and Management

A site and waste management plan was provided to Council and complies with the requirements of this clause.

Part 4A- Dwelling House

Control	Proposed	Complies
4A.2.4 Streetscape Presentation		
C2 Development must be designed to reinforce and maintain the existing character of the streetscape.	The proposed development accounts for some of the matters listed however it does not minimise impacts on neighbours by maintaining appropriate levels of solar access, providing quality landscaping and avoiding a bulky appearance. The proposal is not in keeping with the established scale and proportion of dwellings in the street.	No
4A.2.7 Site Coverage		
C1 Refer to Part 3L.1.4 – Definitions for definitions of site coverage, deep soil zones, and soft and hard landscape areas.	Site area: 322.1m ² Landscape areas: 93 m ² (28.8%)	Yes

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C2 For sites less than 200m² the maximum site coverage is assessed on merit and include consideration of the following: (i) Bulk of the proposed/existing dwelling; (ii) Impacts on adjoining land and buildings; (iii) Setbacks; (iv) Overshadowing and privacy; (v) Streetscape considerations (visual bulk and scale); (vi) Parking and landscape requirements; (vii) Existing views & sightlines; (viii) Impact to significant trees on site; (ix) The provision of a private recreation area on site; and	Site area: 322.1m² Site coverage: 62% (199m²). The proposal is right on the maximum and just complies with the minimum private open space at the rear – this results in big imposing dwellings on small lots when subdivided resulting in an imposing streetscape, bulk and scale.	Yes (given 62% is consistent with the sliding scale for larger lots)
(x) Site topography and allotment size. 4A.2.8 Building Setbacks		
C1 Dwelling houses must comply with the following minimum setbacks as set out in Table 1. (Greater than 12.5m applies)	Front – 6m min or prevailing Side – 0.9m for both floors Rear – 6m Proposed setbacks: Front – 3m & 3.1m prevailing Side – 0.9m for both floors Rear – 4.2 & 4.3m	No (rear setbacks do not comply)
4A.2.9 Landscape Area		
C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2. Table 2 requires the following minimum landscaped area: < 250 m² = 15%	Site area: 322.1m2 Landscape areas: 93 m2 (28.8%) The proposed landscaped area for the site is approximately 28.8% (93m²) of the total site area. In this regard, the proposal is numerically compliant however, the proposal comprises a 3m front setback which does not contain sufficient area in which to screen and soften the proposed development.	Yes - however numeric compliance does not provide sufficient softening of the proposed development and is not in context with the street.
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.	The turfed grass within the front setback is minimal and is not sufficient to comply with the objectives of the standard.	No

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4A 4.1 Visual Privacy		
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	The first floor windows within the rear elevation to the bedrooms will result in some overlooking given the non-compliance rear setback. These windows are approximately	No
windows of other dwellings, particularly those of living areas.	4.5m above natural ground level and faces the adjoining dwelling to the south east.	
4A.4.7 Roofs and Attics/Dormers		
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.	Proposed roof: Pitched.	Yes
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 is combined having a width of 6m. However, the pedestrian access and driveway are not separated.	No
4A.4.8 Car Parking		
C1 Development must comply with Part 3A - Car Parking.	See part 3A - Car Parking.	No - non-
C2 The provision of car parking must reasonably satisfy the needs of current and future residents, but recognise the need to balance car parking access and provision with design, heritage, landscape and streetscape objectives.	Only non-compliance is the pedestrian and vehicular access is not separated.	compliance for the separate access otherwise acceptable.

Discussion

Part 8 - Mascot Character Precinct

8.7.2 Desired Future Character

The site is located within the R2 Low Density Residential Zone of the Mascot Character Precinct on Carinya Avenue, Mascot between Botany Road to the east and O'Riordan Street to the west. The desired future character for the Mascot area acknowledges that development should:

- Encourage different housing styles depending on the locality
- Enhance neighbourhood amenity and pedestrian comfort;
- Encourage site layout, building styles and designs which promote commonality and a visual relationship with the surrounding built form and dwelling styles;

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 Ensure there is consistent streetscape through the use of front setbacks, fencing and landscaping;

The proposed semi-detached dwellings are not considered to enhance the public domain or streetscape along Carinya Avenue. The proposal does not maintain the existing development pattern of modestly size free standing dwellings in the street. It fails to maintain the density of the area as shown by the FSR non-compliance and presents a mass and scale not in keeping with the streetscape.

