

## **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 July 2019 at 6.00 pm**

## **ON-SITE INSPECTIONS**

On-site inspection/s will precede the meeting.

## **AGENDA**

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

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

### **2 APOLOGIES**

### **3 DISCLOSURES OF INTEREST**

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

4.1 Minutes of the Bayside Local Planning Panel Meeting - 9 July 2019.....2

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

5.1 Post-Exhibition Report: Planning Proposal to Reclassify Public Land at Lot 3 DP1247416 (No. 9) Bidjigal Road, Arncliffe .....33

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

6.1 DA-2017/224/E - 152-200 & 206 Rocky Point Road, Kogarah. ....206  
6.2 DA-2018/318 - 72 Banksia Street, Botany. ....305  
6.3 SF19/3611 - 5 Highgate Street, Bexley.....443  
6.4 DA-2016/47/A - 7-9 Gertrude Street, Wolli Creek. ....478  
6.5 DA-2014/10214/D - 5 Myrtle Street Botany.....533  
6.6 DA-18/1172 - 106 Wilson Street, Botany. ....587

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

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

Meredith Wallace  
**General Manager**

## **Bayside Local Planning Panel**

**23/07/2019**

|           |  |
|-----------|--|
| Item No   | 4.1  |
| Subject   | <b>Minutes of the Bayside Local Planning Panel Meeting - 9 July 2019</b> |
| Report by | Michael McCabe, Director City Futures                                    |
| File      | SF18/3001  |

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### **Recommendation**

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

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### **Present**

Robert Montgomery, Chairperson  
Jan Murrell, Independent Expert Member  
Anthony Reed, Independent Expert Member  
Jess Hanna, Community Representative

### **Also present**

Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance & Risk  
Christopher Mackay, Coordinator Development Assessment  
Ben Latta, Coordinator Development Assessment  
Andrew Ison, Senior Development Assessment Planner  
Angela Lazaridis, Senior Development Assessment Planner  
Patrick Nash, Senior Development Assessment Planner  
Nitin Thomas, Development Assessment Planner  
Gary Choice, Development Assessment Planner  
Anne Suann, Governance Officer  
Taif George, IT Technical Support Officer

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

## **1 Acknowledgement of Traditional Owners**

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

## **2 Apologies**

There were no apologies received.



### 3 Disclosures of Interest

#### 3.1 Bayside Local Planning Panel Meeting 9 July 2019 - Declarations of Interest

There were no disclosures of interest.

##### Attachments

- 1 Bayside Local Planning Panel 9 July 2019 - Declarations of Interest - Redacted

### 4 Minutes of Previous Meetings

#### 4.1 Minutes of the Bayside Local Planning Panel Meeting - 25 June 2019

##### Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 25 June 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

### 5 Reports – Planning Proposals

Nil

### 6 Reports – Development Applications

#### 6.1 DA-2013/10056/C - 13A Church Avenue, Mascot

The following person spoke:

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

##### Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1) of the Environmental Planning and Assessment Act 1979 is satisfied that the proposed modification:
  - i) *is to correct a minor error, misdescription or miscalculation.* of minimal environmental impact;
  - ii) is substantially the same development as the development for which consent was originally granted and before that consent was modified;

- iii) has not been notified as the modifications are minor in nature; and
  - iv) has been assessed having regard to the relevant matters in S4.15 of the Environmental Planning and Assessment Act 1979.
- 2 That the Bayside Local Planning Panel takes into consideration the reasons of the consent authority that granted the consent that is sought to be modified.
- 3 That modification application DA-2013/10056/C seeking to modify Development Consent DA-2013/10056 to amend Conditions 1, 65 and 77 relating to updated supporting documents at 13A Church Avenue, Mascot is APPROVED. The proposal is modified in the following manner;

(a) *Amend Condition 1 to now read:*

The development is to be carried out 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 (DA13/056/01).

| <b>Drawing N°</b>                                     | <b>Author</b>             | <b>Date Received</b>    |
|---|---------------------------|-------------------------|
| <i>Architectural Plans</i>                            |                           |                         |
| <i>S96 101</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96 101.5</i>                                      | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96 102</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96103</i>   | <i>Bureau SRH</i>         | <i>6 April 2018</i>     |
| <i>S96 104</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96 105</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96 106</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96 107</i>  | <i>Bureau SRH</i>         | <i>6 April 2018</i>     |
| <i>S96 108</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96 200</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>S96 201</i>  | <i>Bureau SRH</i>         | <i>6 April 2018</i>     |
| <i>S96 202</i>  | <i>Bureau SRH</i>         | <i>6 April 2018</i>     |
| <i>S96 203</i>  | <i>Bureau SRH</i>         | <i>6 April 2018</i>     |
| <i>S96 300</i>  | <i>Bureau SRH</i>         | <i>28 November 2017</i> |
| <i>Architectural Plans</i><br><i>11170-01 Issue A</i> | <i>Simmons Architects</i> | <i>13 May 2014</i>      |

|   |                                    |                  |
|---|------------------------------------|------------------|
| <del>11170-02 Issue I</del>                             |                                    |                  |
| <del>11170-03 Issue O</del>                             |                                    |                  |
| <del>11170-04 Issue F</del>                             |                                    |                  |
| <del>11170-05 Issue D</del>                             |                                    |                  |
| <del>11170-06 Issue D</del>                             |                                    |                  |
| <del>11170-07 Issue A</del>                             |                                    |                  |
| <del>11170-08 Issue E</del>                             |                                    |                  |
| Landscape Plans<br>L/01 Issue A<br>L/02 Issue B<br>L/03 | ATC                                | 15 November 2013 |
| Survey Plan<br>Ref No. 582AA 01                         | Mitchell Land Surveyors<br>Pty Ltd | 28 March 2013    |
| Stormwater Plans<br>C01_B<br>C02_B<br>C03_B<br>C04_A    | Alan L Wright &<br>Associates      | 15 November 2013 |

| Documents  | Author   | Date Received   |
|--|--|---|
| Statement of Environmental Effects   | LJB Urban Planning Pty Ltd   | 27 March received by Council 28 March 2014  |
| Statement of Environmental Effects<br>(DA-2013/10056/C)  | LJB Urban Planning Pty Ltd<br>(DA-2013/10056/C)  | 23 November 2017<br>(DA-2013/10056/C)   |
| State Environmental Planning Policy No.1 (SEPP 1) Objection  | LJB Urban Planning Pty Ltd   | November 2013 received by Council 15 November 2013 – amendment received 30 April 2014                                       |
| Preliminary Geotechnical Report  | Grant Alexander & Associates Pty Ltd   | 30 July 2009 received by Council 28 March 2013  |
| Ground Water Levels  | Grant Alexander & Associates Pty Ltd   | 30 July 2009 received by Council 28 March 2013  |
| <b><del>Traffic Report</del><br/><del>Traffic and Parking Impact Assessment</del><br/><del>(DA-2013/10056/C)</del></b> | <b><del>Integral Services group</del><br/><del>Motion Traffic Engineers</del><br/><del>(DA-2013/10056/C)</del></b> | <b><del>August 2009 received by Council 20 May 2013</del><br/><del>November 2017</del><br/><del>(DA-2013/10056/C)</del></b> |
| Estimated Construction Cost  | Newton, Fisher & Associates Pty Ltd  | 20 January 2014 received by Council 22 January 2014   |

|  |  |  |
|--|--|--|
| Soil Contamination Investigation   | Pacific Environmental  | 30 October 2009 received by Council 28 March 2013  |
| Addendum to Soil Contamination Audit Investigation                             | Pacific Environmental  | 1 January 2010 received by Council 28 March 2013   |
| Addendum to Soil Contamination Audit Investigation – Groundwater Investigation | Pacific Environmental  | 13 May 2013 received by Council 28 March 2013  |
| Acid Sulphate Soil Assessment  | Pacific Environmental  | 2 November 2009 received by Council 28 March 2013  |
| Pedestrian Wind Statement  | Windtech   | 22 October 2009 received by Council 28 March 2013  |
| BASIX Certificate No. <b>474684M 47468M_02 (DA-2013/10056/C)</b>               | <b><del>Department of Planning</del> Gradwell Consulting (DA-2013/10056/C)</b> | <b><del>28 March 2013 received by Council 28 March 2013</del> 23 November 2017 (DA-2013/10056/C)</b> |
| <b>Access Report Access Compliance Report (DA-2013/10056/C)</b>                | PSE Consulting   | <b><del>7 May 2013 received by Council 20 May 2013</del> 22 November 2017 (DA-2013/10056/C)</b>      |
| Design Verification  | <b>Simmons Architects Bureau SRH Architecture (DA-2013/10056/C)</b>            | <b><del>21 March received by Council 28 March 2013</del> 20 November 2017 (DA-2013/10056/C)</b>      |
| Aircraft Noise Assessment  | Acoustic Services Pty Ltd  | 14 May 2013 received by Council 20 May 2013  |
| Letter regarding Offer of VPA  | Norton Rose Fulbright  | 20 March 2014  |

No construction works (including excavation) shall be undertaken prior to the issue of the Construction Certificate. (DA13/056/02) (DA13/056/03) **(Amended 9 July 2019 DA-2013/10056/C)**

(b) *Condition 65 to be amended to now read:*

Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. The detail drawings and specifications shall be prepared by a suitably qualified and experience civil engineer and be in accordance with Council's 'Development Control Plan – "Stormwater Management Technical Guidelines"', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawing shall correspond with the approved architectural plans. The plans shall incorporate:

- a) the provisions made in the stormwater drainage drawings C1-C4, by Alan. L. Wright & Associates, dated Oct 2013;

- b) the provision for the connection of the overflow pipe from Storage Tank 1 to either Pit C or Pit D of the Absorption Tank and the deletion of Pit A;
- c) the provision for new kerb inlet pit(s) with a minimum 1.8 metre lintel, in accordance with City of Botany Bay Standard Drawing E-09 to facilitate connection of stormwater outlet to Council's stormwater drainage system; and
- d) the provisions meet or exceed the BASIX Certificate ~~No. 474684M issued 28 March 2013~~ **474684M\_02 dated 22 November 2017**.

Note: All underground parking structures are to be "tanked" so that there is no intrusion of waters into the structure. **(Amended 9 July 2019 DA-2013/10056/C)**

(c) Condition 77 to be amended to now read:

Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. ~~474684M~~ **474684M\_02 dated 28 March 2014** ~~20 November 2017 received by Council 28 March 2014~~ for the development are fulfilled.

- a) Relevant BASIX Certificate means:
  - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.  
**(Amended 9 July 2019 DA-2013/10056/C)**

| Name              | For                                 | Against                  |
|-------------------|-------------------------------------|--------------------------|
| Robert Montgomery | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jan Murrell       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Anthony Reid      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jesse Hanna       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

#### Reason for the Panel's Determination

- The Panel is satisfied in relation to the matters contained in Section 4.15 of the Environment Planning and Assessment Act 1979.

- The applicant provided evidence to the satisfaction of Council and the Panel that the consent was secured by commencement on the 31 May 2019.

## **6.2 DA-2015/427/B - 4 Warialda Street, Kogarah**

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

### **Determination**

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
  - a) is of minimal environmental impact;
  - b) is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - c) has been notified (or not notified because not required); and
  - d) has been assessed having regard to the relevant matters in s4.55(1A) of the Environmental Planning and Assessment Act 1979.
- 2 That the Bayside Local Planning Panel takes into account the reasons of the consent authority that granted the consent that is sought to be modified.
- 3 That modification application DA-2015/427/B seeking to modify development consent DA-2015/427 to change the external brick colour at 4 Warialda Street, Kogarah is APPROVED. The proposal is modified in the following manner:
  - a) By amending condition 2;
  - b) By deleting condition 13..

| <b>Name</b>       | <b>For</b>                          | <b>Against</b>           |
|-------------------|-------------------------------------|--------------------------|
| Robert Montgomery | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jan Murrell       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Anthony Reid      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jesse Hanna       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

### **Reason for the Panel's Determination**

The Panel is satisfied in relation to the matters contained in Section 4.15 of the Environment Planning and Assessment Act 1979.

### 6.3 DA-2018/333 - 1109 Botany Road, Mascot

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

#### Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 not support a variation to the building height standard prescribed by clause 4.3 of the Botany Bay Local Environmental Plan 2013, as it is not satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by clause 4.6 of that Plan, and the proposed development would not be in the public interest because it is not consistent with the objectives of that particular development standard and the objectives for development within the zone.
- 2 That Development Application No. 2018/333 for the demolition of the existing building and construction of two (2) x five (5) storey residential flat buildings containing 16 x 2 bedroom units; at grade and basement parking and roof top terrace at the rear at 1109 Botany Road, Mascot is REFUSED pursuant to Section 4.6(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
  1. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not satisfy State Environmental Planning Policy (Infrastructure) 2007 in that the RMS has not issued its concurrence for the proposed vehicular access arrangement.
  2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not satisfy State Environmental Planning Policy No.55 – Remediation of Land as insufficient information has been provided to satisfy the provisions of clause 7 of that Policy.
  3. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:
    - a) Part 2F - Building Separation
    - b) Part 3D - Communal Open Space
    - c) Part 3E – Deep soil zones
    - d) Part 4B – Natural Ventilation
    - e) Part 4C – Ceiling heights
  4. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the Design Quality Principles within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment. Additionally, the Design Verification Statement provided does

not satisfy clause 50(1B) of the Environmental Planning and Assessment Regulation 2000.

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 objectives of the B2 – Local Centre zone within Botany Bay Local Environmental Plan 2013.
6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 of the Botany Bay Local Environmental Plan 2013 relating to non-compliance with the height of building development standard of 14 metres. The 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 regards to building height.
7. 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 4.4 of the Botany Bay Local Environmental Plan 2013 relating to non-compliance with the floor space ratio development standard of 2:1. No clause 4.6 exception has been provided. Therefore, the consent authority has no statutory power to consent to the application.
8. 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 6.1 – Acid sulfate soils, Clause 6.2 – Earthworks and Clause 6.3 – Stormwater management of the Botany Bay Local Environmental Plan 2013.
9. 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 6.15 - Active Street frontages of the Botany Bay Local Environmental Plan 2013 as the development provides insufficient active street frontage along Botany Road.
10. 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:
  - a) Part 3A – Car Parking and Access.
  - b) Part 3B – Heritage.
  - c) Part 3G – Stormwater Management.
  - d) Part 3K – Contamination
  - e) Part 3L – Landscaping and Tree Management
  - f) Part 3N – Waste Minimisation and Management
  - g) Part 4C.4.1- Dwelling Mix and Layout within High Density Residential
  - h) Part 5 – Business Centres. The proposed development do not comply with the objectives and controls of Part 5.2.2.8- Mascot Local Centre (Botany Road) of the Botany Bay Development Control Plan 2013



11. 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.
12. 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, height, density, inconsistent with local character and would adversely impact upon the amenity of the locality.
13. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site.
14. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

3 That the submitters be notified of the Bayside Local Planning Panel's decision.

| Name              | For                                 | Against                  |
|-------------------|-------------------------------------|--------------------------|
| Robert Montgomery | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jan Murrell       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Anthony Reid      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jesse Hanna       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

#### Reason for the Panel's Determination

- The Panel agrees with the Council officer's assessment of this application, and in particular that it fails to satisfy various requirements of the Local Environmental Plan and other statutory requirements.
- It is noted that concurrence has not been received from the RMS and therefore the application must be refused.
- The proposal fails to recognise the significant constraints presented by the site and therefore should be refused.

#### 6.4 DA-2018/319/A - 10-12 Sarah Street, Mascot

The following person spoke:

- Christopher Croucamp, town planner speaking on behalf of the applicant, spoke for the officer's recommendation.

### Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 is satisfied that the proposed modification:
  - i) is of minimal environmental impact;
  - ii) is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - iii) has been notified; and
  - iv) has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- 2 That modification application DA-2018/319/A seeking to modify development consent DA-2018/319 to an approved hotel development which includes realignment of windows along the western façade and modifications to Condition Nos. 1, 55(b), 96 and 98 at 10-12 Sarah Street Mascot is APPROVED by the Bayside Local Planning Panel.

The proposal is modified in the following manner:

- i) By amending Condition No. 1 to reflect the amended plans;
- ii) By amending Condition No. 55(b) relating to construction works;
- iii) By deleting Condition No. 96 relating to creation of easements; and
- iv) By amending Condition No. 98 relating to lot consolidation timing.

| Name              | For                                 | Against                  |
|-------------------|-------------------------------------|--------------------------|
| Robert Montgomery | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jan Murrell       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Anthony Reid      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jesse Hanna       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

### Reason for the Panel's Determination

- The Panel is satisfied in relation to the matters contained in Section 4.15 of the Environmental Planning and Assessment Act 1979.

### 6.5 DA-2019/94 - 12 O'Connell Street, Monterey

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

The following people spoke:

- Rabi Moussawel, applicant, spoke against the officer's recommendation and responded to the Panel's questions.

- Alex Rigby, owner, spoke against the officer's recommendation and responded to the Panel's questions.

**Determination**

- 1 That development application DA-2019/94 for Construction of a two (2) storey dwelling, including basement car parking, roof top terrace, in-ground swimming pool and removal of trees in the rear yard at 12 O'Connell Street, Monterey is APPROVED as a deferred commencement consent pursuant to s4.16(3) of the Environmental Planning and Assessment Act 1979 subject to the Schedule of Conditions in Attachment 1.

The amended plans and any supporting documents must be submitted to Council within 28 days for Council for approval by the Director City Futures.

- 2 That the submitter(s) be notified of the Bayside Local Planning Panel's decision.

| Name              | For                                 | Against                  |
|-------------------|-------------------------------------|--------------------------|
| Robert Montgomery | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jan Murrell       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Anthony Reid      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Jesse Hanna       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

**Reason for the Panel's Determination**

- It is acknowledged that in its current form the application should not be approved due to the non-compliances and impacts created by the proposed dwelling.
- The Panel considers that compliance with the matters listed in the deferred commencement conditions will achieve an acceptable outcome for the site with regard to building height, privacy, overshadowing and bulk and scale.
- The Panel has taken into consideration the objection received from a neighbouring property owner in arriving at this decision.

The Chairperson closed the meeting at 6.44 pm.

Certified as true and correct.

Robert Montgomery  
**Chairperson**

**Attachment 1 – Schedule of Conditions – 12 O’Connell Street, Monterey****SCHEDULE OF CONSENT CONDITIONS****DEFERRED COMMENCEMENT CONDITIONS**

1. Amended plans are to be submitted for the approval of the Director City Futures which achieve the following design outcomes:
  - compliance with the height limit of 8.5 m;
  - compliance with the maximum of FSR of 0.6:1;
  - lowering of the building so that the ground floor is no greater than one step above ground level at the front of the building and no greater than two steps at the rear of the building and that no part of the building exceed the 8.5 m height limit;
  - the swimming pool coping is to be no higher than two steps above ground level;
  - the roof material is to be of a non-trafficable nature outside of the roof terrace area.
  
- 2 An amended landscape plan is to be submitted for the approval of the Director City Futures which provides for two canopy trees, one in the rear and one centrally located in the front setback area;

**GENERAL CONDITIONS**

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

| <b>Drawing No.</b>                             | <b>Author</b>            | <b>Dated</b>             |
|--|--------------------------|--------------------------|
| Site plan TBC subject to deferment             | TBC Subject to deferment | TBC subject to deferment |
| Ground floor plan TBC subject to deferment     |                          |                          |
| First floor plan TBC subject to deferment      |                          |                          |
| Rooftop plan TBC subject to deferment          |                          |                          |
| Elevations & Sections TBC subject to deferment |                          |                          |
| Sediment Control Plan TBC subject to deferment |                          |                          |
| Demolition plan TBC subject to deferment       |                          |                          |
| Roof plan TBC subject to deferment             |                          |                          |

| Drawing No.                                       | Author | Dated |
|---|--------|-------|
| Stormwater drainage plan TBC subject to deferment |        |       |
| Finishes Schedule TBC subject to deferment        |        |       |
| Windows & Doors Schedule TBC subject to deferment |        |       |
| Ramp Section TBC subject to deferment             |        |       |
| Landscape Plan TBC subject to deferment           |        |       |

| Reference Documents            | Author          | Dated           |
|--------------------------------|-----------------|-----------------|
| Geotechnical Assessment Report | Eswnman Pty Ltd | 28 October 2018 |
| BASIX Certificate 1001288S     | Envision Energy | TBC             |

2. This Consent relates to land in Lot 3 DP 6524 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 (BCA);
  - 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 (dwelling). The installation must satisfy the following:-
    - i) smoke alarms must comply with AS3786 - 1993;
    - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
    - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that a valid BASIX Certificate must be obtained demonstrating the development will meet the minimum thermal commitments, as well as reductions in energy and water consumption. All plans must reflect the commitments listed in the relevant BASIX Certificate for the development to ensure they are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
  - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed by:-
    - i) The consent authority; and
  - b) 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
  - c) The person having the benefit of the development consent:-
    - i) Has appointed a Certifying Authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
6. The dwelling is to be provided with a smoke alarms complying with Part 3.7.2 of the BCA/NCC - Volume 2. Works are to be completed to the satisfaction of Council prior to the issue of a Building Information Certificate.
7. The rooftop terrace shall be non-trafficable beyond the balustrade. The roof area surrounding the balustrade shall be surfaced with non-trafficable material such as pebble aggregate or metal deck.
8. The alfresco shall not be enclosed at any future time without prior development consent.

#### **DEVELOPMENT SPECIFIC CONDITIONS**

9. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
10. Balustrades shall be constructed from a solid/opaque material to a minimum height of 1000mm.
- The top of the balustrade shall be a minimum height of 1200mm.
11. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
- i) permit stormwater to be retained by the system;
  - ii) keep the system clean and free of silt, rubbish and debris;

- iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
- iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
- v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
- vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
- vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.

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

12. A 'Value of Assessment' prepared by a Quantity Surveyor shall be provided to Council with the amended plans to show the estimated cost of works including works already completed and all associated future works.
13. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - a) A Footpath Reserve Restoration Deposit of \$2,720.00 . This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - b) An environmental enforcement fee of 0.25% of the cost of the works.
  - c) A Soil and Water Management Sign of \$20.00.
14. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
15. Pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A (Section 7.12) Development Contributions Plan 2008, a report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:
16. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or

17. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications. This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.
18. 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 assessment and approval. The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Rockdale Technical Specifications 'Stormwater Management, AS/NZS 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

Additionally, the plans shall incorporate the following measures:

19. Any provisions of a valid BASIX Certificate in accordance with Condition No.4 of this Schedule. Any rainwater tank shall service the toilets, clothes washers and any external taps in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. First flush device shall also be incorporated into the tank systems. Overflow from the rainwater tank shall connect to the proposed site drainage system.
20. Design Certification, in the form specified in Rockdale Technical Specifications Stormwater Management, and drainage design calculations must be submitted with the detailed plans.
21. Prior to the issue of any Construction Certificate, a revised landscape plan shall be submitted to the Council for assessment and approval. The detail drawings shall include two (2) canopy trees (1 x central front setback zone and 1 x rear yard). All drawings shall correspond with the approved architectural plans.
22. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be designed in accordance with AS/NZS2890.1:2004. Existing levels at the property boundary must be retained, cut or fill is prohibited beyond the property boundary within council land. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
23. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in<sup>TM</sup> 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 TM online service is available at:

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

24. 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.

25. 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.

26. A Waste Management Plan prepared in accordance with the *Rockdale Development Control Plan 2011* shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate. The Waste Management Plan shall include the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities.

27. The design and construction of the swimming pool and associated fencing and equipment must comply with:

- a) Swimming Pools Act 1992;
- b) Swimming Pools Regulation 2008;
- c) National Construction Code (formally known as the Building Code of Australia);
- d) AS 1926.1-2012 – Swimming Pool Safety – Safety Barriers for Swimming Pools;
- e) Rockdale Development Control Plan 2011; and
- f) Protection of the Environment Operations Act 1997.

No water must be placed in the pool/spa until the safety fences have been completed in accordance with the approved plans and specifications and inspected by the Principal Certifying Authority. Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

(a) That the all recommendations contained in the Geotechnical assessment report prepared by ESWNMAN PTY LTD, Reference No. ESWN-PR-2018-310, dated 28th October 2018 shall be implemented.

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

(c) Prepare a Construction Methodology report demonstrating that the proposed

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

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

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

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

29. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.

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

30. The Principal Certifying Authority must be satisfied that: -

- a) In the case of work to be done by a licensee under the Home Building Act: -
  - i) Has been informed in writing of the licensee name and contractor licence number, and;
  - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
- b) In the case of work to be done by any other person: -
  - i) Has been informed in writing of the persons name and owner-builder permit number, or;
  - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
- 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.

31. Prior to the commencement of works, the applicant must inform Council, in writing, of:

- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the owner-builder who intends to do the work;
  - c) The Council also must be informed if: -
    - i) A contract is entered into for the work to be done by a different licensee; or
    - ii) Arrangements for the doing of the work are otherwise changed.
32. 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.
33. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
34. 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:
- a) stating that unauthorised entry to the work site is prohibited, and
  - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.  
Any such sign is to be removed when the work has been completed.  
This condition does not apply to:
  - c) building work carried out inside an existing building or
  - d) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
35. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
36. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
37. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage systems, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development

- and for a minimum one (1) month period after the completion of the development, where necessary.
38. Trees located within the footprint of the proposed buildings may be removed.
  39. The existing street tree located at the front of the property is not to be removed or pruned, including root pruning, without the written consent of Council.
  40. No other trees located within the site, adjoining properties or Council's nature strip shall be removed or pruned without the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
  41. Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
  42. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
  43. Where drainage or paving works are proposed to be constructed in the area below the dripline of trees, the proposed works and construction methods must not damage the tree. Where either the trees or works were not shown in detail on the approved plans, then Council approval must be obtained by contacting Council's Tree Management Officer.
  44. Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.
  45. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer.
  46. Building materials, site residue, machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
  47. At least two (2) native or ornamental trees of at least 100 litre pot or container size and capable of growing to a minimum height of three (3) metres shall be planted in suitable locations within the property on completion of the building works and prior to the final inspection.
  48. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected at least 1.5 metres from the trunks around each tree or group of trees which are required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted with the Tree Protection Zones at any time.

49. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.

### **DURING WORKS**

50. Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

**Note:** Professional engineer has the same mean as in Clause A1.1 of the BCA.

**Note:** Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".

**Note:** Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.

51. 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.
52. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
  - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> 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.
53. No demolition materials shall be burnt or buried on the site.
54. 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.
55. The proposed development shall comply with the following:
  - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Certifying Authority including an after-hours contact telephone number.
  - b) Any such sign is to be removed when the work has been completed.
56. 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.
57.
  - a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
    - ii) Negotiate with the utility authorities (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.
58. 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 Council's road reserve must also have prior approval of Council.
59. 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.
60. The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.
61. 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.
62. 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, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - e) If the soil conditions required it:

- i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
    - ii) Adequate provision must be made for drainage.
  - 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.
63. Any dewatering is not permitted on this site without NSW-EPA approval.
64. 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 Guidelines and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:

The  $L_{10}$  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  $L_{10}$  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                      07:30am to 06.30pm
    - 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.
65. 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.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
66. 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.
67. 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.
- 68.
- 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 (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
  - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
  - 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.
69. 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.

70. 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.
71. For Class 1 and 10 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
- a) after excavation for, and prior to the placement of, any footings, and
  - b) prior to pouring any in-situ reinforced concrete building element, and
  - c) prior to covering the framework for any floor, wall, roof or other building element, and
  - d) prior to covering waterproofing in any wet areas, and
  - e) prior to covering any stormwater drainage connections, and
  - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

72. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- i. Sediment control measures
  - ii. Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - iii. Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
  - iv. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.

#### **CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

73. The width of the single driveway shall be minimum width of 3.0m and maximum of 4.5m at the property boundary.

74. At least two (2) native trees capable of growing to a minimum height of six (6) metres shall be planted in suitable locations within the property on completion of the building works and prior to the final inspection.
75. Prior to occupation a Chartered Professional Engineer competent in geotechnics shall certify that the construction works has been constructed in accordance with the approved geotechnical report and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
76. 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. Copies of documentary evidence are to be maintained by the Principal Certifying Authority and be made available to Council officers upon request.
77. Prior to the issue of the Occupation Certificate, the swimming pools are to be registered with the NSW Government at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) and a registration certificate is to be submitted to the Council.
78. Prior to the issue of the Occupation Certificate, the following is required:
  - a) High-level overflows from the swimming pools shall be gravity fed and connected to Sydney Water's sewer via an approved system. The connection must not directly vent the receiving sewer. Upon completion, certification from a licence plumber shall be submitted to the Principal Certifying Authority to certify that the connection has been made in accordance with Sydney Water's requirements and the current plumbing codes.
  - b) The Principal Certifying Authority shall confirm the concourse area surrounding the swimming pool have been constructed at minimum 1.0% grade towards the pool to prevent surface water overflowing into the adjoining properties.
  - c) Where a dividing fence, being a dividing fence that separates the lands of adjoining owners or a public place, is to form part of the safety enclosure in which the swimming pool is to be located, then such fencing must be a minimum of 1.8m in height from the finished surface level surrounding the pool, sound and in a state of good repair and condition. The boundary fencing shall be installed prior to the completion of the swimming pool.
  - d) The swimming pool shall be fenced in accordance with Section 7 of the Swimming Pools Act 1992 and Australian Standard AS1926 (2012), prior to the filling of water in the pool or use of the pool. Such fence shall be provided with a self-latching and self-closing gate, opening outwards, capable of being opened from the poolside only and with provision for permanent locking when not in use. The fence shall be installed to the satisfaction of the Principal Certifying Authority, prior to the filling of water in the pool/use of the pool.
  - e) The fence required surrounding the swimming pool and in relation to any gate that forms part of such fence shall be erected in accordance with the approved plans and specifications, together with the standards set out in AS1926 entitled "Fences and Gates for Private Swimming Pools".

Note: The definition of "swimming pool" is that given under Clause 3 of the Swimming Pools Act 1992.

- f) The pool shall be provided with at least two depth markers above the water line, being of numerical figures or at least 75mm in height, and shall be located in two locations on either side of the pool, indicating the corresponding depth of the pool.
- g) The Principal Certifying Authority shall confirm that a pool cover is installed across the entirety of the swimming pools to minimise evaporation.
- h) The provision of a suitable poster showing the details of resuscitation techniques shall be erected. This poster should also contain the advice that "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the relevant provisions of the document entitled "Cardio Pulmonary Resuscitation", according to the AS 1926.1 2012 and the Swimming Pool Regulation 2008.
- i) An approved resuscitation poster, outlining life-saving resuscitation procedures, shall be erected and displayed in a prominent position adjacent to the pool.

Note: The above notices shall be kept in a legible condition and at a visible location on the pool side at all times.

- 79. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater retention/detention facility to provide for the maintenance of the retention/detention facility.
- 80. The following works will be required to be undertaken in the road reserve at the applicant's expense:
  - i) construction of a new fully constructed concrete vehicular entrance/s;
  - ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iii) removal of redundant paving;
  - iv) smooth transition with new driveways and footpath areas
- 81. Prior to issue of any Occupation Certificate, Principal Certifying Authority shall confirm that all the safety barriers enclosing the new swimming pool are installed and satisfy AS1926.1 Swimming Pool Safety – Safety Barriers for Swimming Pools.
- 82. Prior to use and occupation of the building and swimming pool, an Occupation Certificate must be obtained under Sections 6.3 (1)(c) and 6.9 of the Environmental Planning and Assessment Act, 1979.
- 83. 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.
- 84. Prior to the issue of the Occupation Certificate, any filtration equipment or pump(s) shall be enclosed with appropriate sound insulation materials to ensure noise levels do not exceed 5dBA above the ambient background noise level when measured at the side and rear boundaries of the property.

85. 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.
86. 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.

#### **ROADS ACT (New vehicular crossing/ works in Road reserve)**

87. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a new fully constructed concrete vehicular entrance/s;
  - ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iii) removal of redundant paving;
  - iv) smooth transition with new driveways and footpath areas

#### **DEVELOPMENT CONSENT ADVICE**

88. 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.
89. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*
- Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.
90. Section 88E Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
91. *Dial Before You Dig*
- Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the

individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

92. *The rainwater tank water will not be for drinking.*
93. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
94. 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. 2019/94 dated as 9 July 2019 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

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## Bayside Local Planning Panel

23/07/2019

|           |  |
|-----------|--|
| Item No   | 5.1  |
| Subject   | <b>Post-Exhibition Report: Planning Proposal to Reclassify Public Land at Lot 3 DP1247416 (No. 9) Bidjigal Road, Arncliffe</b> |
| Report by | Michael McCabe, Director City Futures  |
| File      | F19/171  |

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### Summary

On 27 March 2019, Council held an Extraordinary Council Meeting to consider a Planning Proposal to reclassify Lot 3 DP1247416 (No. 9) Bidjigal Road, Arncliffe from Community land to Operational, in accordance with the relevant provisions of the *NSW Local Government Act 1993, Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan*, and the broader strategic planning framework.

Reclassification of the land is required to enable removal of the Public Reserve notation from the land, and to enable Council to transfer the land in accordance with a Deed of Agreement and Voluntary Planning Agreement, that will result in better alignment, and improved functionality, of public open space in the immediate locality.

Prior to the Council meeting on 27 March 2019, the Bayside Local Planning Panel had considered the draft Planning Proposal on 19 March 2019, and had recommended to Council that it be forwarded to the Department of Planning and Environment for a Gateway Determination.

On 9 May 2019, the Department of Planning and Environment (DPE) issued a Gateway Determination and covering letter (refer **Attachments 1 & 2**) for the Planning Proposal (**Attachment 3**). In accordance with the Gateway Determination, the Planning Proposal and supporting documentation were publicly exhibited for 28 days from Wednesday 22 May 2019 to Wednesday 19 June 2019. A Public Hearing was held on Thursday 11 July 2019.

A notice of Public Hearing was published in the St George Leader on Wednesday 19 June 2019, exceeding the minimum statutory requirement (21 days) for notification of public hearings. Prior to the scheduling of the Public Hearing, the NSW Department of Planning and Environment confirmed that the notification arrangements were satisfactory. One verbal submission, in support of the Planning Proposal was made at the Public Hearing.

This post-exhibition report highlights to the Bayside Local Planning Panel that one submission was received, that noted support for the Planning Proposal.

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### Officer Recommendation

- 1 That the Bayside Local Planning Panel recommends to Council that Council writes to the NSW Department of Planning and Environment, requesting notification of the Local Environmental Plan amendment, as exhibited, for Lot 3, DP 1247416, known as 9 Bidjigal Road, Arncliffe, in accordance with Section 3.36 of the Environmental Planning and Assessment Act 1979.

- 2 That the Bayside Local Planning Panel recommends to Council that Council requests the NSW Department of Planning and Environment recommends to the Governor of NSW that the public reserve status be discharged from the land, in accordance with Section 30 of the Local Government Act 1993.

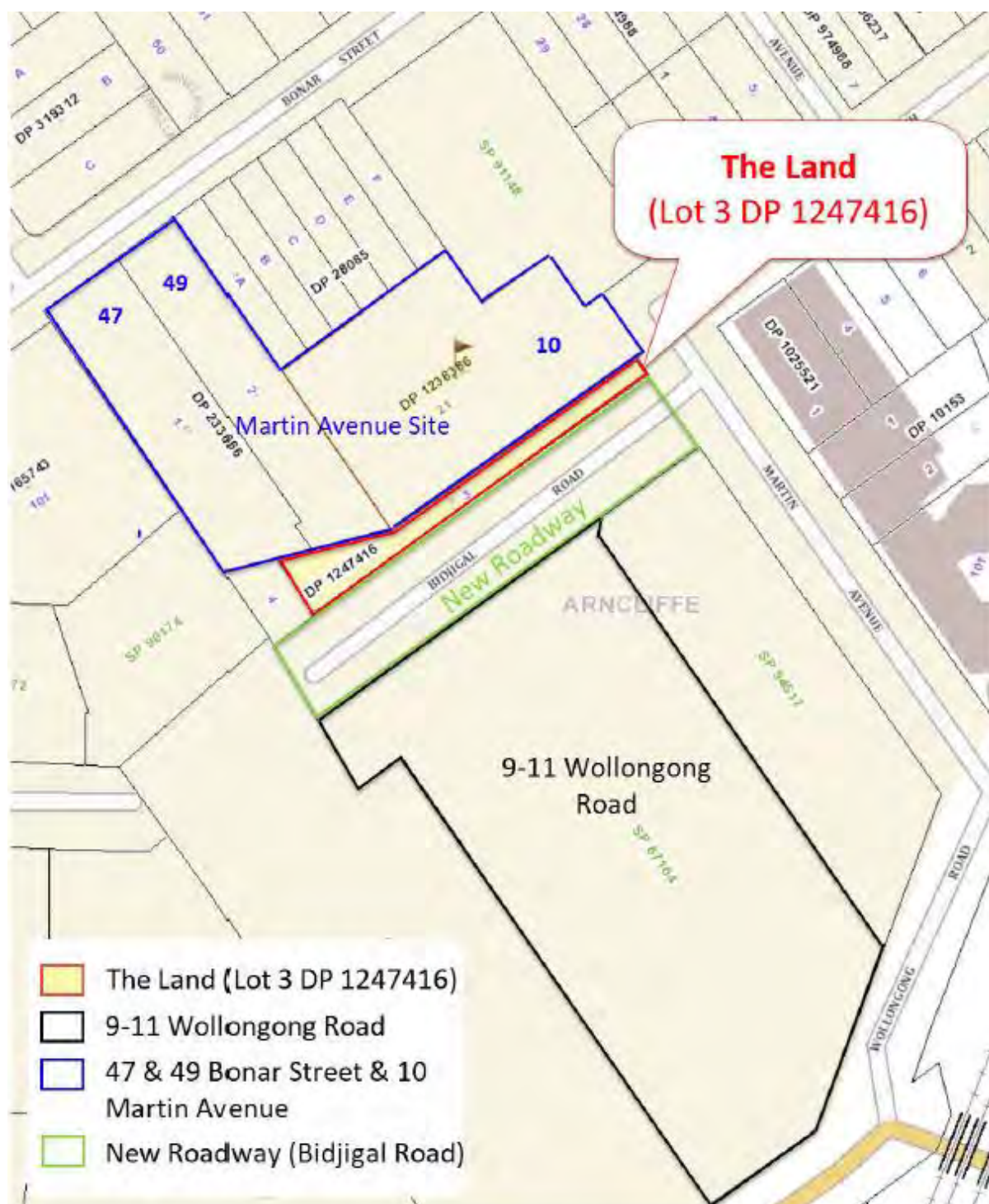
## Background

An aerial photo (Figure 1) and a site context map (Figure 2) are provided below, which identify the current site and locality context. The subject site is shown outlined in red, and shaded yellow.



**Figure 1: Aerial Map of Subject Site (Source: SixMaps)**





**Figure 2: Site Context Map (Source: SixMaps)**

### **Purpose of Planning Proposal**

The land is identified on the Certificate of Title as a 'Public Reserve', as defined in the *NSW Local Government Act 1993 (LG Act)*. The land is owned by Bayside Council, and is classified as "Community Land" under the provisions of the *LG Act*. Section 45 of the *LG Act* prevents Council from selling, exchanging or otherwise disposing of community land. Accordingly, it is proposed to reclassify the land from Community land to Operational land, in accordance with Section 27 of the *LG Act*.

The purpose of this Planning Proposal is to reclassify the land, in accordance with Section 27 of the *LG Act*, which states that classification or reclassification of public land may be made by a Local Environmental Plan. Reclassification of the land is required to enable removal of the Public Reserve notation, in accordance with Section 30 of the *LG Act*.

A VPA has previously been negotiated which included the transfer of the land that is the subject of this Planning Proposal from the Council to the owner of the Martin Avenue Site. This transfer is critical to delivery of the Bonar Street Park Stage 2, as the land provides the only street frontage for the Martin Avenue Site. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan (Figure 3), as now described in Part 7.2 Bonar Street Precinct of the *Rockdale Development Control Plan 2011*, and the *Bonar Street Public Domain Plan*. This Planning Proposal will allow for the transfer to realise Part 7.2 of the DCP.



**Figure 3: Structure Plan (Source: Rockdale DCP 2011)**

### Planning Proposal Assessment

Robinson Urban Planning Pty Ltd was engaged by Bayside Council to prepare a Planning Proposal to reclassify the land. The preparation of the Planning Proposal was undertaken in accordance with the strategic planning framework outlined in the NSW Department of Planning & Environment's *A Guide to Preparing Planning Proposals* (December 2018).

Given that the Planning Proposal involves the reclassification of public land, the Planning Proposal considered the *LG Act* and DPE's *Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan*.

### Exhibition

The Planning Proposal and supporting documentation were publicly exhibited for 28 days from Wednesday 22 May 2019 to Wednesday 19 June 2019, in accordance with the

requirements of the Gateway Determination (see **Attachment 1**). Notification letters were sent to 290 property owners in the surrounding area. The Planning Proposal was also advertised in the St George and Sutherland Shire Leader on Wednesday 22 May 2019, and the Planning Proposal and supporting documents were made available for inspection at Rockdale Customer Service Centre and Arncliffe Library.

Just one submission was received during the exhibition period, on Council's 'Have Your Say' website. The submission was from a nearby resident who supported the Planning Proposal.

No government agencies were consulted, as the Gateway Determination did not stipulate consultation with any government agencies.

### **Public Hearing**

A notice of Public Hearing was published in the St George and Sutherland Shire Leader on Wednesday 19 June 2019, identifying that a Public Hearing would be held for the matter on Thursday 11 July 2019 at Rockdale Town Hall from 6-7pm.

There was one speaker who made a verbal submission, being a representative of the adjacent land owner. The verbal submission was in support of the Planning Proposal and a request for a recommendation from the Chairperson to the Council that the matter proceed. No other submissions were made to the Independent Chairperson during the Public Hearing. A copy of the Independent Chairperson's Public Hearing Report (refer **Attachment 4**) was made available within 4 days of receiving the Report, as per the statutory requirements outlined in the *LG Act*.

There were no matters raised in the Independent Chairperson's Public Hearing Report.

### **Response to Community Submissions**

One submission was received on Council's 'Have Your Say' website. The submission stated support for the proposal, without providing any further details.

### **Next Steps**

If the Bayside Local Planning Panel recommends to Council that the Planning Proposal be supported, and Council resolves to endorse the Planning Proposal, it will be forwarded to the Department of Planning and Environment so that the LEP amendment can be drafted.

As outlined in the correspondence from DPE supporting the Gateway Determination (refer **Attachment 2**) the Planning Proposal involves reclassification and removal of the notation of "Public Reserve" from the land, therefore, Council does not have delegation from the Minister to make this LEP amendment. Furthermore, the NSW Governor will need to extinguish the "Public Reserve" status, in accordance with Section 30 of the *LG Act*. The request for the removal of the "Public Reserve" status will need to be made by DPE to the NSW Governor.

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## **Community Engagement**

The community engagement actions in relation to this Planning Proposal were:

- Publicly exhibiting the Planning Proposal for 28 days from Wednesday 22 May 2019 to 19 June 2019;
- Sending notification letters to 290 adjacent and surrounding landowners;



- Providing hard copies of all materials for inspection at the Rockdale Customer Service Centre and Arncliffe Library; and
  - Advertising the Planning Proposal in the St George & Sutherland Shire Leader on Wednesday 22 May 2019, providing notification of the exhibition period and where exhibition materials could be viewed, including on Council's 'Have Your Say' web page;
  - Publishing a Notice of Public Hearing in the St George and Sutherland Shire Leader on Wednesday 19 June 2019;
  - Holding a Public Hearing on Thursday 11 July 2019;
  - Following the Public Hearing, making the Independent Chairperson's Report available for public viewing at Rockdale Customer Service Centre within 4 days of receiving it.
- 

## Attachments

- 1 Gateway Determination [↓](#)
- 2 DPE Covering Letter to Council [↓](#)
- 3 Planning Proposal [↓](#)
- 4 Independent Chairpersons Public Hearing Report [↓](#)



## Gateway Determination

**Planning Proposal (Department Ref: PP\_2019\_BSIDE\_003\_00):** to reclassify land from Community land to Operational land at 9 Bidjigal Road, Arncliffe.


I, the Director, Sydney Region East at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Rockdale Local Environmental Plan (LEP) 2011 to reclassify land should proceed subject to the following conditions:

1. The planning proposal is to be amended prior to community consultation as follows:
  - (a) remove references to consultation with various agencies; and
  - (b) remove reference to land acquisition applying to the subject site of this planning proposal.
2. Community consultation is required under 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of 28 days;
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016); and
  - (c) a copy of practice note PN 16-001 *Classification and reclassification of public land through a local environmental plan* is to be included in the public exhibition material.
3. Consultation with public authorities/organisations under section 3.34(2)(d) of the Environmental Planning and Assessment Act 1979 is not required for this planning proposal.
4. A public hearing is required to be held into this matter under Section 3.34 of the Environmental Planning and Assessment Act 1979 and Section 29 of the Local Government Act 1993. After the public exhibition period has ended, at least 21 days public notice is to be given before the hearing is held.
5. The time frame for completing the LEP is to be 12 months following the date of the Gateway determination.

PP\_2019\_BSIDE\_003\_00



Dated 9<sup>th</sup> day of May 2019

  
Amanda Harvey  
Director, Sydney Region East  
Planning Services  
Department of Planning and Environment

Delegate of the Minister for Planning and  
Public Spaces

PP\_2019\_BSIDE\_003\_00



PP\_2019\_BSIDE\_003\_00

Ms Meredith Wallace  
General Manager  
Bayside Council  
PO Box 21  
ROCKDALE NSW 2216

Dear Ms Wallace

**Planning Proposal PP\_2019\_BSIDE\_003\_00 to amend Rockdale Local Environmental Plan 2011**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the Environmental Planning and Assessment Act 1979 (the Act) on 28 March 2019 in respect of the planning proposal to reclassify land from Community land to Operational land at 9 Bidjigal Road, Arncliffe.

As delegate of the Minister for Planning and Public Spaces, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Council is reminded of its obligation for undertaking a public hearing in relation to the proposed reclassification of land in accordance with the Department Practice Note PN 09-003, classification and reclassification of public land through a local environment plan.

I have considered Council's request to be the local plan-making authority. The planning proposal involves the reclassification of land from Community land to Operational land. As a result, the Governor's approval is required to remove the public reserve status under Section 30 of the Local Government Act, thus delegation cannot be granted.

The amending local environmental plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. To meet these commitments, the Minister for Planning and Public Spaces may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Mr Alexander Galea at the Department to assist you. Mr Galea can be contacted on 8289 6793.

Yours sincerely

  
Amanda Harvey  
Director, Sydney Region East  
Planning Services

Encl: Gateway determination



**Planning Proposal – Lot 3 DP 1247416  
Reclassification from ‘community land’ to  
‘operational land’**

**Rockdale Local Environmental Plan 2011  
[Amendment No. \_]**



10 May 2019

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Contents

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### Reclassification of Public Land

## Attachments

**A** *NSW Department of Planning & Environment LEP Practice note (PN 16-001)*

**B** Deposited Plan (Lot 3 in DP 1247416)

**C** Certificate of title (Lot 3 in DP 1247416)

**D** Report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* and resolution from Rockdale Council Meeting of 7 November 2012

**E** Terms of positive covenant

**F** Rockdale LEP 2011 Maps

| Table of revisions |   |
|--------------------|---|
| 5 March 2019       | Draft for Council review                                |
| 11 March 2019      | Draft for Council review                                |
| 12 March 2019      | Final for consideration by Bayside Local Planning Panel |
| 10 May 2019        | Address gateway determination dated 9 May 2019          |

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Definitions

NSW Department of Planning and Environment (DP&E) Practice Note PN09-003 Classification and reclassification of public land through a local environmental plan (see **Attachment A**) contains the following definitions for terms used in this Planning Proposal:

**Community land** – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.

**Classification** of public land occurs when it is first acquired by a council and classified as either community or operational.

**Interests in land** refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP,

'Interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

**Operational land** – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

**Public land** is defined in the LG Act as any land (including a public reserve) vested in, or under council control. Exceptions include a public road, land to which the Crown Lands Act 1989 applies, a common, land subject to the Trustees of Schools of Arts Enabling Act 1902 or a regional park under the National Parks and Wildlife Act 1974.

**Public reserve** is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

**Reclassification** of public land occurs when its classification is changed from community to operational, or from operational to community.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Preliminaries

This Planning Proposal explains the intended effect of, and justification, for a proposed amendment to *Rockdale Local Environmental Plan 2011 (Rockdale LEP 2011)*. It has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and *A Guide to Preparing Planning Proposals* (DP&E, December 2019). Consideration has also been given to the requirements of the *NSW Department of Planning & Environment LEP Practice note (PN 16-001)* relating to the Classification and reclassification of public land through a local environmental plan (see **Attachment A**).

## Site description

This Planning Proposal relates to Lot 3 in DP 1247416 (**the land**)<sup>1</sup>. The land has an irregular shape and an area of 479.6m<sup>2</sup>. It has an 84.175m frontage to the newly created Bidjigal Road and a narrow frontage of 5m to Martin Avenue (see deposited plan, **Attachment B**).

The land is vacant, forming part of the construction site to the north-west (the **Martin Avenue site**), as detailed below.

The land is owned by Bayside Council (**Council**) and is classified as Community land. As shown on the certificate of title (**Attachment C**), the land is a 'public reserve' as defined in the *Local Government Act 1993 (LG Act)*.

## Background

Section 45 of the LG Act prevents Council from selling, exchanging or otherwise disposing of community land. Accordingly, it is proposed to reclassify the land from Community land to Operational land in accordance with Section 27 of the LG Act which states that classification or reclassification of public land may be made by a local environmental plan.

Robinson Urban Planning Pty Ltd (**RUP**) has been engaged by Bayside Council to prepare a planning proposal to reclassify the land.

## Relationship to adjoining developing sites

### 9-11 Wollongong Road, Arncliffe

The land was previously part of the site to the south at 9-11 Wollongong Road, Arncliffe which is to the south<sup>2</sup> (see **Figure 1**).

Most of the site at 9-11 Wollongong Road is in Zone R4 – High density residential with the northern portion reserved for a local road with an open space connection (the **Central Square**) to the future Bonar Street Park.

On 5 August 2009, Council granted development consent (DA-2006/453) for a residential development at 9-11 Wollongong Road, with a new roadway (Bidjigal Road) to be dedicated and constructed by the developer (in stratum).

Bidjigal Road was required to implement the Bonar Street Precinct Structure Plan as now described in Part 7.2 of Rockdale Development Control Plan 2011 (**Rockdale DCP 2011**) and the *Wolli Creek and Bonar Street Precinct Public Domain Plan* (May 2011) (the **Bonar Street PDP**).

Construction of the residential development at 9-11 Wollongong Road and Bidjigal Road is now complete.

The land the subject of this Planning Proposal is a residual parcel from the dedication/construction of Bidjigal Road.

<sup>1</sup> The land was formerly Lot 2309 in DP 1159612 and Lot 2310 in DP 1159612.