While the proposed building contains a front setback that is consistent with the prevailing setback in the street, the front setback is mostly driveway and contains little area for deep soil planting. This is exacerbated given the small size of the site. No front fencing has been proposed and this is not consistent with the existing alignment of fences in the street.

Having taken into consideration the desired future outcome for the site in relation to the Mascot Character Precinct, the proposal is not satisfactory for the site and is not consistent with the desired future character of the Mascot Precinct pursuant to Botany Bay Development Control Plan Part 8 Character Precincts.

S.4.15C(1)(a)(iv) - Provisions of Regulations

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development. All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

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

Likely impacts on the natural and built environments, and social and economic impacts in the locality have been considered in the assessment of the application and negative impacts on the current built environment due to the size, bulk and style of the proposal are anticipated. A development compliant with the floor space ratio control would correspondingly be smaller and have a lesser bulk appearance making it more suitable to the existing built environment. The design of the current proposal is out of character with the existing streetscape.

The current proposal involves the subdivision of the land and will detract from the existing subdivision arrangement of lots in the street block. The proposal will result in adverse amenity impacts and will set an undesirable precedent within the locality.

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

The suitability of the site for the proposal has been considered in the assessment of the development application. The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The non-compliance of the proposal with controls in both the Botany Bay LEP 2013 and DCP 2013 and the anticipated adverse impacts resulting from these areas of non-compliance make the site unsuitable to the proposed development.

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S.4.15C(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 9th October 2018 to 25th October 2018. No submissions were received.

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

Granting approval to the proposed development will have adverse impacts on the neighbouring property and the locality, and is not recommended. The proposal is considered to not be in the public interest.

Section 7.11 Contributions

A Section 7.11 Contribution is applicable for the proposed development as it will increase the number of lots on the site by one. Should the application be approved this would be addressed through the imposition of a condition of development consent.

Conclusion

Development Application No. 2018/1182 for the demolition of the existing building and structures, Torrens Title subdivision into two (2) lots and construction of a two x two (2) storey semi-detached dwellings at 24 Carinya Avenue, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for refusal for the reasons outlined in this report.

ATTACHMENT 1

CLAUSE 4.6 VARIATION REQUEST

Property: 24 Carinya Avenue, Mascot

Date: 7/8/2018

Planning Instrument: Botany Local Environmental Plan 2013

Development Standard: Maximum Floor Space Ratio [Clause 4.4(2)]

 What is the name of the environmental planning instrument that applies to the land? – Botany Bay Local Environmental Plan 2013.

- 2. What is the zoning of the land? R2 Low Density Residential Zone.
- 3. What are the Objectives of the zone? the objectives of the zone are:
 - To provide for the housing needs of the community within a low density residential environment.
 - To enable other land uses that provide facilities or services to meet the day to day needs of registrats
 - . To encourage development that promotes walking and cycling

The proposed development satisfies the above objectives as follows:

- The proposed scale of development will meet the housing needs of the community and add to the range of housing within the low density residential zone.
- Consideration has been given to the existing amenity and character of the area and it is considered that the proposed development is sympathetic and harmonious with nearby development in the Mascot locality and will complement the existing character.
- The proposed development will enhance the amenity of the residential area by the provision
 of new housing stock and landscaping.

It is considered that the proposed development is skilfully designed to achieve a better environmental outcome in terms of visual bulk and scale and in achieving a high level of privacy to occupants of adjoining properties (i.e., the proposal involves both single and two storey elements and a usable ground floor plan with a room layout that achieves specific objections, including passive surveillance). It is, therefore, within the environmental capacity of the R2 – Low Density Residential zone.