<sup>2</sup> 9-11 Wollongong Road now holds the address of 6 Bidjigal Road, Arncliffe.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

Condition 68 of the consent for 9-11 Wollongong Road (DA-2006/453) relates to the land (referring to it as "the strip of land between the access road and adjoining properties the north-west"). It states:

*68. ....In accordance with the applicant's offer and in the public interest of promoting and coordinating the orderly and economic use and development of land within the Bonar Street Precinct, the strip of land located between the new access road and the adjoining properties to the north-west is to be dedicated to Council at no cost as a separate allotment for the purpose of allowing its future transfer at no cost and with no floor space ratio entitlements to the future developer of Development Site 7.*

In accordance with Condition 68:

- At its Meeting of 7 November 2012, the Council considered a report and established the following resolution to classify the land:
  - 1 That the report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* be received and noted.
  - 2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

(Copies of the report and Council resolution are attached (see **Attachment D**)).;

- The land was dedicated to Council by the owner of 9-11 Wollongong Road by way of registration of deposited plan numbered 1159612;
- The certificate of title for land holds a notation on the second schedule, being 'the land within described is public reserve';
- On 4 February 2015, Council resolved to transfer the land to the owner of 10 Martin Avenue, 47 Bonar Street and 49 Bonar Street, Arncliffe (the **Martin Avenue Site**); and
- Upon transfer, the land is to be burdened by a positive covenant that provides that the land has no floor space ratio (**FSR**) entitlement (see **Attachment E**). The positive covenant may only be released or varied by Council.

More details follow on the Martin Avenue Site.

#### Martin Avenue Site

The Martin Avenue Site (10 Martin Avenue, 47 Bonar Street and 49 Bonar Street) is to the north-west of the land (see **Figure 1**).

On 4 February 2015, Council resolved to support and exhibit a planning proposal prepared by the owner of the Martin Avenue Site which sought additional height and FSR. A concurrent Voluntary Planning Agreement (**VPA**) was prepared which provided for the dedication/embellishment of the Bonar Street Park Stage 2 and Central Square (combined area of 2,020m<sup>2</sup>) and a monetary contribution towards the embellishment of the Bonar Street Park Stage 1. The VPA included the transfer of the land the subject of this Planning Proposal from the Council to the owner of the Martin Avenue Site. This transfer is critical to delivery of the Bonar Street Park Stage 2 as the land provides the only street frontage for the Martin Avenue Site. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan as now described in Part 7.2 Rockdale DCP 2011 and Bonar Street PDP.

On 3 June 2015, Council resolved to endorse and exhibit the Martin Avenue Site VPA, with the Planning Proposal that was endorsed by Council for exhibition on 4 February 2015.

On 24 July 2015, a delegate of the Minister for Planning Issued a Gateway Determination approving exhibition of the Martin Avenue Site planning proposal.

Following completion of the required community and public authority consultation, Council on 3 February 2016 resolved to adopt the Martin Avenue Site planning proposal and to enter into the VPA.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council lots to align the physical boundary with the zoning boundary (complete), the registration of a no FSR covenant on the title (prepared/pending as detailed above) and the removal of the public reserve notation from the title.

Reclassification of the land, as described herein, is required to enable removal of the Public Reserve notation, in accordance with Section 30(1) of the LG Act.

The locations of the land, Bidjigal Road, 9-11 Wollongong Road and 47-49 Bonar Street and 10 Martin Avenue (the Martin Avenue Site) are shown by **Figures 1 and 2**. The location of the Bonar Street Community Park and Central Square as planned by the Bonar Street PDP are illustrated on **Figures 3 and 4**. **Figure 5** shows photographs of the land and its context.

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

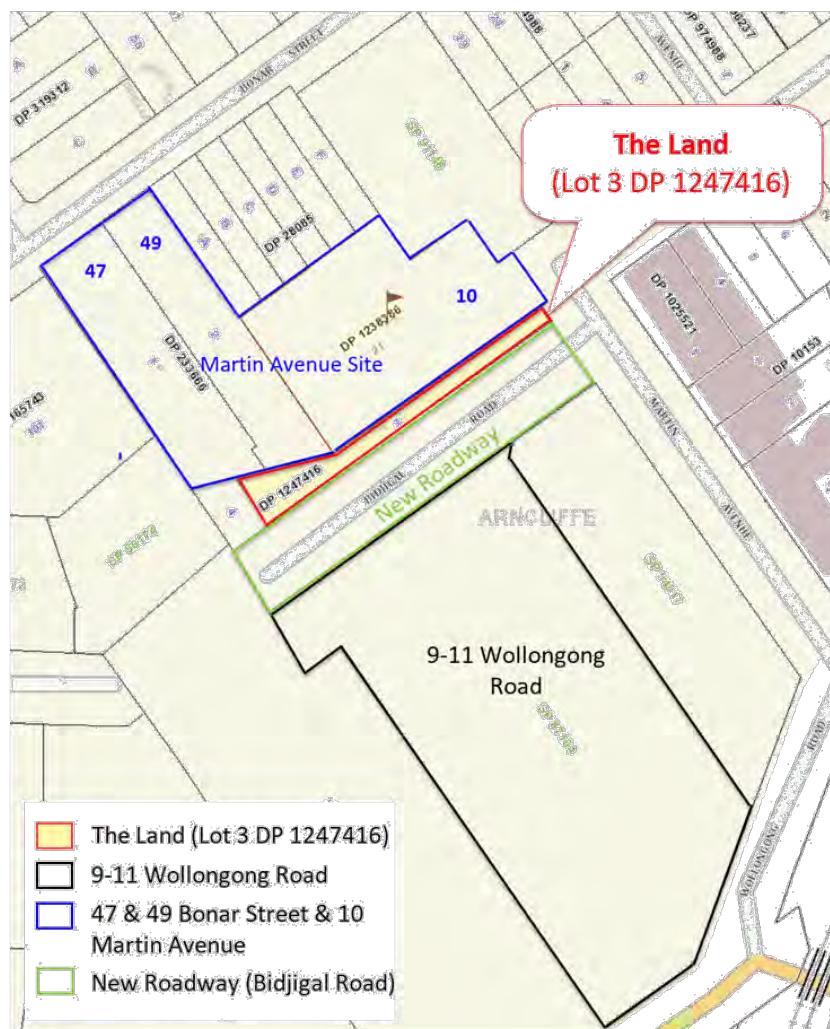


Figure 1 – Site location plan (Source: SixMaps)

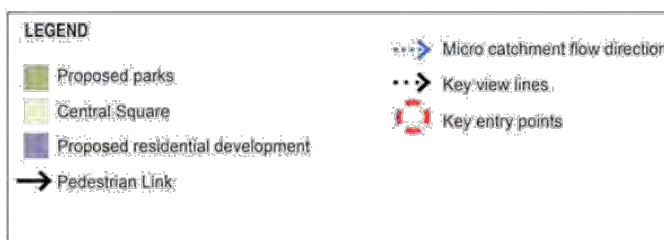
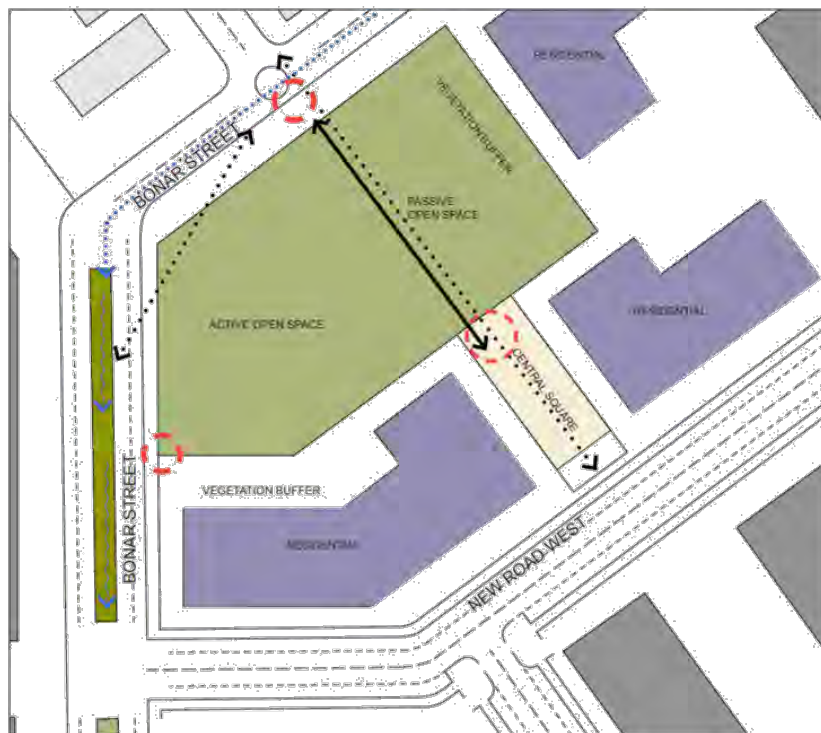
Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'



Figure 2 – Aerial photograph (Source: SixMaps)



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SCALE 1:1000



Figure 3 – Bonar Street Park (Source: Bonar Street PDP, Figure 2.13)

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Figure 4 – Bonar Street Park (Source: Bonar Street PDP, Figure 2.14)

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Bidjigal Road



Residential development on the Martin Avenue Site (under construction)



The land facing looking north-east from the footpath to Bidjigal Road



Completed residential development at 9-11 Wollongong Road



Bonar Street Park – Stage 1



View to Bonar Street Park – Stage 2 (under construction)

**Figure 5** – Photographs of the land and its context (28 February 2019)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Existing Planning Controls**

The existing zoning, controls and development standards contained within Rockdale LEP 2011 that apply to the land are listed below (see Rockdale LEP 2011 Maps showing the location of the land at **Attachment F**):

- Land zoning: Zone R4 – High Density Residential
- Minimum lot size: N/A
- Height of buildings: 31m
- Floor space ratio: 2:1
- Land reservation: Part of the land is reserved as a Local Road (R2)
- Acid Sulfate soils: Class 5
- Heritage: N/A
- Active Street frontages: N/A
- Terrestrial biodiversity: N/A
- Design excellence: N/A
- Foreshore building line: N/A
- Flood planning land: N/A
- Environmentally sensitive land: N/A
- Wetlands: N/A

There are no draft planning controls that apply to the land.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Part 1 - Objectives or Intended Outcomes**

The intended outcome of the Planning Proposal is to remove the Public Reserve notation from the title for the land via the making of a local environment plan to reclassify the land from Community land to Operational land (as the land is a residual lot from the Bidjigal Road roadway dedication/construction).

The Planning Proposal will allow Council to sell, exchange, or otherwise divest of or deal with the land.

Relevantly, reclassification to Operational land will enable the land to be transferred to the owner of the adjoining Martin Avenue Site (see **Figure 1**) to provide a street frontage for the high density residential development which is currently under construction. As noted above, the developer of the Martin Avenue Site has entered into a VPA to dedicate land for and embellish the Bonar Street Community Park Stage 2 and Central Square (2,020m<sup>2</sup>) and paid a monetary contribution towards the embellishment of Bonar Street Community Park Stage 1.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Part 2 - Explanation of Provisions

This Planning Proposal seeks to amend to Rockdale LEP 2011, Schedule 4 - Classification and reclassification of public land by inserting the following at the end of Part 2 - Land classified, or reclassified, as operational land – interests changed of that Schedule:

### **Part 2 Land classified, or reclassified, as operational land—interests changed**

| <b>Under Column 1</b>      | <b>Under Columns 2</b> | <b>Under Column 3</b>                |
|----------------------------|------------------------|--------------------------------------|
| <b>Locality</b>            | <b>Description</b>     | <b>Any trusts etc not discharged</b> |
| 9 Bidjigal Road, Arncliffe | Lot 3 in DP 1247416    | Nil                                  |

The reclassification proposed by the Planning Proposal will not result in the loss of open space.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### Part 3 – Justification

This part of the Planning Proposal describes and Justifies the amendment described in Part 2.

The following questions have been extracted from the document titled *A guide to preparing planning proposals*, by DP&E (December 2018). The questions address the need for the Planning Proposal, its strategic planning context, the environmental, social and economic impacts and the implications for State and Commonwealth government agencies.

#### A Need for the Planning Proposal

##### Q1 Is the Planning Proposal a result of any strategic study or report?

Yes.

The Planning Proposal is the result of the following Council resolution and development control plan/public domain plan:

- Council resolved at its Meeting of 7 November 2012 to classify the land Operational land (**Attachment D**); and
- Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see **Figures 3 and 4**) which illustrate an Indicative concept plan for the Bonar Street Park and Central Square.

##### Q2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes

The land holds a notation on its title that it is a Public Reserve. Section 31(1) of the LG Act provides that a local environmental plan that reclassifies Community land to Operational land may make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve. Therefore, Council is not able to develop, sell, exchange, or dispose of the land under the provisions of the LG Act. Amending Rockdale LEP 2011 is the only means of achieving the objectives of the Planning Proposal. A Planning Proposal for the land is therefore considered appropriate.

#### B Relationship to strategic planning framework

##### Q3 Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Yes.

The Planning Proposal is consistent with applicable regional and district plan as detailed below.

##### **NSW State Plan**

NSW 2021 is a 10-year plan based on strategies to rebuild the economy, return quality services, renovate infrastructure, strengthen local government and communities and restore accountability to government. The plan sets a number of goals, targets and actions to achieve the NSW 2021. Premier Berejiklian has identified 12 Premier's Priorities. The Planning Proposal is consistent with the *Delivering infrastructure* priority as the land is a residual lot from construction of the Bidjigal Road dedication/construction and its transfer was part of the VPA negotiated with the owner of the Martin Avenue Site which will deliver the Bonar Street Park Stage 2 and Central Square plus a monetary contribution towards embellishment of Bonar Street Park Stage 1.



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***The Greater Sydney Region Plan - A Metropolis of Three Cities (March 2018)***

The GREATER SYDNEY REGION PLAN A Metropolis of Three Cities is a vision to create three, integrated and connected cities that will rebalance Greater Sydney; placing housing, jobs, infrastructure and services within easier reach of more residents, no matter where they live. The GREATER SYDNEY REGION PLAN sets ten directions for the three cities being Western Parkland City, Central River City and the Eastern Harbor City (which includes the Bayside Local Government Area (LGA)).

The following directions and objectives are particularly relevant to this Planning Proposal:

▪ ***Infrastructure and collaboration***

*Direction 1: A city supported by infrastructure*

*Objective 2: Infrastructure aligns with forecast growth – growth infrastructure compact*

*Objective 3: Infrastructure adapts to meet future needs*

Comment: Bidjigal Road and the Bonar Street Park/Central Square will service the needs of the growing population in the Bonar Street Precinct. They have been designed and constructed in accordance with the Bonar Street Precinct Structure Plan in Rockdale DCP 2011 and the Bonar Street PDP.

Given this, the new roadway/park aligns growth with the provision of local infrastructure. The land is residual to the Bidjigal roadway dedication/construction. The Planning Proposal will enable Council to transfer the land to the owner of the Martin Avenue Site, as detailed in the Preliminary sections of this Planning Proposal. This type of "asset recycling" is promoted by the GREATER SYDNEY REGION PLAN (p.37).

▪ ***Livability***

*Direction 5: A city of great places*

*Objective 12: Great places that bring people together*

Comment: The Planning Proposal would facilitate transfer of the land to the Martin Avenue Site, as detailed in the Preliminary sections of this Planning Proposal. The related construction/embellishment of Bidjigal Road and the Bonar Street Park/Central Square will improve the neighbourhood character and livability of the Bonar Street Precinct.

▪ ***Sustainability***

*Direction 8: A city in its landscape - Valuing green spaces and landscape*

*Objective 30: Urban tree canopy cover is increased*

*Objective 31: Public open space is accessible, protected and enhanced*

Comment: The Planning Proposal is part of the innovative arrangements put in place by Council to deliver the planned Bonar Street Park/Central Square (as described in the preliminary sections of this Planning Proposal) which is consistent with the following GREATER SYDNEY REGION PLAN A Metropolis of Three Cities statements which encourage innovative solutions to establish new open spaces (p. 166):

*Access to high quality open space is becoming increasingly important as higher housing densities, more compact housing and changing work environments develop. Where land for additional open space is difficult to provide, innovative solutions will be needed, as well as a strong focus on achieving the right quality and diversity of open space...*

*Urban renewal needs to begin with a plan to deliver new, improved and accessible open spaces that will meet the needs of the growing community, particularly where density increases. High density development (over 60 dwellings per hectare) should be located within 200 metres of quality open space, and all dwellings should be within 400 metres of open space.*

The Bonar Street Park/Central Square will also provide an opportunity for increased landscaping and tree cover in a high density residential precinct providing shade, which reduces ambient



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temperatures and mitigates the heat island effect consistent with the *GREATER SYDNEY REGION PLAN* (p. 164) which states that "Urban tree canopy along streets and in the public domain contributes to the Greater Sydney Green Grid and makes walking and cycling more appealing".

***Eastern City District Plan (March 2018)***

The Eastern City District covers the Bayside, Burwood, City of Canada Bay, City of Sydney, Inner West Randwick, Strathfield, Waverley and Woollahra LGAs. The Eastern City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. It is a guide for implementing the *GREATER SYDNEY REGION PLAN, A Metropolis of Three Cities*, at a district level and is a bridge between regional and local planning.

Interestingly, the five year (2016-2021) housing target for Bayside LGA is set at 10,500 making it the highest target in the district.

The Planning Proposal is consistent with the following Eastern City District Planning Priorities:

- *Planning Priority E1: Planning for a city supported by infrastructure*

Comment: As noted above, the construction of Bidjigal Road and Bonar Street Park/Central Square aligns housing growth with the provision of local infrastructure.

- *Planning Priority E17: Increasing urban tree canopy cover and delivering Green Grid connections*

Comment: The District Plan notes that the Eastern City is one of the most urbanised districts in Greater Sydney, with some suburbs having high proportions of hard surface areas and correspondingly low levels of tree canopy cover. Transfer of the land to the Martin Avenue Site, giving it a street frontage, is key to delivery of the Bonar Street Park/Central Square which is to include canopy trees in an urban setting.

- *Planning Priority E18. Delivering high quality open space*

- Comment: Transfer of the land to the Martin Avenue Site, giving it a street frontage, is key to delivery of the Bonar Street Park/Central Square. The new open space will support healthy and active lifestyles. Consistent with the District Plan, it collocates high density development and open space, providing a place for people to relax, meet and socialise.

**Q4 Is the Planning Proposal consistent with Council's local strategy or other local strategic plan?**

Yes

**Table 1** below identifies how the Planning Proposal is consistent with the community outcomes set out in the Bayside Community Strategic Plan 2030.

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

| Theme One – Bayside will be a vibrant place                      | How We Will Get There  | Consistency   |
|--|--|---|
| <b>Strategic Direction –</b><br>Our places are people-focussed   | Local areas are activated with cafes, restaurants and cultural events  | N/A   |
|  | Places have their own village atmosphere and sense of identity   | The Planning Proposal will facilitate transfer of the land to the Martin Avenue Site, giving it a street frontage. This is key to delivery of the Bonar Street Park/Central Square. The new open space will support healthy and active lifestyles, providing a place for people to relax, meet and socialise. |
|  | My community and council work in partnership to deliver better local outcomes  |   |
|  | The public spaces I use are innovative and put people first  |   |
|  | There is an appropriate and community-owned response to threats  |   |
| <b>Strategic Direction –</b><br>Our places connect people        | Walking and cycling is easy in the City and is located in open space where possible  | See above   |
|  | We are one community with shared objectives and desires  |   |
|  | Our heritage and history is valued and respected   | N/A   |
| <b>Strategic Direction –</b><br>Our places are acceptable to all | Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community        | See above.  |
|  | SMART Cities – making life better through smart use of technologies  | N/A   |
|  | Assets meet community expectations   | The land comprises residual land from the dedication/construction of Bidjigal Road. The innovative arrangements put in place by Council facilitate delivery of the planned Bonar Street Park/Central Square.  |
|  | Bayside provides safe and engaging spaces, places and interactions   |   |
|  | People who need to can access affordable housing   | N/A   |
|  | We welcome visitors and tourists to our City   | N/A   |
| <b>Strategic Direction –</b><br>My place will be special to me   | Local developments reflect innovative, good design and incorporate open space and consider vertical families                       | See above   |
|  | Bayside will be a 30 minute City – residents work locally or work off-site – no-one has to travel for more than 30 minutes to work | The newly created Bidjigal Road and open space link between Bidjigal Road and Bonar Street increases pedestrian and cyclist connectivity.   |
|  | Traffic and parking issues are a thing of the past   |   |

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

|  |  |  |
|--|--|--|
|  | Road, rates and rubbish are not forgotten  |  |
|  | Gateway sites are welcoming and attractive   |  |
| <b>Theme Two – In 2030 our people will be connected in a smart City</b>      | <b>How We Will Get There</b>   | <b>Consistency</b>   |
| <b>Strategic Direction –</b><br>We benefit from technology                   | Council engages with us and decision making is transparent and data driven                                     | The Planning Proposal will be notified/exhibited and available on Council's website.   |
|  | We can access information and services online and through social media   |  |
|  | We are a digital community   |  |
|  | Technological change has been harnessed and we are sharing the benefits  |  |
| <b>Strategic Direction –</b><br>We are unified and excited about our future  | Community leadership is developed and supported  | N/A  |
|  | We are all included and have a part to play in the City  | N/A  |
|  | The City is run by, with and for the people  | N/A  |
|  | We are proud of where we live  | Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square.   |
| <b>Strategic Direction –</b><br>The community is valued                      | Aboriginal culture and history is recognised and celebrated  | N/A  |
|  | We are a healthy community with access to active recreation and health education                               | N/A  |
|  | All segments of our community are catered for – children, families, young people and seniors                   | N/A  |
|  | Opportunities for passive and active activities are available to community members, including people with pets | Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square. The new park will provide an area for play with pets. |
|  | The value of pets in the community is recognised and they are welcomed across the city                         |  |
| <b>Strategic Direction –</b><br>We treat each other with dignity and respect | We can participate in cultural and arts events which reflect and involve the community                         | N/A  |
|  | Flexible care/support arrangements for seniors,  | N/A  |

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

|   |   |   |
|---|---|---|
|   | children and people with disabilities are available across the LGA  |   |
|   | Cultural diversity is reflected and celebrated in the City's activities                                     | N/A   |
|   | Our public buildings are important community hubs and are well maintained and accessible                    | N/A   |
| <b>Theme Three – In 2030 bayside will be green, leafy and sustainable</b>                   | <b>How We Will Get There</b>  | <b>Consistency</b>  |
| <b>Strategic Direction –</b><br>Our waste is well managed                                   | I can reduce my waste through recycling and community education   | N/A   |
|   | Illegal dumping is a thing of the past  | N/A   |
| <b>Strategic Direction –</b><br>We are prepared for climate change                          | We understand climate change and are prepared for the impacts   | Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square. The new park provides an opportunity for increased landscaping and canopy trees. |
|   | Our City is prepared for/able to cope with severe weather events  |   |
|   | Our streetscapes are green and welcoming  |   |
| <b>Strategic Direction –</b><br>We increase our use of renewable energy                     | Our City promotes the use of renewable energy through community education                                   | N/A   |
|   | Our City models use of renewable energy and reports gains benefits to the community                         | N/A   |
| <b>Strategic Direction –</b><br>Waterways and green corridors are regenerated and preserved | Water is recycled and re-used   | N/A   |
|   | The community is involved in the preservation of our natural areas  | N/A   |
|   | We have an enhanced green grid/tree canopy  | See above   |
| <b>Theme Four – In 2030 we will be a prosperous community</b>                               | <b>How We Will Get There</b>  | <b>Consistency</b>  |
| <b>Strategic Direction –</b><br>Opportunities for economic development are recognised       | Major employers support/partner with local small business   | N/A   |
|   | We are an international hub for transport and logistics-related business                                    | N/A   |
|   | Industrial lands and employment lands are preserved – partnering with major employers to support local jobs | N/A   |
| <b>Strategic Direction –</b><br>Local housing, employment and                               | Bayside will be a 30 minute City – residents work local or work off-  | The newly created Bidjigal Road and open space link between Bidjigal  |



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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

|   |   |  |
|---|---|--|
| business opportunities area generated                                 | site – no-one has to travel for more than 30 minutes to work                            | Road and Bonar Street increases pedestrian and cyclist connectivity. |
|   | Council is a major employer, supports local apprenticeships and cadetships              | N/A  |
|   | People who need to can access affordable housing  | N/A  |
| <b>Strategic Direction –</b><br>The transport system works            | We can easily travel around the LGA – traffic problems/gridlock are a thing of the past | See above  |
|   | We can easily travel to work by accessible, reliable public transport                   |  |
| <b>Strategic Direction –</b><br>We are prepared for a sharing economy | Innovative businesses are supported to locate in Bayside                                | N/A  |
|   | Local Plans and regulations have kept pace with the sharing economy                     | N/A  |

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**Q5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

Yes.

The consistency of the Planning Proposal with the State Environmental Planning Policies is provided in **Table 2** below (noting which Policies are not applicable or not relevant to the Planning Proposal).

**Table 3** below reviews the consistency of the Planning Proposal with the formerly named State Regional Environmental Plans, now identified as deemed SEPPs.

**Table 2 - Consistency with State Environmental Planning Policies**

| No. | Title   | Consistency with Planning Proposal  |
|-----|---|---|
| 1   | Development Standards   | (Repealed by RLEP 2011)   |
| 19  | Bushland in Urban Areas   | N/A   |
| 21  | Caravan Parks   | N/A   |
| 30  | Intensive Aquaculture   | N/A   |
| 32  | Urban Consolidation (Redevelopment of Urban Land)                 | Repealed  |
| 33  | Hazardous and Offensive Development                               | N/A   |
| 36  | Manufactured Home Estates   | N/A   |
| 44  | Koala Habitat Protection  | N/A   |
| 47  | Moore Park Showground   | N/A   |
| 50  | Canal Estate Development  | N/A   |
| 52  | Farm Dams and Other Works in Land and Water Management Plan Areas | N/A   |
| 55  | Remediation of Land   | Not relevant to Planning Proposal. The Planning Proposal does not change the zoning or development standards for the land. Any land contamination matters were addressed as part of the development assessment process. |
| 62  | Sustainable Aquaculture   | N/A   |
| 64  | Advertising and Signage   | N/A   |
| 65  | Design Quality of Residential Apartment Development               | Not relevant to Planning Proposal. SEPP 65 was addressed as part of the development assessment process.   |
| 70  | Affordable Housing (Revised Schemes)                              | N/A   |
|     | (Affordable Rental Housing) 2009                                  | N/A   |
|     | (Building Sustainability Index: BASIX) 2004                       | Not relevant to Planning Proposal. BASIX was addressed as part of the development assessment process.   |
|     | (Coastal Management) 2018   | N/A   |
|     | (Educational Establishments and Child Care Facilities) 2017       | N/A   |
|     | (Exempt and Complying Development Codes) 2008                     | N/A   |
|     | (Housing for Seniors or People with a Disability) 2004            | N/A   |
|     | (Infrastructure) 2007   | N/A   |
|     | (Kosciuszko National Park – Alpine Resorts) 2007                  | N/A   |
|     | (Kurnell Peninsula) 1989  | N/A   |
|     | (Mining, Petroleum Production and Extractive Industries) 2007     | N/A   |
|     | (Miscellaneous Consent Provisions) 2007                           | N/A   |
|     | (Penrith Lakes Scheme) 1989                                       | N/A   |
|     | (Rural Lands) 2008  | N/A   |
|     | (State and Regional Development) 2011                             | Not relevant to Planning Proposal.  |

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

**Table 2 - Consistency with State Environmental Planning Policies**

|  |  |   |
|--|--|---|
|  | (State Significant Precincts) 2005     | N/A   |
|  | (Sydney Drinking Water Catchment) 2011 | N/A   |
|  | (Sydney Region Growth Centres) 2006    | N/A   |
|  | (Three Ports) 2013                     | N/A   |
|  | (Urban Renewal) 2010                   | N/A   |
|  | (Vegetation in Non-Rural Areas) 2017   | N/A   |
|  | (Western Sydney Employment Area) 2009  | N/A   |
|  | (Western Sydney Parklands) 2009        | N/A   |
|  | Draft Environment SEPP                 | Not relevant to Planning Proposal. May be relevant to future DAs. |
|  | Draft Remediation of Land SEPP         | See above response to SEPP 55                                     |

**Table 3 - Consistency with deemed State Environmental Planning Policies**

| No. | Title   | Consistency with Planning Proposal   |
|-----|---|--|
| 8   | (Central Coast Plateau Areas)   | N/A  |
| 9   | Extractive Industry (No.2 – 1995)   | N/A  |
| 16  | Walsh Bay   | N/A  |
| 20  | Hawkesbury-Nepean River (No.2 – 1997)   | N/A  |
| 24  | Homebush Bay Area   | N/A  |
| 26  | City West   | N/A  |
| 30  | St Marys  | N/A  |
| 33  | Cooks Cove  | N/A  |
|     | (Sydney Harbour Catchment) 2005   | N/A  |
|     | Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment | Not relevant to Planning Proposal. Drainage and stormwater issues arising from development were addressed as part of the development assessment process. |

**Q6 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Yes

**Table 4** below assesses the consistency of the Planning Proposal with the Ministerial Directions for LEPs under section 9.1 (formerly section 117) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

**Table 4 - Consistency with applicable Ministerial Directions**

**1. Employment and Resources**

| No. | Title  | Consistency with Planning Proposal |
|-----|--|------------------------------------|
| 1.1 | Business and Industrial Zones                        | N/A                                |
| 1.2 | Rural Zones  | N/A                                |
| 1.3 | Mining, Petroleum Production & Extractive Industries | N/A                                |
| 1.4 | Oyster Aquaculture                                   | N/A                                |
| 1.5 | Rural Lands  | N/A                                |

**2. Environment and Heritage**

| No. | Title   | Consistency with Planning Proposal |
|-----|---|------------------------------------|
| 2.1 | Environmental Protection Zones  | N/A                                |
| 2.2 | Coastal Protection  | N/A                                |
| 2.3 | Heritage Conservation   | N/A                                |
| 2.4 | Recreation Vehicle Areas  | N/A                                |
| 2.5 | Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs | N/A                                |

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### 3. Housing, Infrastructure and Urban Development

| No. | Title  | Consistency with Planning Proposal  |
|-----|--|---|
| 3.1 | Residential Zones  | Consistent. The Planning Proposal does not alter the existing zoning of the land (Zone R4). |
| 3.2 | Caravan Parks and Manufactured Home Estates                    | N/A   |
| 3.3 | Home Occupations   | N/A   |
| 3.4 | Integrating Land Use and Transport                             | Consistent. The Planning Proposal does not alter the existing zoning of the land (Zone R4). |
| 3.5 | Development near Regulated Airports and Defence Airfields      | N/A   |
| 3.6 | Shooting Ranges  | N/A   |
| 3.7 | Reduction in non-hosted shore term rental accommodation period | N/A   |

### 4. Hazard and Risk

| No. | Title                             | Consistency with Planning Proposal   |
|-----|-----------------------------------|--|
| 4.1 | Acid Sulfate Soils                | Consistent. The land contains Class 5 Acid Sulfate Soils. The Planning Proposal does not change this classification. |
| 4.2 | Mine Subsidence and Unstable Land | N/A  |
| 4.3 | Flood Prone Land                  | N/A  |
| 4.4 | Planning for Bushfire Protection  | N/A  |

### 5. Regional Planning

| No.  | Title  | Consistency with Planning Proposal |
|------|--|------------------------------------|
| 5.1  | Implementation of Regional Strategies                                    | Revoked 17 October 2017            |
| 5.2  | Sydney Drinking Water Catchments   | N/A                                |
| 5.3  | Farmland of State and Regional Significance on the NSW Far North Coast   | N/A                                |
| 5.4  | Commercial and Retail Development along the Pacific Highway, North Coast | N/A                                |
| 5.5  | Development in the vicinity of Ellalong, Paxton and Millfield            | Revoked 18 June 2010               |
| 5.6  | Sydney to Canberra Corridor  | Revoked 10 July 2008               |
| 5.7  | Central Coast  | Revoked 10 July 2008               |
| 5.8  | Second Sydney Airport: Badgerys Creek                                    | N/A                                |
| 5.9  | North West Rail Link Corridor Strategy                                   | N/A                                |
| 5.10 | Implementation of Regional Plans   | N/A                                |
| 5.11 | Development of Aboriginal Land Council land                              | N/A                                |

### 6. Local Plan Making

| No. | Title                              | Consistency with Planning Proposal   |
|-----|------------------------------------|--|
| 6.1 | Approval and Referral Requirements | Consistent. The Planning Proposal does not include any concurrence, consultation or referral provisions.   |
| 6.2 | Reserving Land for Public Purposes | Consistent. The Planning Proposal does not alter any existing land reservations. A future planning proposal may be prepared to extinguish the now redundant road reservation applying to the land. |
| 6.3 | Site Specific Provisions           | Consistent. The Planning Proposal includes site specific provisions to facilitate reclassification of the land but no other site specific provisions.  |

### 7. Metropolitan Planning

| No. | Title                                       | Consistency with Planning Proposal   |
|-----|---|--|
| 7.1 | Implementation of A Plan for Growing Sydney | Consistent. The Planning Proposal is consistent with <i>The Greater Sydney Region Plan - A Metropolis of</i> |



Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

|      |   |   |
|------|---|---|
|      |   | Three Cities (see Q3 above).  |
| 7.2  | Implementation of Greater Macarthur Land Release Investigation  | N/A   |
| 7.3  | Parramatta Road Corridor Urban Transformation Strategy  | N/A   |
| 7.4  | Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan                 | N/A   |
| 7.5  | Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | N/A   |
| 7.6  | Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan             | N/A   |
| 7.7  | Implementation of Glenfield to Macarthur Urban Renewal Corridor   | N/A   |
| 7.8  | Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan             | N/A   |
| 7.9  | Implementation of Bayside West Precincts 2036 Plan  | Consistent. The land is within an area nominated for future investigation on Figure 2 of the Bayside West Precincts 2036. |
| 7.10 | Implementation of Planning Principles for the Cooks Cove Precinct   | N/A   |

### C Environmental, social and economic impact

#### Q7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No

The land does not contain any critical habitat or threatened species, populations or ecological communities or their habitats.

#### Q8 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No

Rockdale LEP 2011 contains heritage, biodiversity, foreshore, flood, wetland and riparian lands overlays (see planning maps at **Attachment F**). The land is not identified as being subject to any environmental or other constraints and the Planning Proposal will not result in any additional environmental effects. Any relevant environmental issues were addressed during the development assessment process.

#### Q9 Has the Planning Proposal adequately addressed any social and economic effects?

Yes

Reclassification of the land will facilitate its transfer to the owner of the Martin Avenue Site, giving the Martin Avenue Site a street frontage. This is key to delivery of the Bonar Street Park/Central Square, implementing the Bonar Street Precinct Structure Plan as set out in Part 7.2 of Rockdale DCP 2011 and Bonar Street PDP. The public interest is best served by the orderly and economic use of land for permissible purposes in accordance with the adopted Structure Plan.

In relation to the economic impacts, the Planning Proposal is part of the innovative arrangements put in place by Council to deliver the planned Bonar Street Park/Central Square.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

**D State and Commonwealth interests**

**Q10 Is there adequate public infrastructure for the Planning Proposal?**

The land is in an existing high density residential area where utility services are available. Notwithstanding, the Planning Proposal proposes a reclassification of land only and is unlikely to increase demand for infrastructure.

**Q11 What are the views of State and Commonwealth public authorities consulted in accordance with**

Consultation with planning authorities/organisations under section 3.34(2)(d) of the EP&A Act is not required for this planning proposal.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

#### **Part 4 – Mapping**

In accordance with Part 12.11 Land Reclassification (Part Lots) (RPL) of the *Standard Technical Requirements for Spatial Datasets and Maps V1.0* published by the NSW DP&E, no map is required where an entire lot is being reclassified, which is the circumstance in this case.

A site location map and aerial photograph were provided at **Figures 1 and 2**.

Existing maps to Rockdale LEP 2011 are attached (**Attachment F**). No changes are proposed to the existing LEP maps.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Part 5 - Community Consultation**

Community consultation on the Planning Proposal will be undertaken by Bayside Council in accordance with the publication *A Guide to Preparing Local Environmental Plans*, published by the NSW DP&E. Community consultation will not be commenced prior to obtaining approval from the Minister or Director-General.

Council's consultation methodology will include, but not be limited to, the following:

- Giving notice of the public exhibition in the main local newspaper (the Leader);
- Exhibiting the Planning Proposal in accordance with the gateway determination for at least 28 days;
- Exhibiting the Planning Proposal pursuant to Section 57 of the EP&A Act and all supporting documentation at Council's Administration Centre and on Council's website;
- Notifying the Planning Proposal's exhibition on Council's website, including providing copies of the Planning Proposal, all supporting studies and additional information and the gateway determination;
- Notifying affected landowners and adjoining land owners where relevant;
- Holding a Public Hearing under Section 29 of the LG Act (required for all planning proposal that reclassify public land from 'community' to 'operational'); and
- Any other consultation methods deemed appropriate for the Planning Proposal.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Reclassification of Public Land

### Secretary's requirements

Pursuant to Section 55(3) of the EP&A Act, the Director-General may issue requirements with respect to the preparation of a Planning Proposal. In this regard, the NSW DP&E 'A Guide to Preparing Local Environmental Plans' establishes the Director-General's requirements regarding matters that must be addressed in the justification of planning proposals for the reclassification of public land. These requirements are addressed below.

#### a) Is the planning proposal the result of a strategic study or report?

Yes.

As outlined in the Preliminaries to this Planning Proposal, the Planning Proposal is the result of the following Council resolution and development control plan/public domain plan:

- Council resolved at its Meeting of 7 November 2012 to classify the land Operational land (**Attachment D**); and
- Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see **Figures 3 and 4**) which illustrate an indicative concept plan for the Bonar Street Park and Central Square.

#### b) Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

Yes.

As outlined at Q4, the Planning Proposal is consistent with the Bayside Community Strategic Plan 2030. It is also consistent with the Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP.

#### c) If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided

The certificate of title (see **Attachment C**) notes that the land is a 'public reserve'. The planning proposal would enable extinguishment of this interest to enable transfer of the land to the owner of the Martin Avenue Site. As explained in the Preliminary sections of this Planning Proposal, this transfer is critical to delivery of the Bonar Street Park Stage 2 as the land provides the only street frontage for the Martin Avenue Site.

#### d) The concurrence of the landowner, where the land is not owned by the relevant planning.

Bayside Council, the landowner, resolved on 7 November 2012 to classify the land as Operational land.

### Practice Note

**Table 5** considers the matters that must be addressed by planning proposals that classify or reclassify public land, as listed in the Attachment 1 - Checklist to the *Department of Planning & Environment LEP Practice note (PN 16-001)* (see **Attachment A**).

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

**Table 5 – Department of Planning & Environment LEP Practice note (PN 16-001): CHECKLIST**

| Matters to be addressed   | Response   |
|---|--|
| <ul style="list-style-type: none"> <li>the current and proposed classification of the land;</li> </ul>  | Current classification: Community<br>Proposed classification: Operational  |
| <ul style="list-style-type: none"> <li>whether the land is a 'public reserve' (defined in the LG Act);</li> </ul>   | The land is a public reserve.  |
| <ul style="list-style-type: none"> <li>the strategic and site specific merits of the reclassification and evidence to support this;</li> </ul>  | The reclassification will enable the land to be transferred to the owner of the adjoining Martin Avenue Site to provide a street frontage for the high density residential development which is currently under construction. As noted above, the developer of the Martin Avenue Site has entered into a VPA to dedicate land for and embellish the Bonar Street Park Stage 2 and Central Square (2,020m <sup>2</sup> ) and paid a monetary contribution towards the embellishment of Bonar Street Park Stage 1. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan as now described in Part 7.2 Rockdale DCP 2011 and Bonar Street PDP. |
| <ul style="list-style-type: none"> <li>whether the planning proposal is the result of a strategic study or report</li> </ul>  | The Planning Proposal is the result of the following Council resolution and development control plan/public domain plan: <ul style="list-style-type: none"> <li>Council resolved at its Meeting of 7 November 2012 to classify the land as Operational land (<b>Attachment D</b>); and</li> <li>Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see <b>Figures 3 and 4</b>) which illustrate an indicative concept plan for the Bonar Street Park and Central Square.</li> </ul>  |
| <ul style="list-style-type: none"> <li>whether the planning proposal is consistent with council's community plan or other local strategic plan</li> </ul>   | Yes, see <b>Table 1</b> above.   |
| <ul style="list-style-type: none"> <li>a summary of council's interests in the land, including:               <ul style="list-style-type: none"> <li>how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)</li> <li>if council does not own the land, the land owner's consent;</li> <li>the nature of any trusts, dedications etc;</li> </ul> </li> </ul> | The land was transferred to Council by the owner of 9-11 Wollongong Road on 13 August 2012. The land is a residual parcel from the dedication/construction of Bidjigal Road.<br><br>Council is the landowner.<br><br>There are no trusts or dedications.   |
| <ul style="list-style-type: none"> <li>whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;</li> </ul>   | The Public Reserve notation is to be discharged to enable transfer of the land to the owner of the Martin Avenue Site. There are no other interests in the land to be discharged.  |
| <ul style="list-style-type: none"> <li>the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will</li> </ul>   | The reclassification will not result in the loss of public open space. Reclassification of the land enables its transfer to the Martin Avenue Site, giving that site a street frontage which is  |

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

**Table 5** – Department of Planning & Environment LEP Practice note (PN 16-001): CHECKLIST

|  |   |
|--|---|
| be discharged);  | key to delivery of the Bonar Street Park/Central Square.  |
| ▪ evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);   | A copy of the certificate of title is attached ( <b>Attachment C</b> ) confirming the public reserve notation on the title.   |
| ▪ current use(s) of the land, and whether uses are authorised or unauthorised;   | The land forms part of the construction site for the Martin Avenue Site where an approved high density housing development is under construction.   |
| ▪ current or proposed lease or agreements applying to the land, together with their duration, terms and controls;  | On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council lots to align the physical boundary with the zoning boundary (complete), the registration of a no FSR covenant on the title (prepared/pending) and the removal of the Public Reserve notation from the title. Reclassification of the land, as described herein, is required to enable removal of the Public Reserve notation. |
| ▪ current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time); | As detailed in the Preliminaries, the Council has entered into a VPA with the owner of the Martin Avenue Site to transfer the land the owner of the Martin Avenue Site. The transfer would occur after reclassification of the land.  |
| ▪ any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);   | N/A<br>There is no rezoning associated with the reclassification.   |
| ▪ how council may or will benefit financially, and how these funds will be used;   | There is no direct financial benefit for Council, but transfer of the land to the owner of the Martin Avenue Site is key to delivery of the Bonar Street Park/Central Square.   |
| ▪ how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;  | See above.  |
| ▪ a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and   | N/A<br>The reclassification applies to the whole lot, therefore a Land Reclassification (part lots) Map is not required.  |
| ▪ preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.   | N/A<br>The land was not dedicated to Council by a government agency.  |



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Part 6 – Project Timeline

**Table 6** provides a proposed timeframe for the Planning Proposal.

**Table 6** – Approximate Project Timeline

| Task  | Timing   |
|---|--|
| Consideration of the Planning Proposal by the Bayside Local Planning Panel                                  | 19 March 2019  |
| Consideration of the Planning Proposal by Council   | 27 March 2019  |
| Anticipated commencement date (date of Gateway determination)   | 3 May 2019   |
| Anticipated timeframe for the completion of required technical information                                  | 3 May 2019   |
| Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination) | N/A  |
| Commencement and completion dates for public exhibition period  | 15 May to 14 June 2019   |
| Dates for public hearing  | 9 July 2019<br>(Factored in 21 days public notice after the exhibition period has ended) |
| Timeframe for consideration of submissions  | 16 July 2019   |
| Timeframe for the consideration of a Planning Proposal post-exhibition                                      | 23 July 2019 (BLPP)<br>14 August 2019 (Council)  |
| Date of submission to the Department to finalise the LEP  | 16 August 2019   |
| Anticipated date Planning Proposal Authority (PPA) will make the plan (if delegated)                        | 6 September 2019   |
| Anticipated date RPA will forward to the Department for notification  | 6 September 2019   |



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

**Attachment A**

*Department of Planning & Environment LEP Practice note (PN 16-001)*



## LEP practice note

### LOCAL PLANNING

|                |                      |
|----------------|----------------------|
| <b>Ref No.</b> | PN 16-001            |
| <b>Issued</b>  | 5 October 2016       |
| <b>Related</b> | Supersedes PN 09-003 |

## Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

### Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- **Community land** – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- **Operational land** – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

#### What is public land?

*Public land* is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

### Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

#### How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

**Classification** of public land occurs when it is first acquired by a council and classified as either community or operational.

**Reclassification** of public land occurs when its classification is changed from community to operational, or from operational to community.

### Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism by which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33<sup>1</sup>) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

**Public reserve** is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

**Interests in land** refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

### Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

### Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

### Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

<sup>1</sup> Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

### Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

### Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

### Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

### Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

### Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at:  
<http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

**Authorised by:**  
**Carolyn McNally**  
**Secretary**

Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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## ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- ☐ the current and proposed classification of the land;
- ☐ whether the land is a 'public reserve' (defined in the LG Act);
- ☐ the strategic and site specific merits of the reclassification and evidence to support this;
- ☐ whether the planning proposal is the result of a strategic study or report;
- ☐ whether the planning proposal is consistent with council's community plan or other local strategic plan;
- ☐ a summary of council's interests in the land, including:
  - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
  - if council does not own the land, the land owner's consent;
  - the nature of any trusts, dedications etc;
- ☐ whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- ☐ the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- ☐ evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- ☐ current use(s) of the land, and whether uses are authorised or unauthorised;
- ☐ current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- ☐ current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- ☐ any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- ☐ how council may or will benefit financially, and how these funds will be used;
- ☐ how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- ☐ a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- ☐ preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.

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*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment B**

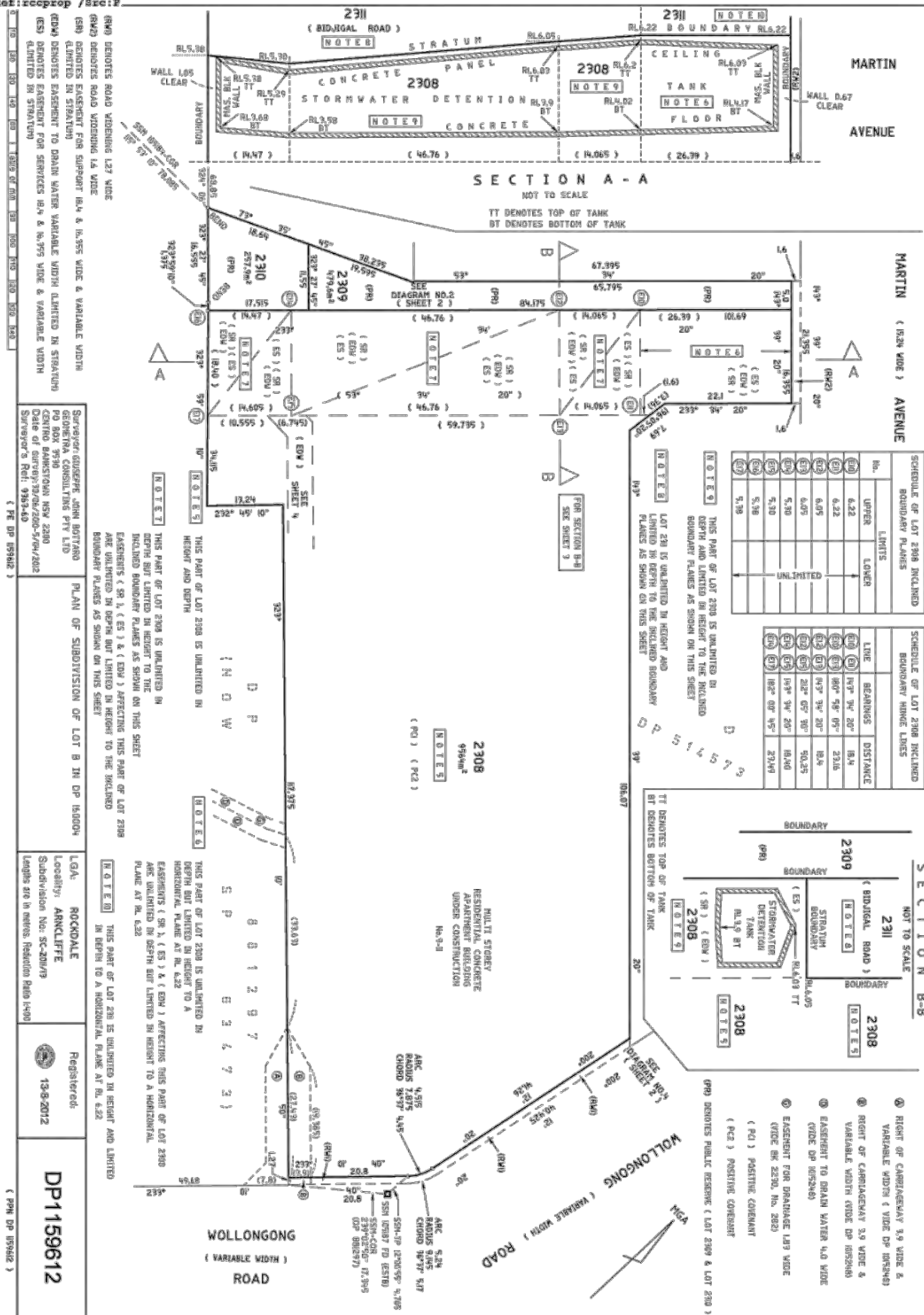
Deposited Plan (Lot 3 in DP 1247416)
















Req:R998705 /Doc:DP 1159612 P /Rev:13-Aug-2012 /Sts:SC.OK /Pgs:ALL /Prt:22-Feb-2019 12:45 /Seq:5 of 7  
 Ref:rcoprop /Src:P DP1159612

PLAN FORM 6

WARNING: Creasing or folding will lead to rejection

ePlan


| DEPOSITED PLAN ADMINISTRATION SHEET  |   | Sheet 1 of 3 sheet(s) |
|--|---|-----------------------|
| SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads, public reserves and drainage reserves or create easements, restrictions on the use of land and positive covenants<br><br>SEE SHEET TWO   | Office Use Only   |                       |
|  | <b>DP1159612</b>  |                       |
|  | Office Use Only<br>Registered:  13-8-2012<br>Title System: TORRENS<br>Purpose: SUBDIVISION   |                       |
|  | <b>PLAN OF SUBDIVISION OF LOT B IN DP 160004</b>  |                       |
|  | LGA: ROCKDALE<br>Locality: ARNCLIFFE<br>Parish: ST GEORGE<br>County: CUMBERLAND   |                       |
|  | <b>Survey Certificate</b><br><b>GIUSEPPE JOHN BOTTARO</b><br>Of<br><b>GEOMETRA CONSULTING PTY LTD</b><br><b>PO BOX 3530 CENTRO BANKSTOWN NSW 2200</b><br>a surveyor registered under the Surveying and Spatial Information Act, 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying and Spatial Information Regulation, 2006 and was completed on: 5 APRIL 2012<br>The survey relates to LOTS 2308, 2309, 2310 & 2311<br>(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)<br>Signature:  Dated: 28/6/2012<br>Surveyor registered under the Surveying and Spatial Information Act, 2002 |                       |
| If space is insufficient use PLAN FORM 6A annexure sheet<br><b>Crown Lands NSW/Western Lands Office Approval</b><br>.....in approving this plan certify<br>(Authorised Officer)<br>that all necessary approvals in regard to the allocation of the land shown herein have been given<br>Signature: .....<br>Date: .....<br>File Number: .....<br>Office: ..... | <b>Subdivision Certificate</b><br>I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:<br>the proposed <b>SUBDIVISION</b> set out herein<br>(insert 'subdivision' or 'new road')<br><br>* Authorised Person/General Manager/Accredited Certifier<br>Consent Authority: <b>ROCKDALE CITY COUNCIL</b><br>Date of Endorsement: <b>11.7.2012</b><br>Accreditation no: .....<br>Subdivision Certificate no: <b>SC-2011/13</b><br>File no: <b>DA-2006/453</b><br>* Strike through Inapplicable parts.   |                       |
|  | Datum Line: 'X' - 'Y'<br>Type: Urban/ <del>Rural</del><br><b>Plans used in the preparation of survey/compilation</b><br>DP 28085    DP 233666    SP 63473<br>DP 90055    DP 514573<br>DP 155885    DP 554958<br>DP 156756    DP 881297<br>DP 158597    DP 974988<br>DP 158978    DP 1015248<br>DP 160004    DP 1044084<br>If space is insufficient use PLAN FORM 6A annexure sheet<br>Surveyor's Reference: 9363-60 (PPN DP 1159612)  |                       |