Note: the Court in relation to "zone objectives" has interpreted to mean "compatible" or "capable of existing together in harmony" (Dem Gillespies v Warringah Council [2002] NSWLEC 224; (2002) 124 LGERA 147; Addenbrooke Pty Ltd v Woollahra Municipal Council [2008] NSWLEC 190) or "not being antipathetic" (Schaffer Corporation v Hawkesbury City Council (1992) 77 LGRA 21).

- What is the development standard being varied? the standard being varied relates to Floor Space Ratio.
- 5. Under what clause is the development standard listed in the environmental planning instrument? Clause 4.4A(3)(d)

- 6. What are the objectives of the development standard? the objectives of the development standard 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.

In summary, the underlying purpose of the maximum floor space ratio requirement is to ensure that:

- 1. New housing is of a comparable bulk and scale to existing development in the zone.
- There is a good balance between landscaping and the siting of the building (i.e., strategically positioned landscaping can often improve the interface of the development when viewed from the street and from adjacent properties, which can in turn reduce the visual bulk and scale of development).
- Adequate articulation and the use of design features, including colours and textures is incorporated in the architecture of the building to visually reduce the bulk and scale of the building

The proposed design measures significantly reduce the environmental impacts of the development compared to a <u>more substantial two-storey "dwelling house"</u> that complies with the FSR requirement (i.e., dwelling house development can achieve an FSR of 0.7:1 as such, there is absolutely no nexus between bulk/scale and the FSR standard). The FSR standards in the LEP discriminate against development types other than dwelling house development, as such, there is no planning purpose to the standard. The proposed development is a far better outcome than a compliant more substantial two-storey "dwelling house" development.

As such the objectives of the standard have been achieved to a better degree than a development that would comply with the standard.

- 7. What is the numeric value of the development standard in the environmental planning instrument? the numeric requirement is 0.5:1.
- 8. What is the numeric value of the development standard in your development application? the proposed development has an FSR of 0.69:1.
- 9. What percentage variation (between your proposal and the environmental planning instrument)? the variation equates to a 38% deviation.
- 10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case? strict compliance with the development standard is unnecessary with this development as the objectives of the standard are achieved, notwithstanding non-compliance with the numeric standard. Allowing this variation request will result in a superior planning outcome and a semi-detached building form that is consistent with traditional suburban design. An alternative compliant, more substantial two-storey design with more floor space could be proposed, however, this would have a greater environmental impact on the adjoining property and not achieve wider planning outcomes of affordable and diverse housing choice.

The design appears less bulky than a compliant more substantial two-storey building form. As such, strict compliance with the standard would be unnecessary (i.e., its purpose is achieved anyway) and unreasonable (no purpose would be served in strictly insisting on a number).

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act? – compliance with the standard may be achieved as outlined earlier (i.e., a bulkier, more substantial two-storey development in lieu of the proposed development), however, this would result in a negative impact on the amenities of the neighbouring properties rather than a positive impact. A compliant design involving a more substantial two-storey building form would create a building with a greater bulk and scale than the proposed development offers. As such, strict compliance with the numeric requirement in this instance, would not only serve no practical purpose but could cause adverse impacts to adjoining properties and the streetscape amenity in general.

In other words, due to the circumstances of this particular site, and the fact that a larger single dwelling house could be achieved, strict compliance would serve absolutely NO PLANNING PURPOSE, in fact, limiting the FSR, impacts on the residential amenity of the proposed dwellings.

That is, deleting or making rooms smaller just to achieve strict compliance will result in a <u>less orderly</u> development of the site, which in turn significantly impacts on the <u>economic viability</u> of even developing the site, given the expectations of prospective purchasers to have such amenities.

- 12. Is the development standard a performance-based control? Give details no (it is a numeric requirement with specified objectives). It should be noted, however, that the design is an innovative expression in building design that specifically addresses the character of the locality, site specific planning objectives and the environmental impact of the development on neighbouring properties, and privacy and overshadowing, in particular. Furthermore, the proposed development substantially complies with all other crucial siting and design requirements, such as:
 - · Building height;
 - Setbacks from all boundaries;
 - Private open space;
 - Site coverage;
 - Landscaped area; and
 - Access and parking.
- 13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why? as discussed in item 10, the intent or objectives behind the development standard have been achieved through skilful design, therefore, strict compliance would be unnecessary (i.e., it is achieved anyway) and unreasonable (no purpose would be served). Furthermore, the environmental planning grounds or benefits which are discussed further in the Variation Request are both specific to the circumstances of the subject site and its context, as well as the broader policies associated with the provision of housing.
- 14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details - in addition to the benefits to broader planning grounds, such as:
 - · Public benefit arising from additional housing, and
 - An increase in the variety of housing stock¹.