Req:R998705 /Doc:DP 1159612 P /Rev:13-Aug-2012 /Sts:SC.OK /Pgs:ALL /Prt:22-Feb-2019 12:45 /Seq:6 of 7  
 Ref:rcoprop /Src:P DP1159612



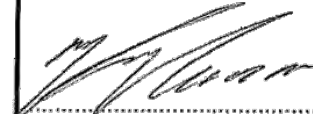

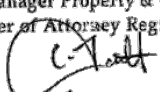
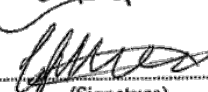
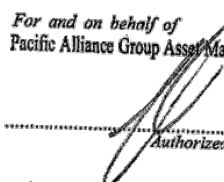

PLAN FORM 6A

WARNING: Creasing or folding will lead to rejection

ePlan

| DEPOSITED PLAN ADMINISTRATION SHEET   |   | Sheet 2 of 3 sheet(s)                |
|---|---|--------------------------------------|
| PLAN OF SUBDIVISION OF LOT B IN<br>DP 160004  | Office Use Only<br><b>DP1159612</b>   |                                      |
|   | Office Use Only<br>Registered:  13-8-2012 |                                      |
| Subdivision Certificate No.: <i>SC-2011/13</i>  |   | Date of Endorsement: <i>6.8.2012</i> |
| <p>IT IS INTENDED TO DEDICATE THE LAND MARKED " ROAD WIDENING ( RW1 ) &amp; ( RW2 ) " TO THE PUBLIC AS ROAD.</p> <p>IT IS INTENDED TO DEDICATE LOT 2311 ( BIDJIGAL ROAD ) TO THE PUBLIC AS ROAD</p> <p>IT IS INTENDED TO DEDICATE LOTS 2309 &amp; 2310 AS PUBLIC RESERVES.</p> <p>PUBLIC RESERVES ARE TO BE DEDICATED TO ROCKDALE CITY COUNCIL.</p> <p><i>LM</i></p> <p><b>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919,<br/>IT IS INTENDED TO CREATE:</b></p> <ol style="list-style-type: none"> <li>1. POSITIVE COVENANT ( PC1 )</li> <li>2. POSITIVE COVENANT ( PC2 )</li> <li>3. EASEMENT TO DRAIN WATER (VAR.WIDTH) LIMITED IN STRATUM SHOWN AS ( EDW )</li> <li>4. EASEMENT FOR SUPPORT (18.4 &amp; 16.355 WIDE &amp; VARIABLE WIDTH) SHOWN AS ( SR )</li> <li>5. EASEMENT FOR SERVICES (18.4 &amp; 16.355 WIDE &amp; VARIABLE WIDTH) SHOWN AS ( ES )</li> </ol> <p><b>IT IS INTENDED TO RELEASE:</b></p> <ol style="list-style-type: none"> <li>1. EASEMENT FOR DRAINAGE 1.83 WIDE (VIDE BK 2230 No.282)</li> </ol> <p><i>DIAGRAMS N: 7 &amp; 8 ON SURVEY PLAN<br/>REF: 9363-60, DATED 5/4/2012, SHEET N:1<br/>HAS BEEN ACKNOWLEDGED &amp; ACCEPTED<br/>BY ROCKDALE CITY COUNCIL.</i></p> |   |                                      |
| Surveyor's Reference: 9363-60   |   |                                      |

Req:R998705 /Doc:DP 1159612 P /Rev:13-Aug-2012 /Sts:SC.OK /Pgs:ALL /Prt:22-Feb-2019 12:45 /Seq:7 of 7  
 Ref:rcoprop /Src:F DP1159612

|   |                  |   |       |
|---|------------------|---|-------|
| PLAN FORM 6A  |                  | WARNING: Creasing or folding will lead to rejection   | ePlan |
| <b>DEPOSITED PLAN ADMINISTRATION SHEET</b>  |                  |   |       |
| Sheet 3 of 3 sheet(s)   |                  |   |       |
| <b>PLAN OF SUBDIVISION OF LOT B IN<br/>DP 160004</b>  | <b>DP1159612</b> |   |       |
|   |                  | Office Use Only   |       |
|   |                  | Office Use Only   |       |
| Registered:  13-8-2012  |                  |   |       |
| Subdivision Certificate No.: SC-2011/13   |                  | Date of Endorsement: 11.7.2012                         |       |
| <b>SIGNATURES &amp; SEALS</b>   |                  |   |       |
| <br><b>MAHMOUD MOHANNA</b><br>REGISTERED PROPRIETOR  |                  | <br><b>MOHAMED MOUSSLIMANI</b><br>REGISTERED PROPRIETOR |       |
| <div style="border: 1px solid black; padding: 5px;"> <p>Dated at Sydney this <u>12<sup>th</sup></u> Day of <u>JULY</u> 2012</p> <p>Executed by Australia and New Zealand Banking Group Limited (ACN 005 357 522)</p> <p>signed by its Attorney <u>CHRIS JALLO</u></p> <p>who certifies that he is Manager Property &amp; Construction Finance pursuant to Power of Attorney Registered No. 564 Book 4388</p> <p style="text-align: center;"></p> <p>Signed in the presence of <br/>         (Signature)</p> <p style="text-align: center;"><u>GEORGE PAPANIKOLAOU</u><br/>         (Print Name)</p> <p style="text-align: center;"><u>MANAGER</u><br/>         (Title)</p> </div> <div style="margin-top: 20px;"> <p>For and on behalf of<br/>         Pacific Alliance Group Asset Management Limited</p> <p style="text-align: center;"><br/>         Authorized Signature(s)</p> <p style="text-align: center;"><b>JON ROBERT LEWIS</b><br/>         DIRECTOR</p> </div> |                  |   |       |
| <p><b><u>ST GEORGE BANK LIMITED</u></b> </p> <p>MORTGAGEE</p> <p>BY ITS EXECUTION, CONSENTS TO THE REGISTRATION OF THIS DOCUMENT</p>   |                  |   |       |
| Surveyor's Reference: 9363-60   |                  |   |       |

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Attachment C**

Certificate of title (Lot 3 in DP 1247416)

22/02/2019

Order — Property Information



## NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 3/1247416

-----

| SEARCH DATE | TIME    | EDITION NO | DATE      |
|-------------|---------|------------|-----------|
| 22/2/2019   | 4:04 PM | 1          | 8/11/2018 |

## LAND

-----

LOT 3 IN DEPOSITED PLAN 1247416  
AT ARNCLIFFE  
LOCAL GOVERNMENT AREA BAYSIDE  
PARISH OF ST GEORGE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP1247416

## FIRST SCHEDULE

-----

BAYSIDE COUNCIL

## SECOND SCHEDULE (4 NOTIFICATIONS)

-----

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE
- 3 DP1015248 RIGHT OF CARRIAGEWAY 3.9 METRE(S) WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 AK703146 PLANNING AGREEMENT PURSUANT TO SECTION 7.6 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

## NOTATIONS

-----

UNREGISTERED DEALINGS: PP DP1223657 PP SP94064.

\*\*\* END OF SEARCH \*\*\*

rccprop

PRINTED ON 22/2/2019

Obtained from NSW LRS on 22 February 2019 03:04 PM AEST

\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

© Office of the Registrar-General 2019

<https://online.globalx.com.au/propertyinformation/>

1/1

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment D**

Report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* and resolution from Rockdale Council Meeting of 7 November 2012



## Council Meeting

Meeting Date 07/11/2012

### Public

#### Report Header

---

|                                |  |
|--------------------------------|--|
| <b>Item Number:</b>            | ORD13  |
| <b>Subject:</b>                | LAND DEDICATION ARISING FROM THE DEVELOPMENT OF 9-11 WOLLONGONG ROAD ARNCLIFFE |
| <b>File Number:</b>            | F08/386  |
| <b>Report by:</b>              | Property Manager (Benjamin Heraud)   |
| <b>Contributors:</b>           |  |
| <b>Community Engagement:</b>   | No   |
| <b>Financial Implications:</b> | No   |

#### Precis

---

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe, as well as public domain works creating a new roadway now known as Bidjigal Road. Arising from the creation of the roadway three parcels of land were dedicated to Council, one dedicated via the Roads Act 1993 that comprised the road and the two other lots adjoining the road that were dedicated to Council via the Local Government Act 1993.

Under the Local Government Act the two lots not comprising the road need to be classified as either community or operational within three months of acquisition. In order to facilitate the intentions of the Bonar Street Masterplan, this report recommends the lands dedicated to Council under the Local Government Act be classified as operational.

#### Council Resolution

---

##### NOTE:

Councillor Nagi had previously declared a significant non-pecuniary interest in this item and left the Chamber for discussion and voting.

RESOLVED on the motion of Councillors Awada and Bezic

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

#### Officer Recommendation

---

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

### Report Background

---

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe (refer to Annexure 1 - Location Map). As part of the development, public domain works were undertaken that aligned with the principles contained within Council's Bonar Street Precinct DCP Landscape Masterplan ("Bonar Street Masterplan"). Specifically, the subject development delivered the construction of a section of new roadway, now known as Bidjigal Road, and two parcels of land adjoining the road (refer to Annexure 2 - Bonar Street Masterplan and Annexure 3 - Parcels Created).

A sub-division plan was registered with Land and Property Information (LPI) on 13 August 2012 dedicating to Council:

- The new roadway via Section 9 of the *Roads Act 1993* ("the Road"); and
- Two ancillary parcels, 8 Martin Avenue and 9 Bidjigal Road ("the Lots"), via Section 49 of the *Local Government Act 1993*.

The Lots were, at the request of Council, noted as public reserve on the associated deposited plan, which meant that under Section 49 of the *Local Government Act* the land vested automatically with Council upon registration. This was done for the purpose of ensuring that the developer divested the Lots to Council upon registration in order to facilitate the Bonar Street Masterplan.

Division 1 of Part 2 of *The Local Government Act* requires all Council land to be classified as either community or operational land within three months of acquisition. No such requirement exists within the *Roads Act* to classify the Road itself and therefore this is not the subject of this report.

The dedication of the Lots to Council facilitates the delivery of additional principles within the Bonar Street Masterplan, being:

1. The creation of a linear street frontages for future developments associated with 10 Martin Avenue, 47 Bonar Street and 49 Bonar Street; and
2. The partial delivery of land for the creation of a central square.

The creation of linear street frontages associated with point 1 above will involve disposing the Lots to the adjoining landowners at the point these sites develop. Under the *Local Government Act*, Council can only dispose of land that is classified as operational. To this end, classifying the Lots as community land would hinder future disposal, which would impede the intentions of the Bonar Street Masterplan. To this end, it is recommended that the Lots be classified as operational land in order to facilitate Council's stated intentions with the Lots in the future.

### Community Engagement

---

The issues raised in this report concern matters that do not require community consultation under Council's Community Engagement Policy

#### COMMUNITY STRATEGY

The proposal is consistent with Council's Community Outcome "Appropriate Infrastructure" and Community Outcome objective:

- The City of Rockdale has well connected and integrated systems and networks that support the Rockdale community.

and is also consistent with the (or is a nominated) strategy in the Community Strategic Plan being:

- Roads, Drainage and other like infrastructure - Ensure that Roads, Drainage and other like infrastructure are designed, delivered and maintained in a manner which provides network integration and sustainability to meet the current and future transport and

### Financial Implications

---

#### Additional Comments

There are no financial implications applicable to this report.

### Supporting Information

---

Action From Resolution  
File Attachments

[Action raised by Heather Davis on 09/11/2012](#)



Annexure 1 - Location Map.pdf

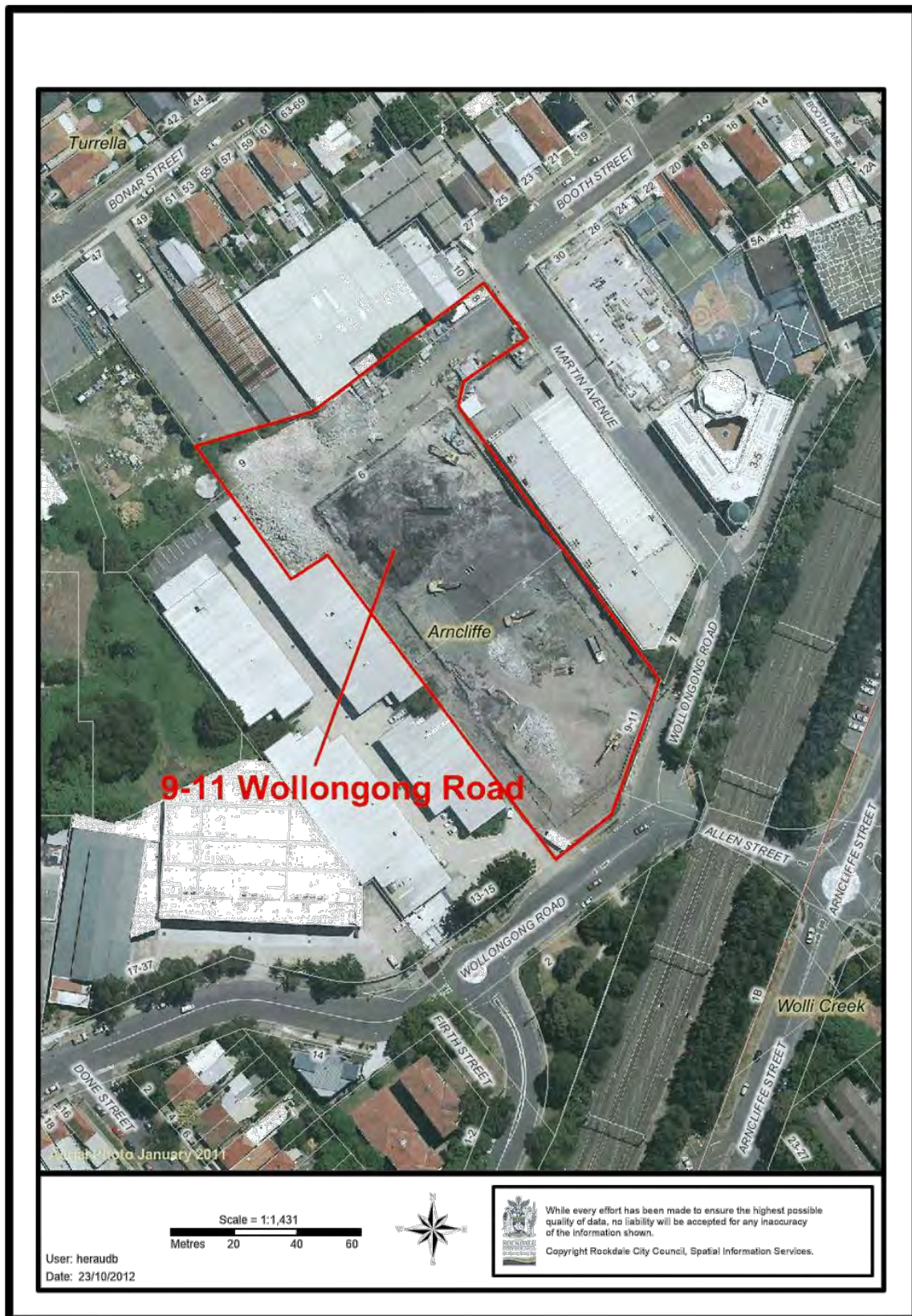


Annexure 2 - Bonar Street Masterplan.pdf



Annexure 3 - Parcels Created.pdf

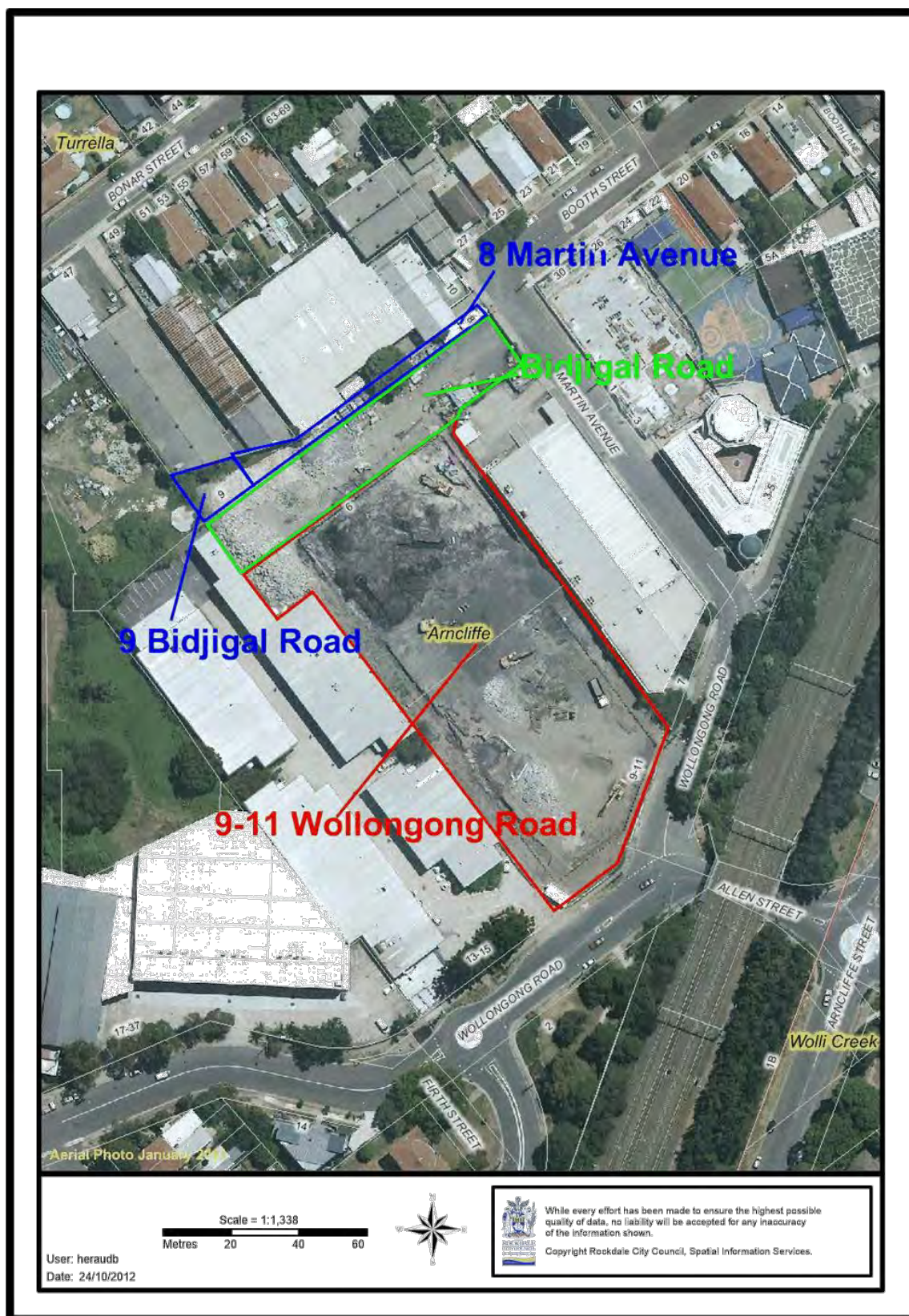












2/27/2019

Business Paper authored by Property Manager (Benjamin Heraud) on 11/09/2012



## Council Meeting

[Back](#) [Print](#)

### General Report - Meeting Date: 11/07/2012

Public -

Item Number: ORD13

Subject: LAND DEDICATION ARISING FROM THE DEVELOPMENT OF 9-11 WOLLONGONG ROAD ARNCLIFFE

File Number: F08/386

Report by: Property Manager (Benjamin Heraud)

Community Engagement: No

Financial Implications: No

### Precis

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe, as well as public domain works creating a new roadway now known as Bidjigal Road. Arising from the creation of the roadway three parcels of land were dedicated to Council, one dedicated via the Roads Act 1993 that comprised the road and the two other lots adjoining the road that were dedicated to Council via the Local Government Act 1993.

Under the Local Government Act the two lots not comprising the road need to be classified as either community or operational within three months of acquisition. In order to facilitate the intentions of the Bonar Street Masterplan, this report recommends the lands dedicated to Council under the Local Government Act be classified as operational.

### Council Resolution

NOTE:

Councillor Nagi had previously declared a significant non-pecuniary interest in this item and left the Chamber for discussion and voting.

RESOLVED on the motion of Councillors Awada and Bezic

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### Officer Recommendation

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

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### Report Background

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe (refer to Annexure 1 - Location Map). As part of the development, public domain works were undertaken that aligned with the principles contained within Council's Bonar Street Precinct DCP Landscape

[https://rccnet.rockdale.nsw.gov.au/RBP/CBP.nsf/\(vwUnid\)/AC235D83AE756C7ECA257AB100121F04?OpenDocument](https://rccnet.rockdale.nsw.gov.au/RBP/CBP.nsf/(vwUnid)/AC235D83AE756C7ECA257AB100121F04?OpenDocument)

1/2

2/27/2019

Business Paper authored by Property Manager (Benjamin Heraud) on 11/09/2012

Masterplan ("Bonar Street Masterplan"). Specifically, the subject development delivered the construction of a section of new roadway, now known as Bidjigal Road, and two parcels of land adjoining the road (refer to Annexure 2 - Bonar Street Masterplan and Annexure 3 - Parcels Created).

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### Financial Implications

There are no financial implications applicable to this report.

### Community Engagement

The issues raised in this report concern matters that do not require community consultation under Council's Community Engagement Policy

### Community Strategy

The proposal is consistent with Council's Community Outcome "Appropriate Infrastructure" and Community Outcome objective:

- The City of Rockdale has well connected and integrated systems and networks that support the Rockdale community.

and is also consistent with the (or is a nominated) strategy in the Community Strategic Plan being:

- Roads, Drainage and other like infrastructure - Ensure that Roads, Drainage and other like infrastructure are designed, delivered and maintained in a manner which provides network integration and sustainability to meet the current and future transport and



Annexure 1 - Location Map.pdf



Annexure 2 - Bonar Street Masterplan.pdf



[Annexure 3 - Parcels Created.pdf](#)



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment E**

Terms of positive covenant

**"A"****Terms of Positive Covenant****1. Definitions**

**"Consent Authority"** means any authority empowered to approve any development of Lot 3 in Deposited Plan 1247416.

**"Council"** means Bayside Council and its successors

**"FSR"** means floor space ratio and has the same meaning as used in the Rockdale Local Environmental Plan 2011 and includes any local environmental plan that amends or supersedes the Rockdale Local Environmental Plan 2011 applying to the Land.

**"Land"** means Lot 21 in Deposited Plan 1238386, Lot 1 in Deposited Plan 233666, Lot 2 in Deposited Plan 233666 and Lot 3 in Deposited Plan 1247416.

**"Registered Proprietor"** means the registered proprietor of Lot 3 in Deposited Plan 1247416 from time to time.

2. The Registered Proprietor irrevocably and unconditionally covenants that no FSR entitlements are to be considered, given or allowed by the Council or any other Consent Authority in relation to any development of Lot 3 in Deposited Plan 1247416.
3. The Registered Proprietor must pay all legal costs and out of pocket disbursements incurred by the Council in relation to preparation, execution and registration of this Positive Covenant.
4. This Positive Covenant may only be released or varied by the Council in writing.

**Execution by the Prescribed Authority**

I certify that I am an eligible witness and that the authorised officer of the prescribed authority signed this application in my presence.

\_\_\_\_\_  
Signature of witness:

\_\_\_\_\_  
Signature of an authorised officer:

\_\_\_\_\_  
Name of witness:

\_\_\_\_\_  
Name of authorised officer:

\_\_\_\_\_  
Address of witness:

\_\_\_\_\_  
Position of authorised officer:

**Execution by the Registered Proprietor**

I certify that I am an eligible witness and that the authorised officer of the prescribed authority signed this application in my presence.

**Executed by Martin Land Pty Limited**  
**ACN 617 410 054** in accordance with  
section 127 of the *Corporations Act 2001* (Cth)  
by:

---

Signature of Director

---

Signature of Director

---

Full name (print)

---

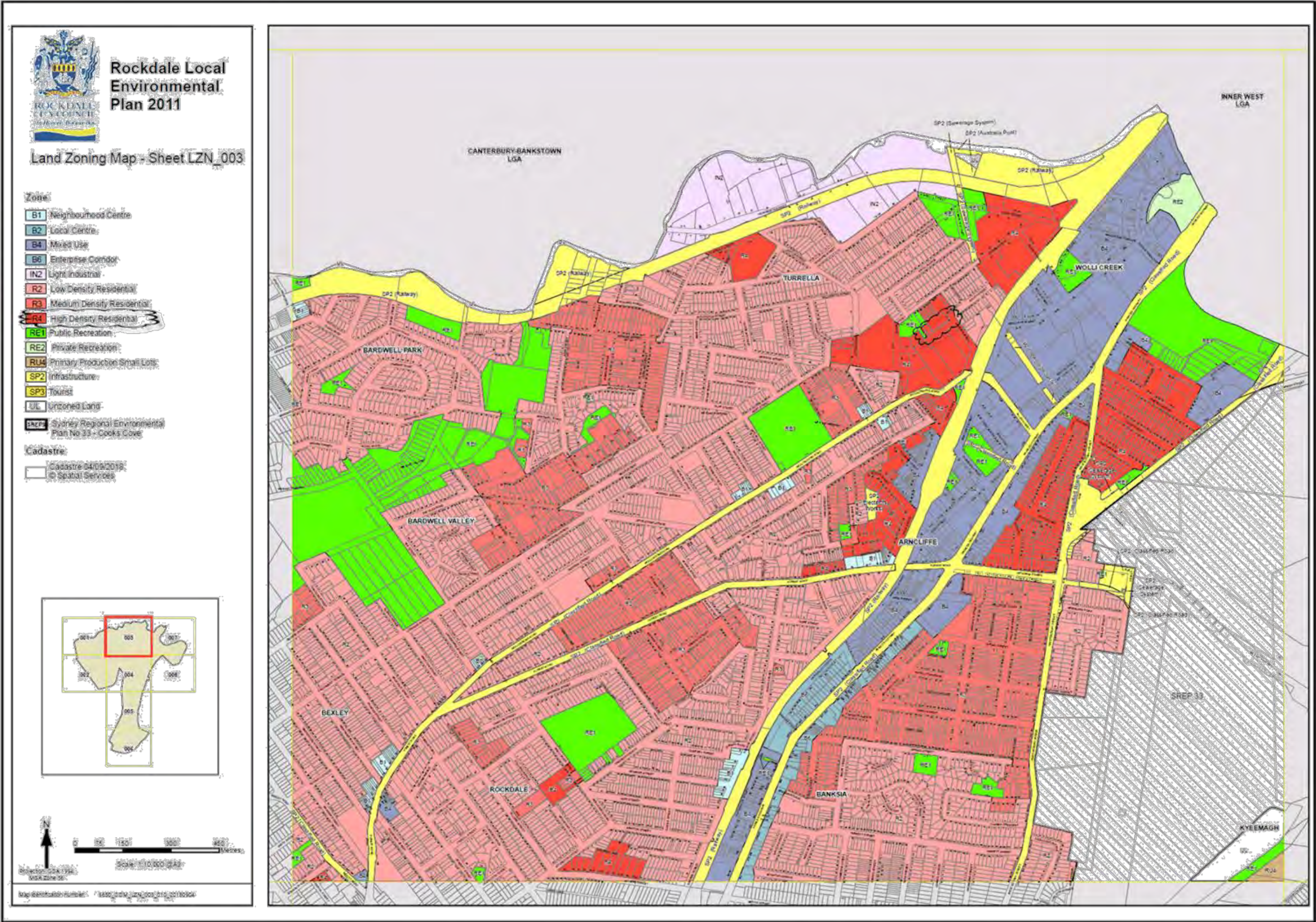
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*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment F**