The more specific environmental planning grounds [Four2Five Pty Ltd v Ashfield Council] are that specific design measures are required to address the opportunities of the site, that being an regular shaped allotment, which as a consequence of providing articulation and design measures, minimise the bulk and scale for development, has resulted in an exceedance to the FSR requirement (i.e., the proposed FSR would achieve better internal and external amenity outcomes, such as, solar access, privacy and streetscape presentation, than a larger complying two storey development with an even greater floor area).

Likewise, a compliant "semi-detached" development with less floor area would not, for all intents and purposes, achieve a better environmental outcome in the zone or enhance the residential amenity of residents living in the dwellings. In fact, compliance with the development standard would in this particular case, result in:

- Bedrooms being lost (Note: it is important that housing caters to a wide spectrum
 of the community, including a growing family situation, especially in areas where
 the population is aging and existing infrastructure, such as, schools is
 underutilised or on the verge of being lost to developing areas); or
- Crucial internal living areas being reduced in size.

From an urban design viewpoint, the development (in its current form) is consistent with the building character in the locality and will generally enhance the amenity of the streetscape, thus satisfying the planning principles established in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191.

It provides for all residential amenities, including off-street car parking expected for the lifestyle of its occupants, without any significant adverse environmental impacts to adjoining properties. There will be sufficient accommodation and realistic leisure areas to ensure the building is fit for its designed purpose. The design has sensible living areas that are not in any way considered excessive.

Although there is an exceedance in the numerical FSR standard for residential accommodation other than dwelling houses, the building is designed to limit bulk and scale i.e., less impacts than that of a larger, but compliant, more substantial two-storey dwelling house.

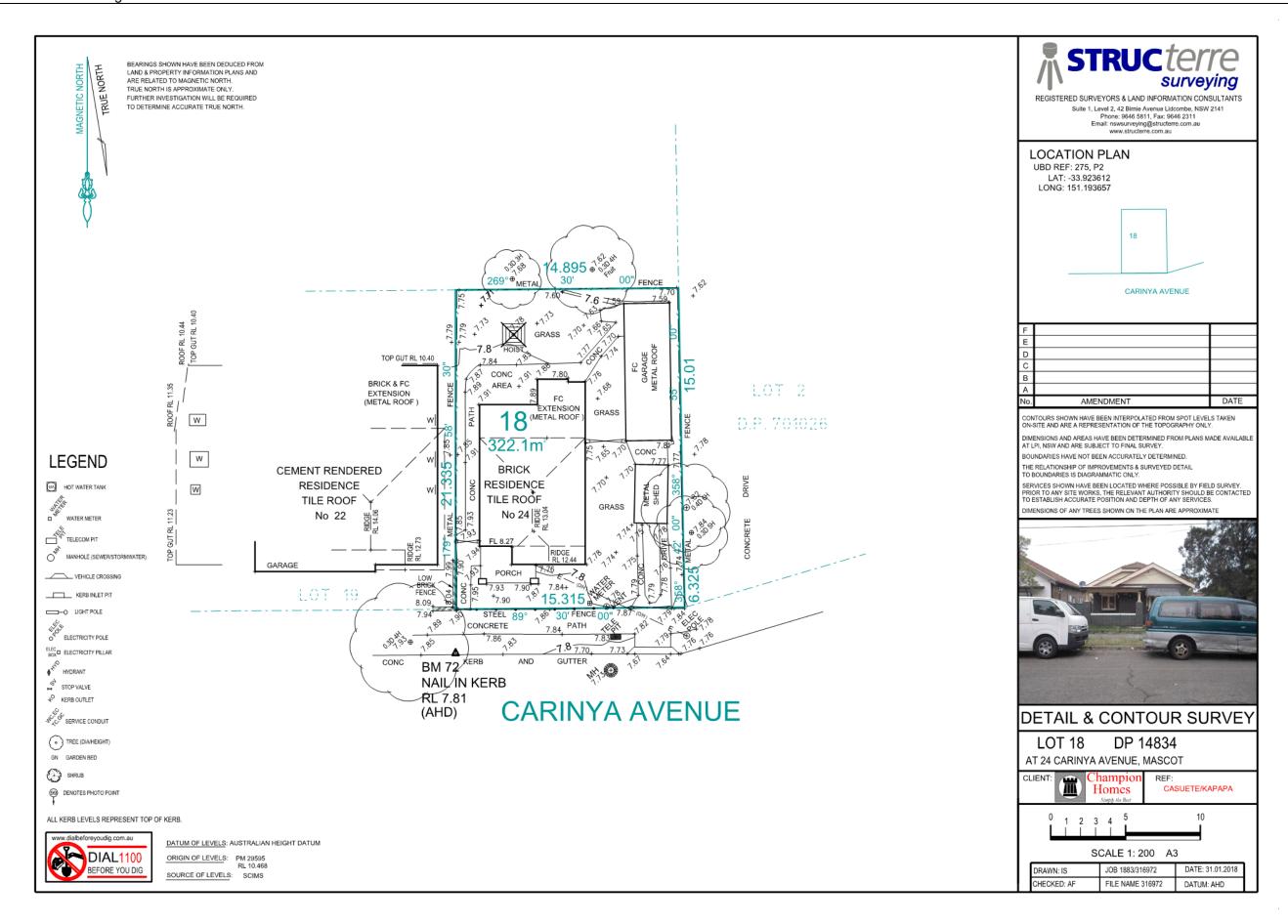
As such, environmental planning benefits of approving the development in its current form outweigh the need for strict compliance.

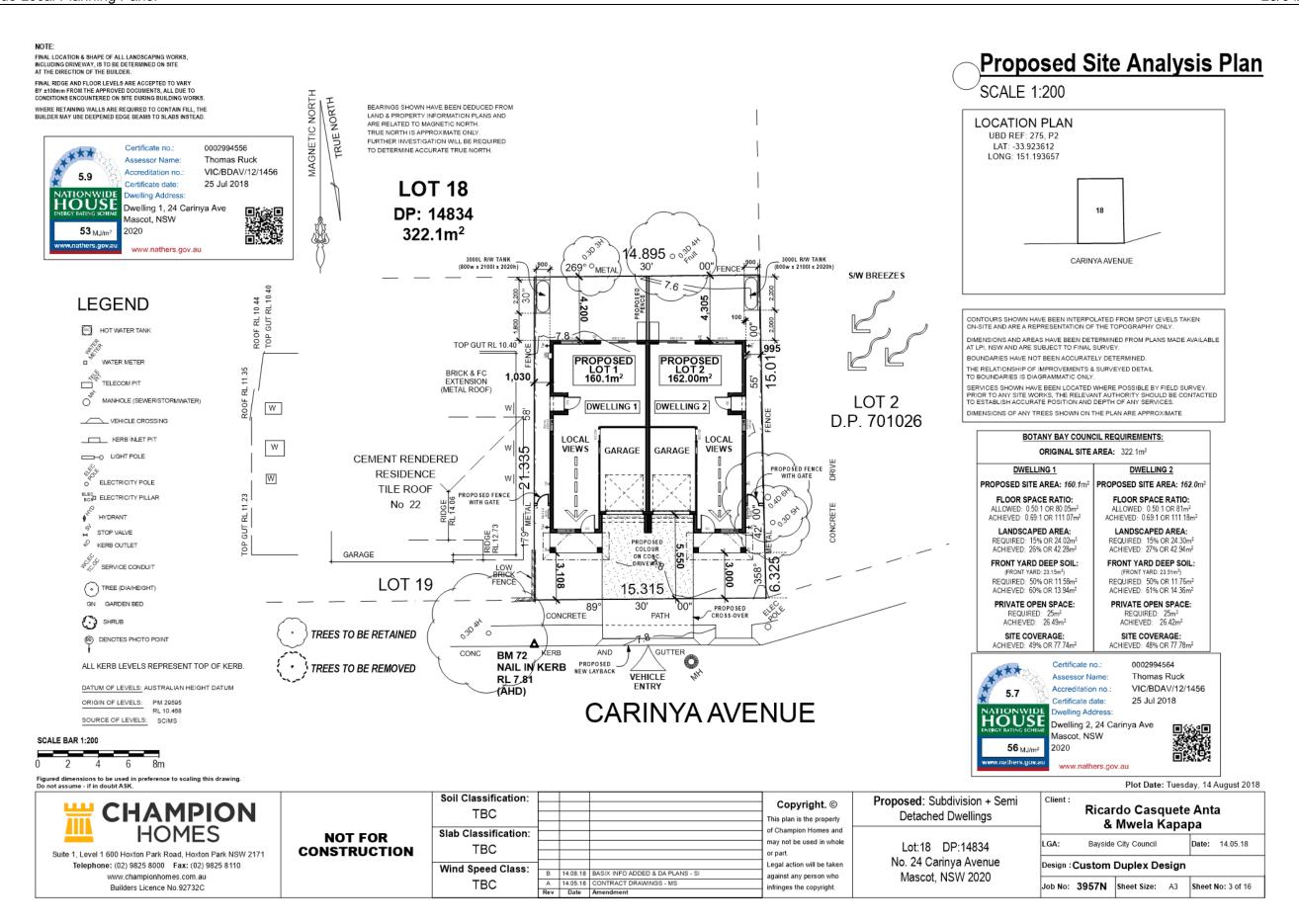
1. The state government strategies for the delivery of housing includes the push for semi-detached and attached development and increased floor space ratio ranges.