Rockdale LEP 2011 Maps

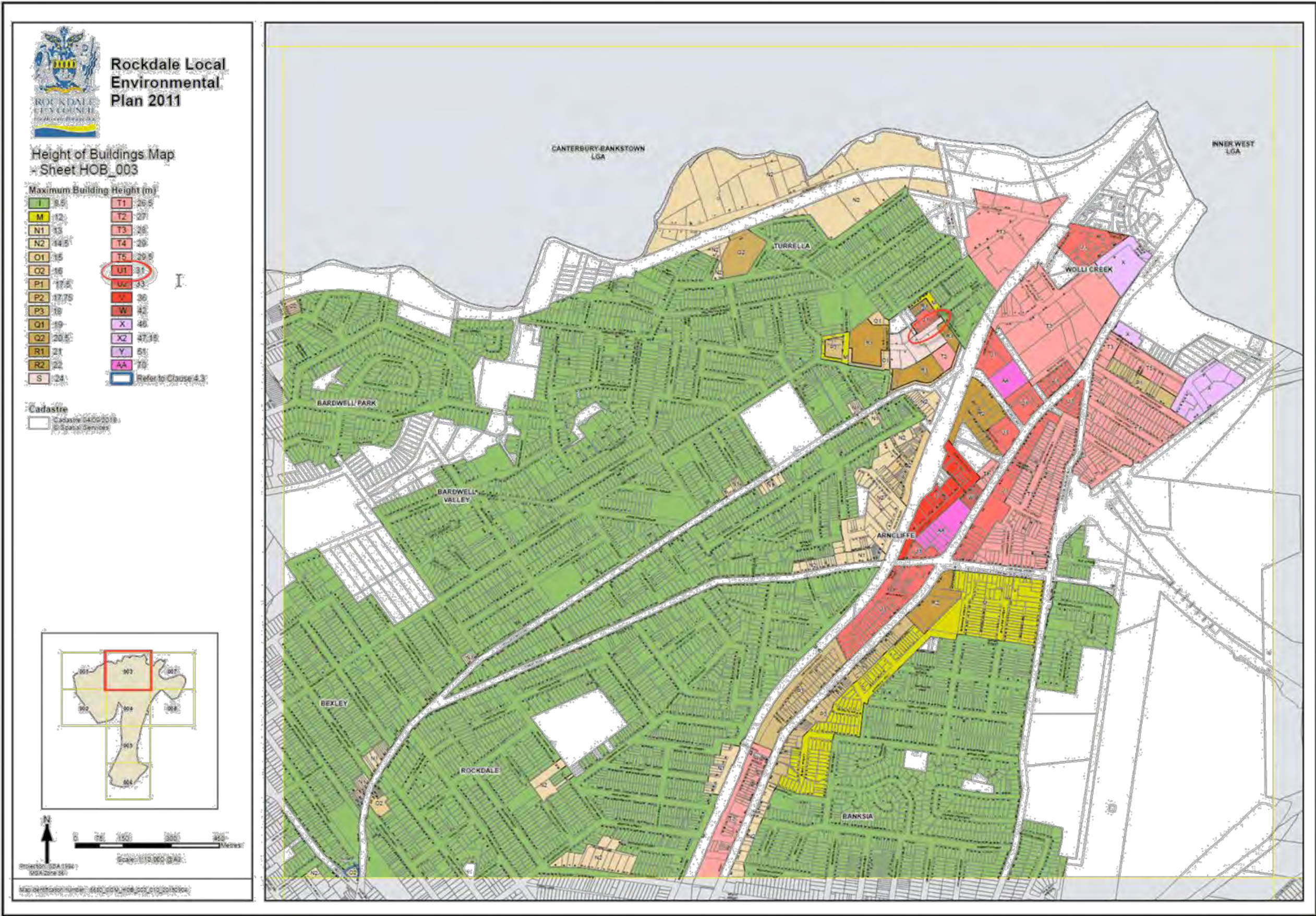




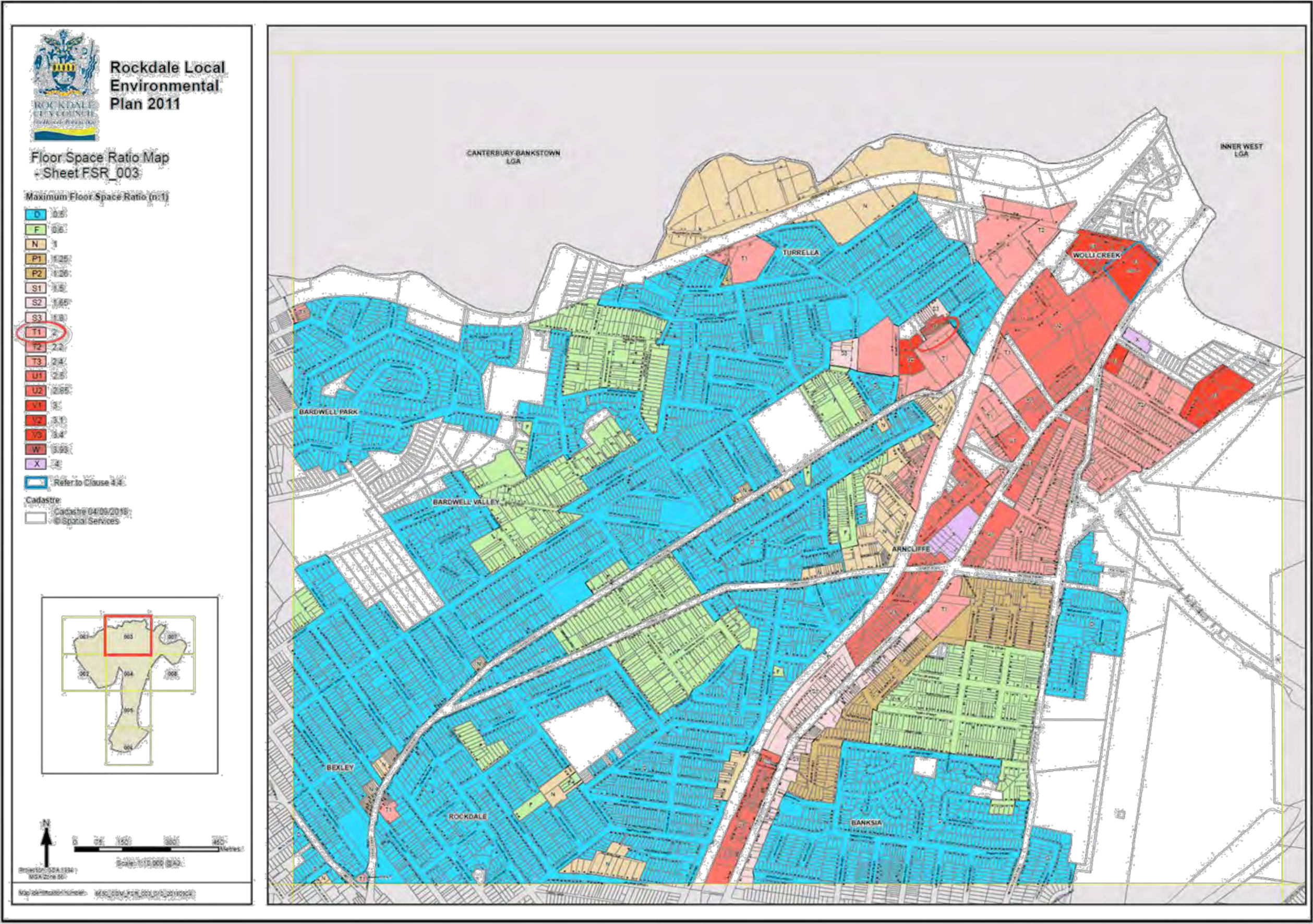




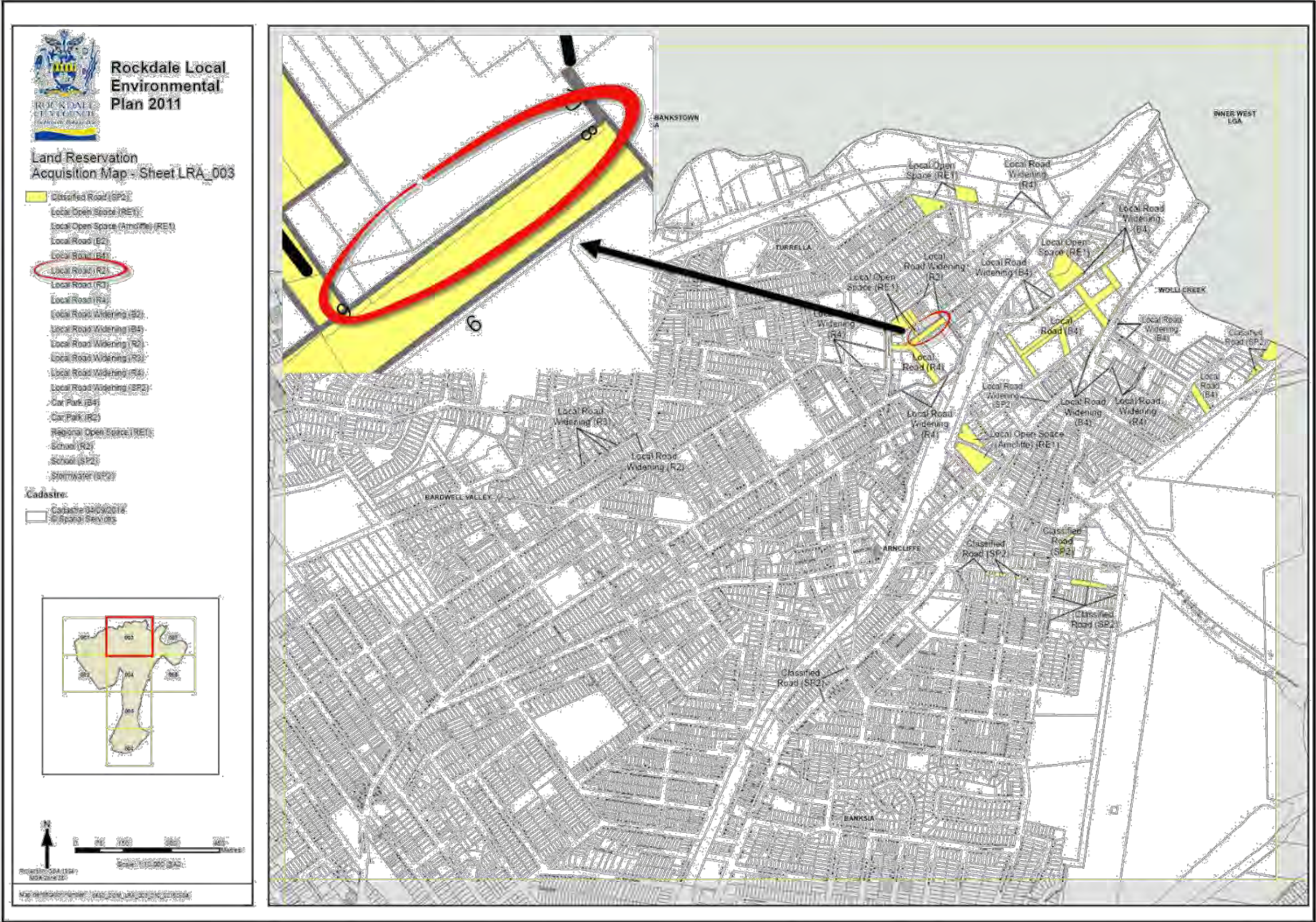
















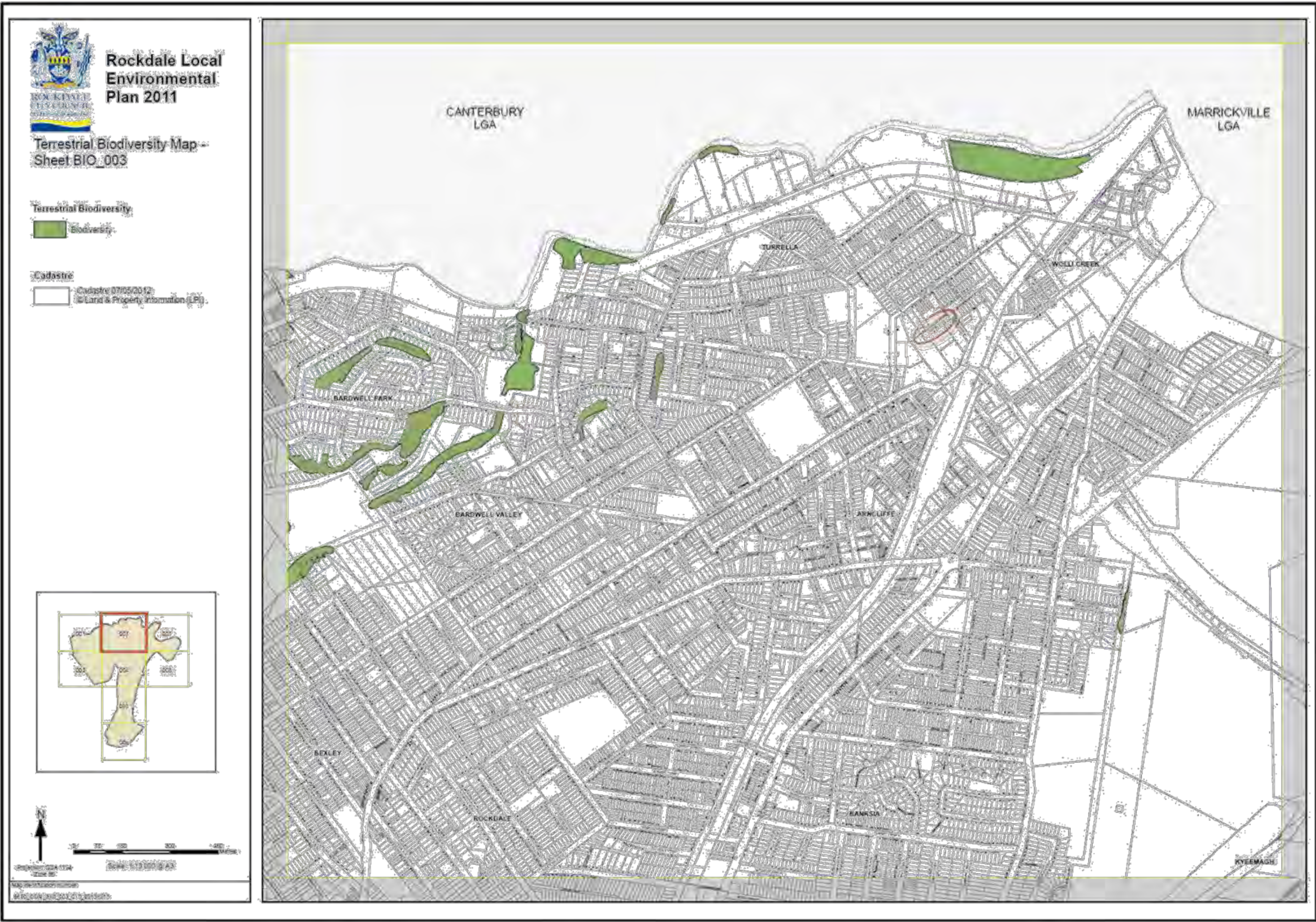




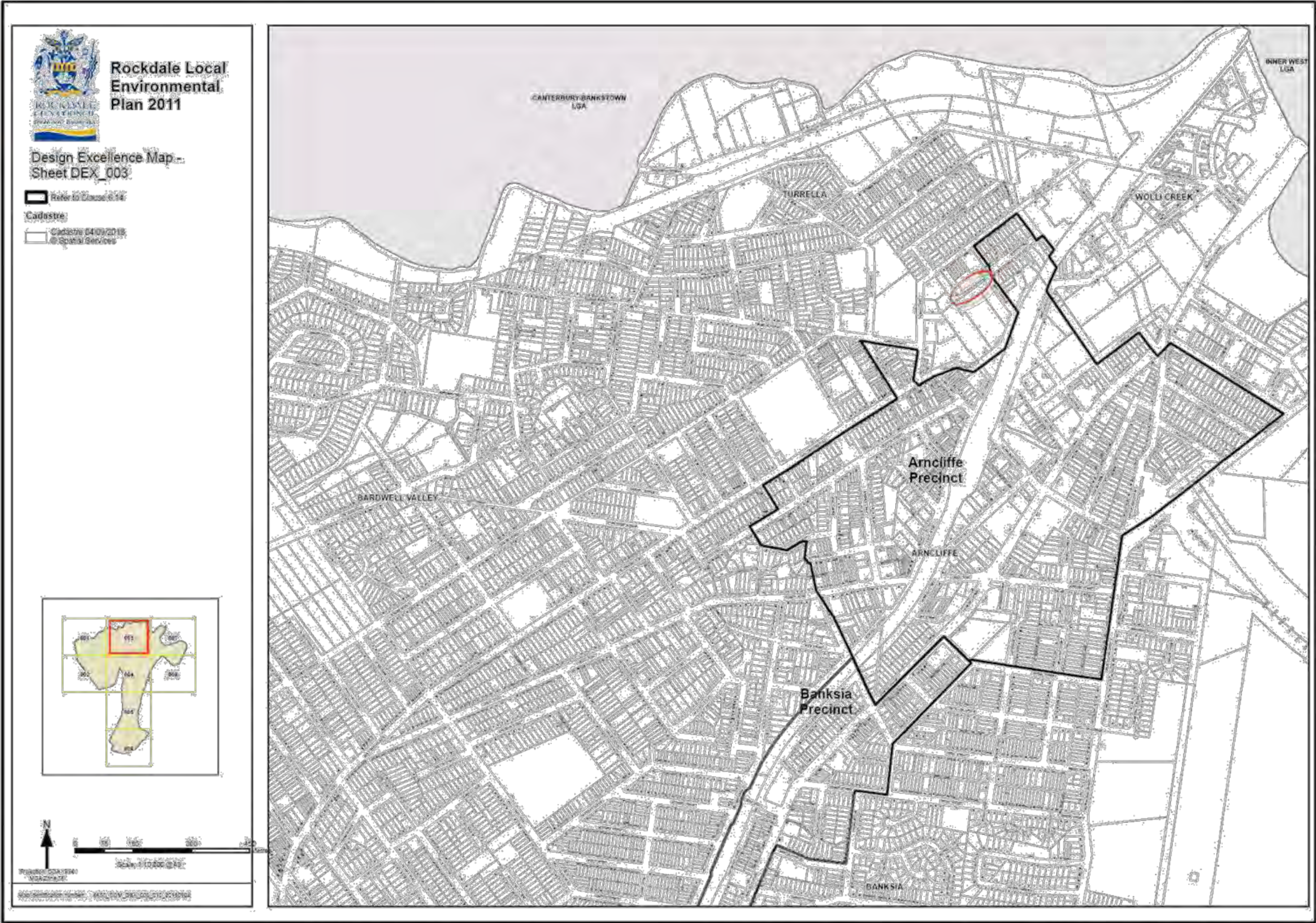




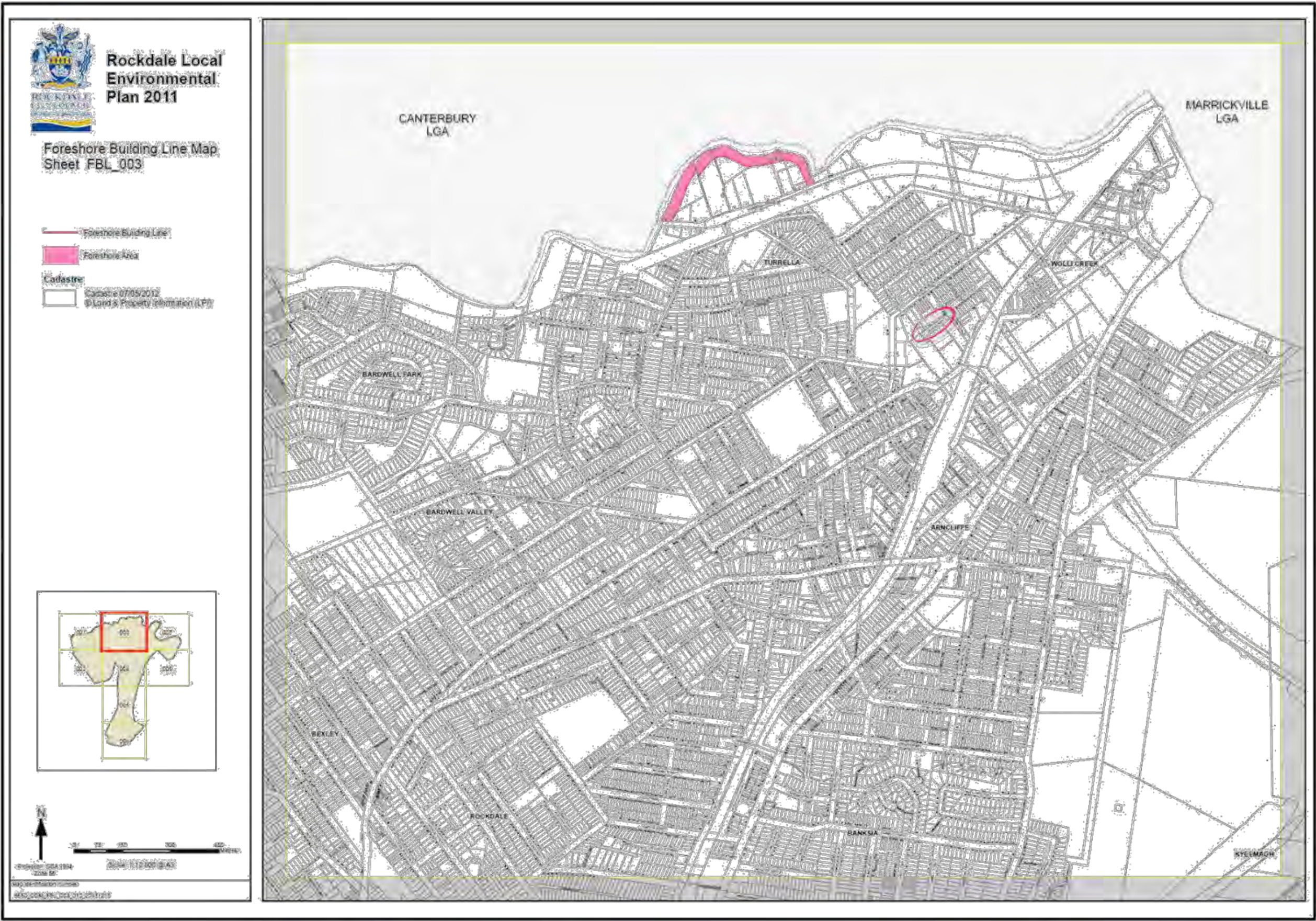




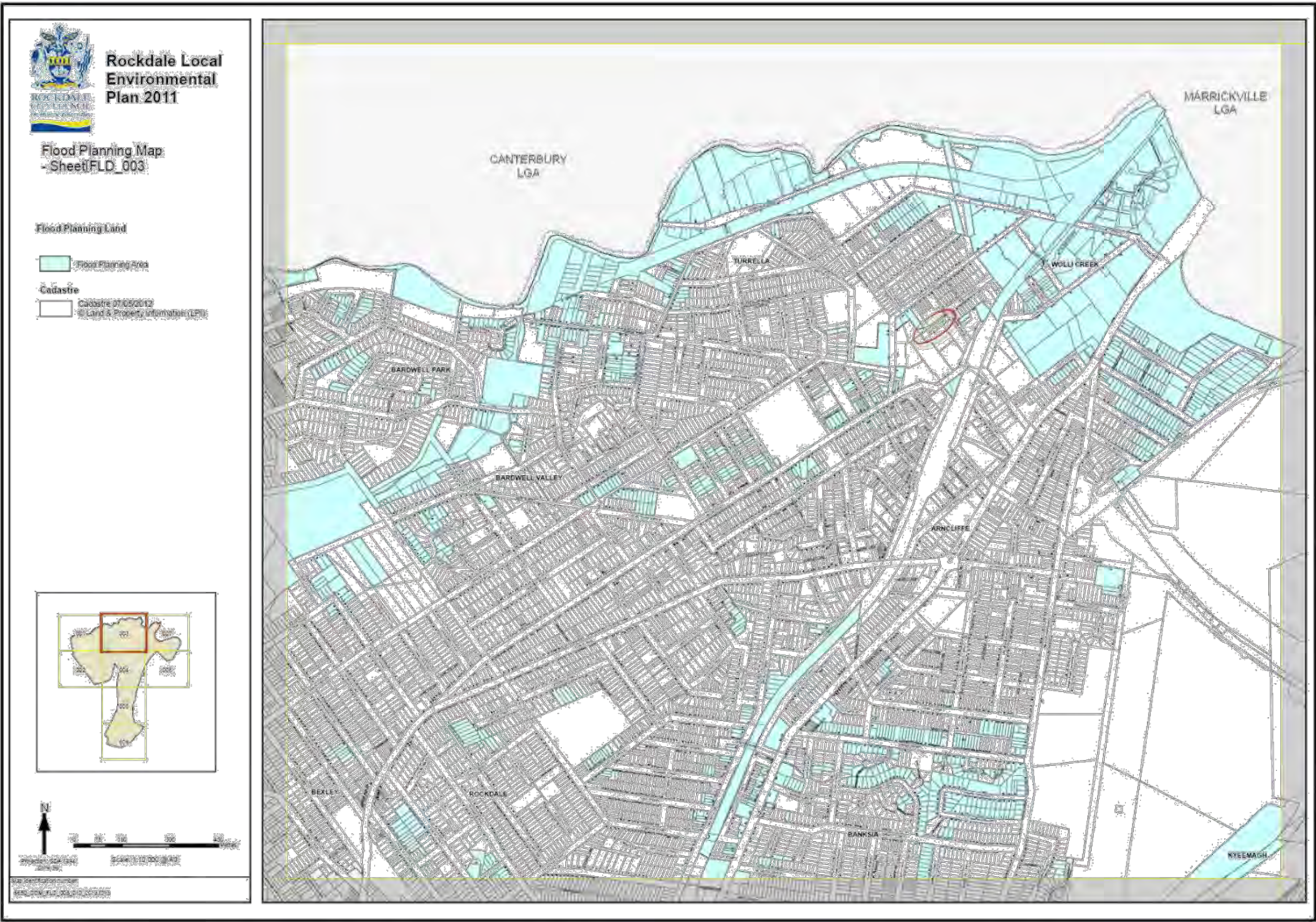




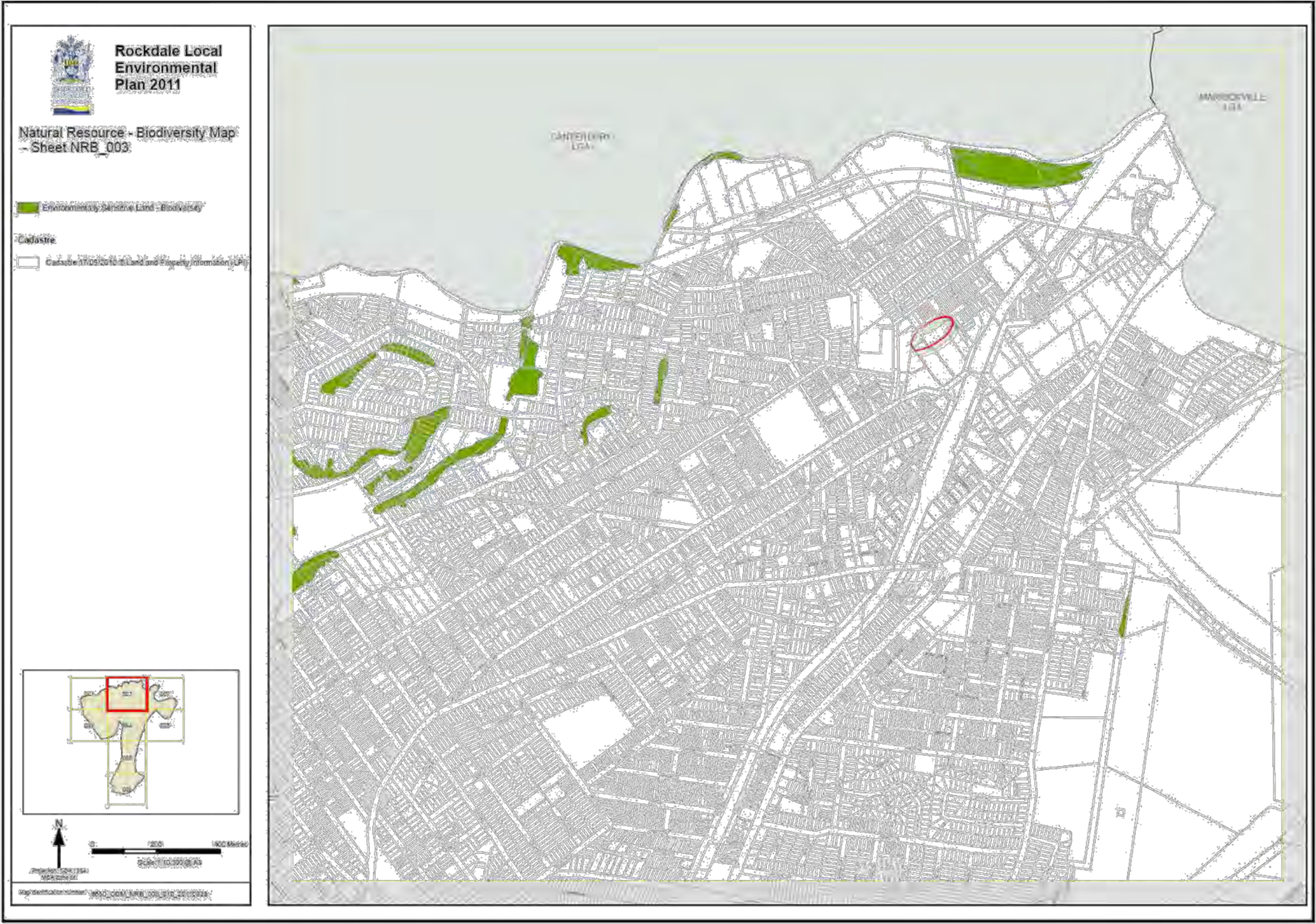




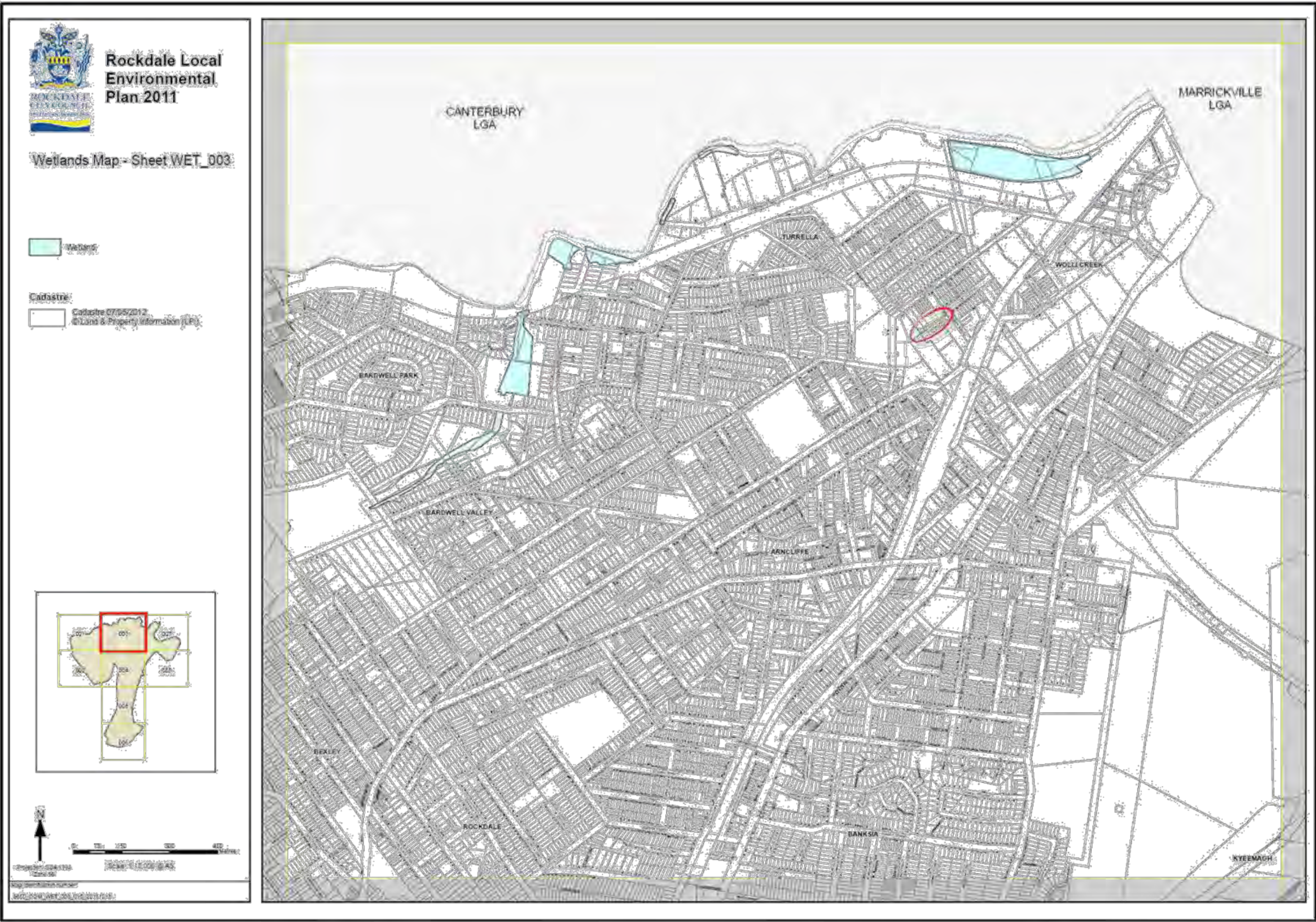














SJB Planning



**Planning Proposal for Reclassification  
of Council owned land**

**Lot 3 DP 1247416 Bidjigal Road,  
Arncliffe**

**Public Hearing Report  
July 2019**

Contact Details:

SJB Planning  
Level 2, 490 Crown Street  
Surry Hills NSW 2010  
Australia

T: 61 2 9380 9911  
[planning@sjb.com.au](mailto:planning@sjb.com.au)  
[www.sjb.com.au](http://www.sjb.com.au)

SJB Planning (NSW) Pty Ltd  
ABN 47 927 618 527  
ACN 112 509 501

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Table 1: List of representatives at public hearing held 11 July 2019

## List of Attachments

Attachment 1: Exhibited Planning Proposal  
Attachment 2: Written Submission

## Executive Summary

The Planning Proposal applies to Lot 3, DP 1247416 Bidjigal Road Arncliffe.

The site is irregular in shape with an area of 479.6m<sup>2</sup>. The land is vacant, but currently forms part of the construction site to the north-west.

The site is owned by Bayside Council and is classified as *community land* under the *Local Government Act (LG Act) 1993*. The land is identified on the Certificate of Title as a 'Public Reserve', as defined in the *LG Act*.

The purpose of the Planning Proposal is to reclassify the land to *operational land* under the *LG Act*. Reclassification of public land may be made by a Local Environmental Plan.

The Planning Proposal received a Gateway Determination to proceed from the NSW Department of Planning and Environment (DP&E) on 9 May 2019.

The Planning Proposal was publicly exhibited from 22 May 2019 to 19 June 2019. A copy of the exhibited material is included as Attachment 1 to this report.

One written submission in support was received by the Council and is included as Attachment 2.

The reclassification of the site from "community land" to "operational land" requires the holding of a Public Hearing, in accordance with the *Environmental Planning and Assessment Act (EP&A Act) 1979* and the *LG Act 1993*.

Notification of the Public Hearing occurred in the St George and Sutherland Shire Leader on Wednesday 19 June 2019 and on the Council's website.

Stuart McDonald, Director of SJB Planning, was appointed as an independent Chair to undertake the Public Hearing. This document comprises the report of the Public Hearing in accordance with Section 29 of the *LG Act 1993* and Section 57 of the *EP&A Act*.

The Scope of Work for preparing, conducting and reporting on the Public Hearing is as follows:

- *"Presiding as an Independent Chairperson at a Public Hearing (must satisfy s47G of the LG Act);*
- *Reviewing all written submissions received during the public exhibition period;*
- *Reviewing any submissions made during the Public Hearing;*
- *Considering, discussing and responding to issues raised by submission makers / speakers at the Public Hearing;*
- *Preparation of an Independent Chairperson's Public Hearing report that considers all submissions and any issues raised by speakers at the Public Hearing, suitable for inclusion in post-exhibition/Public Hearing reporting to the Bayside Local Planning Panel and Bayside Council."*

The Public hearing was conducted from 6:00pm – 7:00pm on 11 July 2019 in the Pindari Room at Rockdale Town Hall. One verbal submission in support of the Planning Proposal was made at the hearing.

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## 1.0 The Site

Details of the site, reproduced from the Planning Proposal documentation, is included below.





Figure 2: Aerial photograph

## 2.0 Background to Planning Proposal

The background information below is taken from the report to the Extraordinary Council Meeting on 27 March 2019.

*"On 4 February 2015, Rockdale Council resolved to support and exhibit a previous Planning Proposal prepared by the owner of the Martin Avenue Site, which sought additional height and floor space ratio. A Voluntary Planning Agreement (VPA) was prepared concurrently, which provided for the dedication/embellishment of the Bonar Street Park Stage 2 and Central Square (combined area of 2,020m<sup>2</sup>), and a monetary contribution towards the embellishment of the Bonar Street Park Stage 1.*

*The VPA included the transfer of the land that is the subject of this current Planning Proposal from the Council to the owner of the Martin Avenue Site. The transfer is critical to delivery of the Bonar Street Park Stage 2, as the land provides the only street frontage for the Martin Avenue Site. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan, as described in Part 7.2 Bonar Street Precinct of the Rockdale Development Control Plan 2011, and the Bonar Street Public Domain Plan.*

*Council resolved on 3 February 2016 to support a previous Planning Proposal and to enter into a Voluntary Planning Agreement (VPA) for land described herein as the "Martin Avenue Site".*

*On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council owned lots to align the physical boundary with the zoning boundary (complete), the registration of a no floor space ratio covenant on the title (prepared/pending) and the removal of the Public Reserve notation from the title.*

*Reclassification of the land, as described, is now required to enable removal of the Public Reserve notation from the land.*

*The intent of the current Planning Proposal is to reclassify the subject land from Community land to Operational in accordance with the relevant provisions of the NSW Local Government Act 1993, Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan, and the broader strategic planning framework.*

*The current Planning Proposal will enable Council to transfer the land in accordance with the deed of agreement and VPA.*

*On 19 March 2019, the Bayside Planning Panel considered the draft Planning Proposal and recommended to Council that it be forwarded to the Department of Planning and Environment for a Gateway determination."*

On 27 March 2019 the Council resolved as follows:

- "1. That, pursuant to section 3.34 of the Environmental Planning & Assessment Act 1979 (EP&A Act), the draft Planning Proposal for land known as Lot 3 DP1247416, Arncliffe be submitted to the Department of Planning & Environment (DPE) for a Gateway Determination.*
- 2. That, should a Gateway Determination be issued by DPE to permit exhibition of the Planning Proposal, a public hearing take place in accordance with the provisions of the NSW Local*

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*Government Act 1993 and the DPE's Practice Note PN 16-001 Classification and Reclassification of Public Land through a Local Environmental Plan.*

3. *That, should a Gateway Determination be issued by DPE to permit exhibition of the Planning Proposal, a post-exhibition report be provided to the Bayside Local Planning Panel and Council, outlining any submissions received during the exhibition period, including any submissions made at the public hearing."*

The Planning Proposal received a Gateway determination from the NSW Department of Planning and Environment (DP&E) to proceed on 9 May 2019.

The Planning Proposal was publicly exhibited from 22 May 2019 to 19 June 2019. The exhibition documents were available on the Council's website and at Council's Customer Service Centre, Rockdale Library, 444-446 Princes Highway, Rockdale and at Arncliffe Library, 11 Firth Street, Arncliffe.

One written submission in support was received by the Council, a copy of which is included as Attachment 2 to this report.

Notification of the Public Hearing occurred in the St George and Sutherland Shire Leader on Wednesday 19 June 2019 and on the Council's website.

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### 3.0 The Public Hearing

#### 3.1 Information Relied Upon

- Report to the Extraordinary Council Meeting 27 March 2019 – Draft Planning Proposal: Reclassification of Lot 3 DP1247416, Arncliffe;
- Council Resolution of 27 March 2019;
- Planning Proposal - Lot 3 DP 1247416 Reclassification from 'community land' to 'operational land';
- DP&E Gateway Determination 9 May 2019;
- Written submission to exhibition of the Planning Proposal;
- Verbal submission made to the public hearing;
- *NSW Department of Planning and Environment LEP Practice Note – Classification and reclassification of public land through a local environmental plan*, 5 October 2016; and
- *NSW Department of Local Government Practice Note No. 1 – Public Land Management*, 2000.

#### 3.2 Scope of Work for Preparing, Conducting and Reporting on the Public Hearing

The scope of work for preparing, conducting and reporting on the public hearing is as follows:

- *"Presiding as an Independent Chairperson at a Public Hearing (must satisfy s47G of the LG Act);*
- *Reviewing all written submissions received during the public exhibition period;*
- *Reviewing any submissions made during the Public Hearing;*
- *Considering, discussing and responding to issues raised by submission makers / speakers at the Public Hearing;*
- *Preparation of an Independent Chairperson's Public Hearing report that considers all submissions and any issues raised by speakers at the Public Hearing, suitable for inclusion in post-exhibition/Public Hearing reporting to the Bayside Local Planning Panel and Bayside Council."*

#### 3.3 Overview of the Proceedings

Under section 29 (public hearing into reclassification) of the *LG Act 1993*:

- (1) A council must arrange a public hearing under section 57 of the *EP&A Act* in respect of a Planning Proposal under Part 3 of that *EP&A Act* to reclassify community land as operational land, unless a public hearing has already been held in respect of the same matter as a result of a determination under Section 56 (2) (e) of that *EP&A Act*.
- (2) A council must, before making any resolution under Section 32, arrange a public hearing in respect of any proposal to reclassify land as operational land by such a resolution.

Council is required to hold a Public Hearing for the reclassification as a Public Hearing into this matter has not previously been held. The Public Hearing is required to be held before the Council makes any final decision regarding the land reclassification.

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The general administration of the Public Hearing was undertaken by Council officers. Notice was given in the St George and Sutherland Shire Leader on Wednesday 19 June 2019 and on the Council's website.

The public session of the Public Hearing was held between 6:00pm –7.00pm on 11 July 2019 in the Pindari Room in Rockdale Town Hall at the Woollahra Municipal Council Chambers. The Hearing was chaired by Stuart McDonald, a person independent of the Council as required under the *LG Act 1993*. The Chair's role was to ensure that every interested person had an opportunity to present their views and to document these views, as well as provide a report to the Council.

At the outset of each session of the Public Hearing the following comments and explanations were made by the Chair:

- Introduction and outline of the format of the hearing.
- Explanation of the role of the Chair – to listen to the issues, comments and concerns raised.
- The Chair is independent of Council and has no personal or professional interest in the outcome.
- Notes would be taken to assist the Chair to ensure an accurate representation of views expressed.
- An overview of the area under consideration for planning change and broadly what was being proposed.
- An explanation that, following the hearing, a further report by Council officers would be prepared for the Council's consideration at a Council Meeting, inclusive of the outcome of the hearing.

There was one speaker who made a verbal submission, being Michael Gheorghiu of Tudor Planning and Design on behalf of Martin Land Pty Ltd, the adjacent land owner.

The verbal submission was in support of the Planning Proposal and a request for a recommendation from the Chairperson to the Council that the matter proceed.

The following representatives of the Council and SJB Planning were present:

| Name            | Role/Position              | Company         |
|-----------------|----------------------------|-----------------|
| Stuart McDonald | Chair                      | SJB Planning    |
| Michael McCabe  | Director City Futures      | Bayside Council |
| Clare Harley    | Manager Strategic Planning | Bayside Council |
| Benjamin Heraud | Coordinator Property       | Bayside Council |
| Charlotte Lowe  | Senior Urban Planner       | Bayside Council |

Table 1: List of representatives at public hearing held 11 July 2019

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## 4.0 Summary and Discussion of Submissions

### 4.1 Overview

One written submission in support was received during the exhibition of the Planning Proposal. A copy is included as at Attachment 2.

One verbal submission in support was received at the Public Hearing.

As a result of receiving two brief submissions in support there is little for consideration. There were no issues of concern raised or that require further consideration as a part of the Public Hearing.

Following the public hearing the Planning Proposal is subject to the further consideration of the Council.



Attachment 1: Exhibited Planning Proposal

**Planning Proposal – Lot 3 DP 1247416  
Reclassification from ‘community land’ to  
‘operational land’**

**Rockdale Local Environmental Plan 2011  
[Amendment No. \_]**



10 May 2019



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

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## Attachments

**A** *NSW Department of Planning & Environment LEP Practice note (PN 16-001)*

**B** Deposited Plan (Lot 3 in DP 1247416)

**C** Certificate of title (Lot 3 in DP 1247416)

**D** Report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* and resolution from Rockdale Council Meeting of 7 November 2012

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| Table of revisions |   |
|--------------------|---|
| 5 March 2019       | Draft for Council review                                |
| 11 March 2019      | Draft for Council review                                |
| 12 March 2019      | Final for consideration by Bayside Local Planning Panel |
| 10 May 2019        | Address gateway determination dated 9 May 2019          |

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Definitions

NSW Department of Planning and Environment (DP&E) Practice Note PN09-003 *Classification and reclassification of public land through a local environmental plan* (see **Attachment A**) contains the following definitions for terms used in this Planning Proposal:

**Community land** – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.

**Classification** of public land occurs when it is first acquired by a council and classified as either community or operational.

**Interests in land** refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP,

'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

**Operational land** – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

**Public land** is defined in the LG Act as any land (including a public reserve) vested in, or under council control. Exceptions include a public road, land to which the Crown Lands Act 1989 applies, a common, land subject to the Trustees of Schools of Arts Enabling Act 1902 or a regional park under the National Parks and Wildlife Act 1974.

**Public reserve** is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

**Reclassification** of public land occurs when its classification is changed from community to operational, or from operational to community.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Preliminaries

This Planning Proposal explains the intended effect of, and justification, for a proposed amendment to *Rockdale Local Environmental Plan 2011 (Rockdale LEP 2011)*. It has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and *A Guide to Preparing Planning Proposals* (DP&E, December 2019). Consideration has also been given to the requirements of the *NSW Department of Planning & Environment LEP Practice note (PN 16-001)* relating to the Classification and reclassification of public land through a local environmental plan (see **Attachment A**).

## Site description

This Planning Proposal relates to Lot 3 in DP 1247416 (**the land**)<sup>1</sup>. The land has an irregular shape and an area of 479.6m<sup>2</sup>. It has an 84.175m frontage to the newly created Bidjigal Road and a narrow frontage of 5m to Martin Avenue (see deposited plan, **Attachment B**).

The land is vacant, forming part of the construction site to the north-west (the **Martin Avenue site**), as detailed below.

The land is owned by Bayside Council (**Council**) and is classified as Community land. As shown on the certificate of title (**Attachment C**), the land is a 'public reserve' as defined in the *Local Government Act 1993 (LG Act)*.

## Background

Section 45 of the LG Act prevents Council from selling, exchanging or otherwise disposing of community land. Accordingly, it is proposed to reclassify the land from Community land to Operational land in accordance with Section 27 of the LG Act which states that classification or reclassification of public land may be made by a local environmental plan.

Robinson Urban Planning Pty Ltd (**RUP**) has been engaged by Bayside Council to prepare a planning proposal to reclassify the land.

## Relationship to adjoining developing sites

### 9-11 Wollongong Road, Arncliffe

The land was previously part of the site to the south at 9-11 Wollongong Road, Arncliffe which is to the south<sup>2</sup> (see **Figure 1**).

Most of the site at 9-11 Wollongong Road is in Zone R4 – High density residential with the northern portion reserved for a local road with an open space connection (the **Central Square**) to the future Bonar Street Park.

On 5 August 2009, Council granted development consent (DA-2006/453) for a residential development at 9-11 Wollongong Road, with a new roadway (Bidjigal Road) to be dedicated and constructed by the developer (in stratum).

Bidjigal Road was required to implement the Bonar Street Precinct Structure Plan as now described in Part 7.2 of Rockdale Development Control Plan 2011 (**Rockdale DCP 2011**) and the *Wolli Creek and Bonar Street Precinct Public Domain Plan* (May 2011) (the **Bonar Street PDP**).