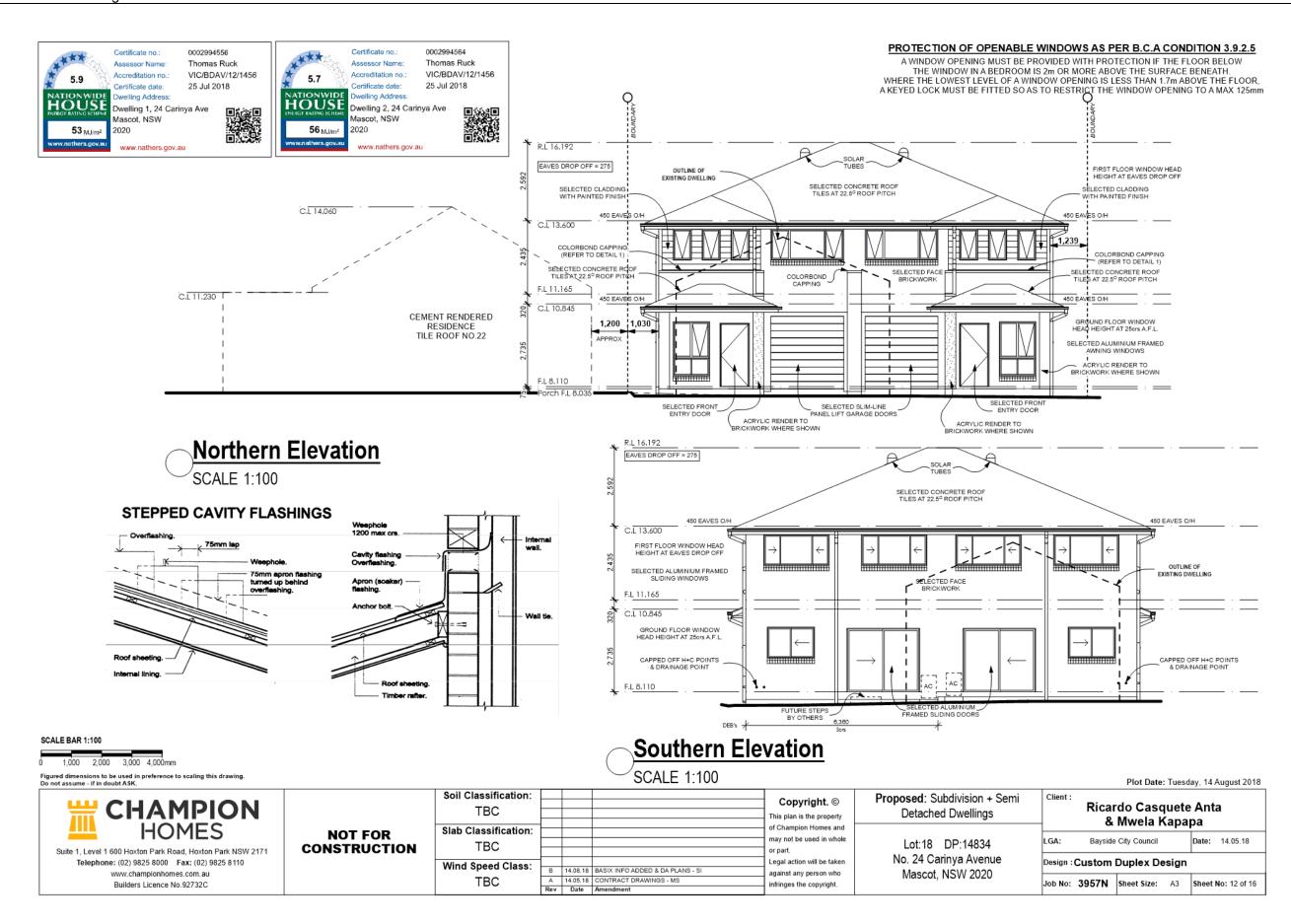
ATTACHMENT 2

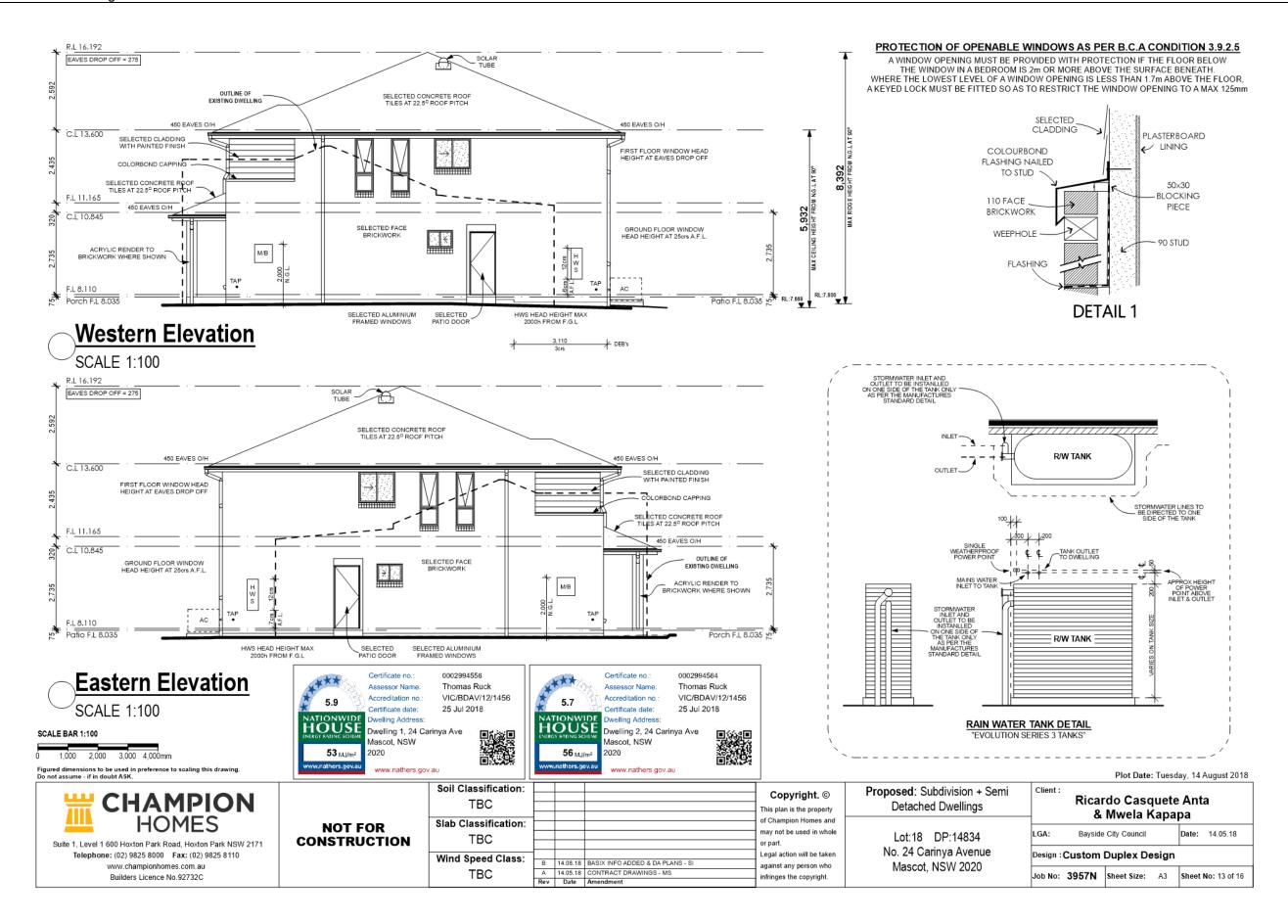
CONTROL TABLE - SEMI-DETACHED DWELLINGS

Control	Requirement	Development Proposal	Complies
Frontage	N/A (existing allotment)	Lot 1 – 7.505m Lot 2 – 7.81m	N/A
Lot Size No Minimum		Lot 1 – 160.1m ² Lot 2 – 162m ²	N/A
Building Height	9m (max)	Dwelling 1 – 8.392m Dwelling 2 – 8.392m	Yes Yes
Floor Space Ratio	Residential Accommodation (Semi-detached dwellings) – 0.5:1	Dwelling 1 – 0.69:1 Dwelling 2 – 0.69:1	No No
Site Coverage	Sites < 200m² – Merit	Dwelling 1 - 49% Dwelling 2 - 48%	Yes Yes
Landscaped Area < 250m² – 15% (min)		Dwelling 1 - 26% Dwelling 2 – 27%	Yes Yes
<u>Setbacks</u> Front	Prevailing setback OR 6.0m	3m (generally consistent with adjoining development)	Yes
Side Merit		1030mm & 995mm (450mm eaves)	Yes
Rear Lot width < 12.5m = 4.0m		Dwelling 1 – 4.2m Dwelling 2 – 4.2m	Yes Yes
Garage 5.5m (min)		5.55m	Yes
Car Parking 1 space per dwelling		1 space per dwelling	Yes
Single width garage permitted on sites less than 12.5m in width		single garage per dwelling	Yes
Garages 1m behind front building alignment		1m behind front building alignment	Yes
Private Open Space < 250m² - 25m² (min)		Dwelling 1 – 26.49m ² Dwelling 2 – 26.42m ²	Yes Yes
Paving Max 50% of the front setback area		Dwelling 1 - 40% Dwelling 2 - 39%	Yes Yes











Streetscape Elevation

SCALE 1:100

Figured dimensions to be used in preference to scaling this drawing. Do not assume - if in doubt ASK.

Plot Date: Tuesday, 14 August 2018



NOT FOR CONSTRUCTION

Soil Classification: TBC			
Slab Classification: TBC			
Wind Speed Class: TBC	В	14.08.18 14.05.18	BASIX INFO ADDED & DA PLANS - SI CONTRACT DRAWINGS - MS
	Rev	Date	Amendment

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Detached Dwellings

Lot:18 DP:14834

No. 24 Carinya Avenue

Mascot, NSW 2020

Proposed: Subdivision + Semi

Ricardo Casquete Anta
& Mwela Kapapa

LGA: Bayside City Council Date: 14.05.18

Design: Custom Duplex Design

Job No: 3957N Sheet Size: A3 Sheet No: 14 of 16