Construction of the residential development at 9-11 Wollongong Road and Bidjigal Road is now complete.

The land the subject of this Planning Proposal is a residual parcel from the dedication/construction of Bidjigal Road.

<sup>1</sup> The land was formerly Lot 2309 in DP 1159612 and Lot 2310 in DP 1159612.

<sup>2</sup> 9-11 Wollongong Road now holds the address of 6 Bidjigal Road, Arncliffe.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

Condition 68 of the consent for 9-11 Wollongong Road (DA-2006/453) relates to the land (referring to it as "the strip of land between the access road and adjoining properties the north-west"). It states:

*68. ....In accordance with the applicant's offer and in the public interest of promoting and coordinating the orderly and economic use and development of land within the Bonar Street Precinct, the strip of land located between the new access road and the adjoining properties to the north-west is to be dedicated to Council at no cost as a separate allotment for the purpose of allowing its future transfer at no cost and with no floor space ratio entitlements to the future developer of Development Site 7.*

In accordance with Condition 68:

- At its Meeting of 7 November 2012, the Council considered a report and established the following resolution to classify the land:
  - 1 That the report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* be received and noted.
  - 2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

{Copies of the report and Council resolution are attached (see **Attachment D**)};

- The land was dedicated to Council by the owner of 9-11 Wollongong Road by way of registration of deposited plan numbered 1159612;
- The certificate of title for land holds a notation on the second schedule, being 'the land within described is public reserve';
- On 4 February 2015, Council resolved to transfer the land to the owner of 10 Martin Avenue, 47 Bonar Street and 49 Bonar Street, Arncliffe (the **Martin Avenue Site**); and
- Upon transfer, the land is to be burdened by a positive covenant that provides that the land has no floor space ratio (**FSR**) entitlement (see **Attachment E**). The positive covenant may only be released or varied by Council.

More details follow on the Martin Avenue Site.

#### Martin Avenue Site

The Martin Avenue Site (10 Martin Avenue, 47 Bonar Street and 49 Bonar Street) is to the north-west of the land (see **Figure 1**).

On 4 February 2015, Council resolved to support and exhibit a planning proposal prepared by the owner of the Martin Avenue Site which sought additional height and FSR. A concurrent Voluntary Planning Agreement (**VPA**) was prepared which provided for the dedication/embellishment of the Bonar Street Park Stage 2 and Central Square (combined area of 2,020m<sup>2</sup>) and a monetary contribution towards the embellishment of the Bonar Street Park Stage 1. The VPA included the transfer of the land the subject of this Planning Proposal from the Council to the owner of the Martin Avenue Site. This transfer is critical to delivery of the Bonar Street Park Stage 2 as the land provides the only street frontage for the Martin Avenue Site. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan as now described in Part 7.2 Rockdale DCP 2011 and Bonar Street PDP.

On 3 June 2015, Council resolved to endorse and exhibit the Martin Avenue Site VPA, with the Planning Proposal that was endorsed by Council for exhibition on 4 February 2015.

On 24 July 2015, a delegate of the Minister for Planning Issued a Gateway Determination approving exhibition of the Martin Avenue Site planning proposal.

Following completion of the required community and public authority consultation, Council on 3 February 2016 resolved to adopt the Martin Avenue Site planning proposal and to enter into the VPA.



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council lots to align the physical boundary with the zoning boundary (complete), the registration of a no FSR covenant on the title (prepared/pending as detailed above) and the removal of the public reserve notation from the title.

Reclassification of the land, as described herein, is required to enable removal of the Public Reserve notation, in accordance with Section 30(1) of the LG Act.

The locations of the land, Bidjigal Road, 9-11 Wollongong Road and 47-49 Bonar Street and 10 Martin Avenue (the Martin Avenue Site) are shown by **Figures 1 and 2**. The location of the Bonar Street Community Park and Central Square as planned by the Bonar Street PDP are illustrated on **Figures 3 and 4**. **Figure 5** shows photographs of the land and its context.

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

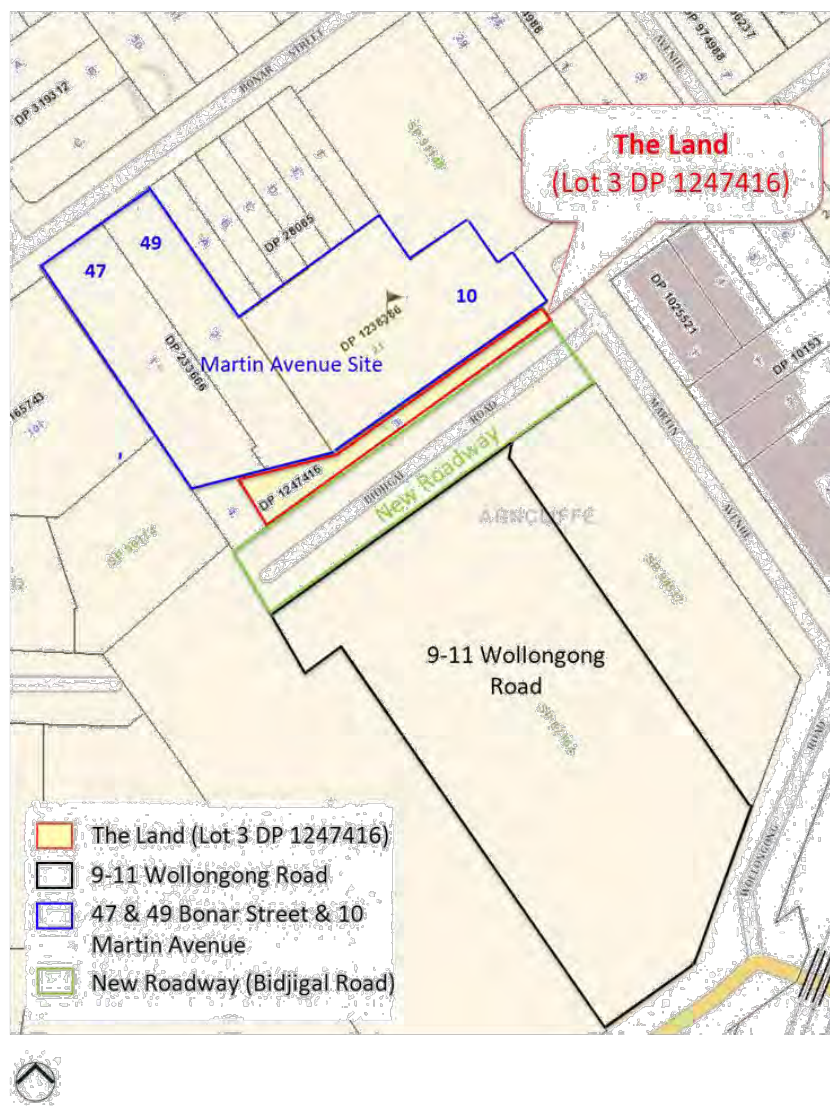


Figure 1 – Site location plan (Source: SixMaps)

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'



Figure 2 – Aerial photograph (Source: SixMaps)

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

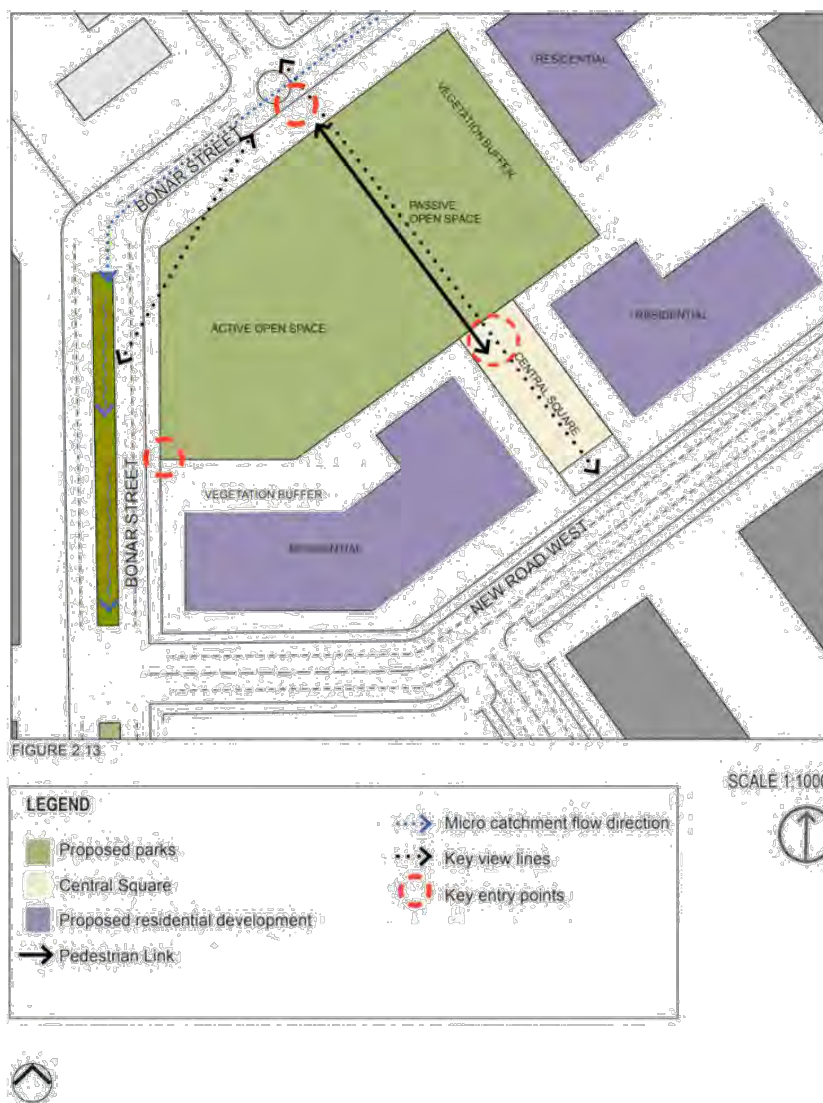


Figure 3 – Bonar Street Park (Source: Bonar Street PDP, Figure 2.13)



Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'



FIGURE 2.14

NOTE: Building footprints are indicative

SCALE 1:500

INDICATIVE CONCEPT PLAN



Figure 4 – Bonar Street Park (Source: Bonar Street PDP, Figure 2.14)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*



Bidjigal Road



Residential development on the Martin Avenue Site (under construction)



The land facing looking north-east from the footpath to Bidjigal Road



Completed residential development at 9-11 Wollongong Road



Bonar Street Park – Stage 1



View to Bonar Street Park – Stage 2 (under construction)

**Figure 5** – Photographs of the land and its context (28 February 2019)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Existing Planning Controls**

The existing zoning, controls and development standards contained within Rockdale LEP 2011 that apply to the land are listed below (see Rockdale LEP 2011 Maps showing the location of the land at **Attachment F**):

- Land zoning: Zone R4 – High Density Residential
- Minimum lot size: N/A
- Height of buildings: 31m
- Floor space ratio: 2:1
- Land reservation: Part of the land is reserved as a Local Road (R2)
- Acid Sulfate soils: Class 5
- Heritage: N/A
- Active Street frontages: N/A
- Terrestrial biodiversity: N/A
- Design excellence: N/A
- Foreshore building line: N/A
- Flood planning land: N/A
- Environmentally sensitive land: N/A
- Wetlands: N/A

There are no draft planning controls that apply to the land.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Part 1 - Objectives or Intended Outcomes**

The intended outcome of the Planning Proposal is to remove the Public Reserve notation from the title for the land via the making of a local environment plan to reclassify the land from Community land to Operational land (as the land is a residual lot from the Bidjigal Road roadway dedication/construction).

The Planning Proposal will allow Council to sell, exchange, or otherwise divest of or deal with the land.

Relevantly, reclassification to Operational land will enable the land to be transferred to the owner of the adjoining Martin Avenue Site (see **Figure 1**) to provide a street frontage for the high density residential development which is currently under construction. As noted above, the developer of the Martin Avenue Site has entered into a VPA to dedicate land for and embellish the Bonar Street Community Park Stage 2 and Central Square (2,020m<sup>2</sup>) and paid a monetary contribution towards the embellishment of Bonar Street Community Park Stage 1.



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Part 2 - Explanation of Provisions

This Planning Proposal seeks to amend to Rockdale LEP 2011, Schedule 4 - Classification and reclassification of public land by inserting the following at the end of Part 2 - Land classified, or reclassified, as operational land – interests changed of that Schedule:

### **Part 2 Land classified, or reclassified, as operational land—interests changed**

| <b>Under Column 1</b>      | <b>Under Columns 2</b> | <b>Under Column 3</b>                |
|----------------------------|------------------------|--------------------------------------|
| <b>Locality</b>            | <b>Description</b>     | <b>Any trusts etc not discharged</b> |
| 9 Bidjigal Road, Arncliffe | Lot 3 in DP 1247416    | NII                                  |

The reclassification proposed by the Planning Proposal will not result in the loss of open space.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### Part 3 – Justification

This part of the Planning Proposal describes and Justifies the amendment described in Part 2.

The following questions have been extracted from the document titled *A guide to preparing planning proposals*, by DP&E (December 2018). The questions address the need for the Planning Proposal, its strategic planning context, the environmental, social and economic impacts and the implications for State and Commonwealth government agencies.

#### A Need for the Planning Proposal

##### Q1 Is the Planning Proposal a result of any strategic study or report?

Yes.

The Planning Proposal is the result of the following Council resolution and development control plan/public domain plan:

- Council resolved at its Meeting of 7 November 2012 to classify the land Operational land (**Attachment D**); and
- Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see **Figures 3 and 4**) which illustrate an Indicative concept plan for the Bonar Street Park and Central Square.

##### Q2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes

The land holds a notation on its title that it is a Public Reserve. Section 31(1) of the LG Act provides that a local environmental plan that reclassifies Community land to Operational land may make provision to the effect that, on commencement of the plan, the land, if it is a public reserve, ceases to be a public reserve. Therefore, Council is not able to develop, sell, exchange, or dispose of the land under the provisions of the LG Act. Amending Rockdale LEP 2011 is the only means of achieving the objectives of the Planning Proposal. A Planning Proposal for the land is therefore considered appropriate.

#### B Relationship to strategic planning framework

##### Q3 Is the Planning Proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Yes.

The Planning Proposal is consistent with applicable regional and district plan as detailed below.

##### **NSW State Plan**

NSW 2021 is a 10-year plan based on strategies to rebuild the economy, return quality services, renovate infrastructure, strengthen local government and communities and restore accountability to government. The plan sets a number of goals, targets and actions to achieve the NSW 2021. Premier Berejiklian has identified 12 Premier's Priorities. The Planning Proposal is consistent with the *Delivering infrastructure* priority as the land is a residual lot from construction of the Bidjigal Road dedication/construction and its transfer was part of the VPA negotiated with the owner of the Martin Avenue Site which will deliver the Bonar Street Park Stage 2 and Central Square plus a monetary contribution towards embellishment of Bonar Street Park Stage 1.

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

***The Greater Sydney Region Plan - A Metropolis of Three Cities (March 2018)***

The GREATER SYDNEY REGION PLAN A Metropolis of Three Cities is a vision to create three, integrated and connected cities that will rebalance Greater Sydney; placing housing, jobs, infrastructure and services within easier reach of more residents, no matter where they live. The GREATER SYDNEY REGION PLAN sets ten directions for the three cities being Western Parkland City, Central River City and the Eastern Harbor City (which includes the Bayside Local Government Area (LGA)).

The following directions and objectives are particularly relevant to this Planning Proposal:

▪ ***Infrastructure and collaboration***

*Direction 1: A city supported by infrastructure*

*Objective 2: Infrastructure aligns with forecast growth – growth infrastructure compact*

*Objective 3: Infrastructure adapts to meet future needs*

Comment: Bidjigal Road and the Bonar Street Park/Central Square will service the needs of the growing population in the Bonar Street Precinct. They have been designed and constructed in accordance with the Bonar Street Precinct Structure Plan in Rockdale DCP 2011 and the Bonar Street PDP.

Given this, the new roadway/park aligns growth with the provision of local infrastructure. The land is residual to the Bidjigal roadway dedication/construction. The Planning Proposal will enable Council to transfer the land to the owner of the Martin Avenue Site, as detailed in the Preliminary sections of this Planning Proposal. This type of "asset recycling" is promoted by the GREATER SYDNEY REGION PLAN (p.37).

▪ ***Livability***

*Direction 5: A city of great places*

*Objective 12: Great places that bring people together*

Comment: The Planning Proposal would facilitate transfer of the land to the Martin Avenue Site, as detailed in the Preliminary sections of this Planning Proposal. The related construction/embellishment of Bidjigal Road and the Bonar Street Park/Central Square will improve the neighbourhood character and livability of the Bonar Street Precinct.

▪ ***Sustainability***

*Direction 8: A city in its landscape - Valuing green spaces and landscape*

*Objective 30: Urban tree canopy cover is increased*

*Objective 31: Public open space is accessible, protected and enhanced*

Comment: The Planning Proposal is part of the innovative arrangements put in place by Council to deliver the planned Bonar Street Park/Central Square (as described in the preliminary sections of this Planning Proposal) which is consistent with the following GREATER SYDNEY REGION PLAN A Metropolis of Three Cities statements which encourage innovative solutions to establish new open spaces (p. 166):

*Access to high quality open space is becoming increasingly important as higher housing densities, more compact housing and changing work environments develop. Where land for additional open space is difficult to provide, innovative solutions will be needed, as well as a strong focus on achieving the right quality and diversity of open space...*

*Urban renewal needs to begin with a plan to deliver new, improved and accessible open spaces that will meet the needs of the growing community, particularly where density increases. High density development (over 60 dwellings per hectare) should be located within 200 metres of quality open space, and all dwellings should be within 400 metres of open space.*

The Bonar Street Park/Central Square will also provide an opportunity for increased landscaping and tree cover in a high density residential precinct providing shade, which reduces ambient

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temperatures and mitigates the heat island effect consistent with the *GREATER SYDNEY REGION PLAN* (p. 164) which states that "Urban tree canopy along streets and in the public domain contributes to the Greater Sydney Green Grid and makes walking and cycling more appealing".

***Eastern City District Plan (March 2018)***

The Eastern City District covers the Bayside, Burwood, City of Canada Bay, City of Sydney, Inner West Randwick, Strathfield, Waverley and Woollahra LGAs. The Eastern City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision of Greater Sydney. It is a guide for implementing the *GREATER SYDNEY REGION PLAN, A Metropolis of Three Cities*, at a district level and is a bridge between regional and local planning.

Interestingly, the five year (2016-2021) housing target for Bayside LGA is set at 10,500 making it the highest target in the district.

The Planning Proposal is consistent with the following Eastern City District Planning Priorities:

- *Planning Priority E1: Planning for a city supported by infrastructure*

Comment: As noted above, the construction of Bidjigal Road and Bonar Street Park/Central Square aligns housing growth with the provision of local infrastructure.

- *Planning Priority E17: Increasing urban tree canopy cover and delivering Green Grid connections*

Comment: The District Plan notes that the Eastern City is one of the most urbanised districts in Greater Sydney, with some suburbs having high proportions of hard surface areas and correspondingly low levels of tree canopy cover. Transfer of the land to the Martin Avenue Site, giving it a street frontage, is key to delivery of the Bonar Street Park/Central Square which is to include canopy trees in an urban setting.

- *Planning Priority E18. Delivering high quality open space*

- Comment: Transfer of the land to the Martin Avenue Site, giving it a street frontage, is key to delivery of the Bonar Street Park/Central Square. The new open space will support healthy and active lifestyles. Consistent with the District Plan, it collocates high density development and open space, providing a place for people to relax, meet and socialise.

**Q4 Is the Planning Proposal consistent with Council's local strategy or other local strategic plan?**

Yes

**Table 1** below identifies how the Planning Proposal is consistent with the community outcomes set out in the Bayside Community Strategic Plan 2030.



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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

| <b>Theme One – Bayside will be a vibrant place</b>               | <b>How We Will Get There</b>   | <b>Consistency</b>  |
|--|--|---|
| <b>Strategic Direction –</b><br>Our places are people-focussed   | Local areas are activated with cafes, restaurants and cultural events  | N/A   |
|  | Places have their own village atmosphere and sense of identity   | The Planning Proposal will facilitate transfer of the land to the Martin Avenue Site, giving it a street frontage. This is key to delivery of the Bonar Street Park/Central Square. The new open space will support healthy and active lifestyles, providing a place for people to relax, meet and socialise. |
|  | My community and council work in partnership to deliver better local outcomes  |   |
|  | The public spaces I use are innovative and put people first  |   |
|  | There is an appropriate and community-owned response to threats  |   |
| <b>Strategic Direction –</b><br>Our places connect people        | Walking and cycling is easy in the City and is located in open space where possible  | See above   |
|  | We are one community with shared objectives and desires  |   |
|  | Our heritage and history is valued and respected   | N/A   |
| <b>Strategic Direction –</b><br>Our places are acceptable to all | Open space is accessible and provides a range of active and passive recreation opportunities to match our growing community        | See above.  |
|  | SMART Cities – making life better through smart use of technologies  | N/A   |
|  | Assets meet community expectations   | The land comprises residual land from the dedication/construction of Bidjigal Road. The innovative arrangements put in place by Council facilitate delivery of the planned Bonar Street Park/Central Square.  |
|  | Bayside provides safe and engaging spaces, places and interactions   |   |
|  | People who need to can access affordable housing   | N/A   |
|  | We welcome visitors and tourists to our City   | N/A   |
| <b>Strategic Direction –</b><br>My place will be special to me   | Local developments reflect innovative, good design and incorporate open space and consider vertical families                       | See above   |
|  | Bayside will be a 30 minute City – residents work locally or work off-site – no-one has to travel for more than 30 minutes to work | The newly created Bidjigal Road and open space link between Bidjigal Road and Bonar Street increases pedestrian and cyclist connectivity.   |
|  | Traffic and parking issues are a thing of the past   |   |

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

|  |  |  |
|--|--|--|
|  | Road, rates and rubbish are not forgotten  |  |
|  | Gateway sites are welcoming and attractive   |  |
| <b>Theme Two – In 2030 our people will be connected in a smart City</b>      | <b>How We Will Get There</b>   | <b>Consistency</b>   |
| <b>Strategic Direction –</b><br>We benefit from technology                   | Council engages with us and decision making is transparent and data driven                                     | The Planning Proposal will be notified/exhibited and available on Council's website.   |
|  | We can access information and services online and through social media   |  |
|  | We are a digital community   |  |
|  | Technological change has been harnessed and we are sharing the benefits  |  |
| <b>Strategic Direction –</b><br>We are unified and excited about our future  | Community leadership is developed and supported  | N/A  |
|  | We are all included and have a part to play in the City  | N/A  |
|  | The City is run by, with and for the people  | N/A  |
|  | We are proud of where we live  | Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square.   |
| <b>Strategic Direction –</b><br>The community is valued                      | Aboriginal culture and history is recognised and celebrated  | N/A  |
|  | We are a healthy community with access to active recreation and health education                               | N/A  |
|  | All segments of our community are catered for – children, families, young people and seniors                   | N/A  |
|  | Opportunities for passive and active activities are available to community members, including people with pets | Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square. The new park will provide an area for play with pets. |
|  | The value of pets in the community is recognised and they are welcomed across the city                         |  |
| <b>Strategic Direction –</b><br>We treat each other with dignity and respect | We can participate in cultural and arts events which reflect and involve the community                         | N/A  |
|  | Flexible care/support arrangements for seniors,  | N/A  |

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

|   |   |   |
|---|---|---|
|   | children and people with disabilities are available across the LGA  |   |
|   | Cultural diversity is reflected and celebrated in the City's activities                                     | N/A   |
|   | Our public buildings are important community hubs and are well maintained and accessible                    | N/A   |
| <b>Theme Three – In 2030 bayside will be green, leafy and sustainable</b>                   | <b>How We Will Get There</b>  | <b>Consistency</b>  |
| <b>Strategic Direction –</b><br>Our waste is well managed                                   | I can reduce my waste through recycling and community education   | N/A   |
|   | Illegal dumping is a thing of the past  | N/A   |
| <b>Strategic Direction –</b><br>We are prepared for climate change                          | We understand climate change and are prepared for the impacts   | Transfer of the land to the Martin Avenue Site (which is to be facilitated by the Planning Proposal) is key to delivery of the Bonar Street Park/Central Square. The new park provides an opportunity for increased landscaping and canopy trees. |
|   | Our City is prepared for/able to cope with severe weather events  |   |
|   | Our streetscapes are green and welcoming  |   |
| <b>Strategic Direction –</b><br>We increase our use of renewable energy                     | Our City promotes the use of renewable energy through community education                                   | N/A   |
|   | Our City models use of renewable energy and reports gains benefits to the community                         | N/A   |
| <b>Strategic Direction –</b><br>Waterways and green corridors are regenerated and preserved | Water is recycled and re-used   | N/A   |
|   | The community is involved in the preservation of our natural areas  | N/A   |
|   | We have an enhanced green grid/tree canopy  | See above   |
| <b>Theme Four – In 2030 we will be a prosperous community</b>                               | <b>How We Will Get There</b>  | <b>Consistency</b>  |
| <b>Strategic Direction –</b><br>Opportunities for economic development are recognised       | Major employers support/partner with local small business   | N/A   |
|   | We are an international hub for transport and logistics-related business                                    | N/A   |
|   | Industrial lands and employment lands are preserved – partnering with major employers to support local jobs | N/A   |
| <b>Strategic Direction –</b><br>Local housing, employment and                               | Bayside will be a 30 minute City – residents work local or work off-  | The newly created Bidjigal Road and open space link between Bidjigal  |

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**Table 1 – Consistency with the Bayside Community Strategic Plan 2030**

|   |   |  |
|---|---|--|
| business opportunities area generated                                 | site – no-one has to travel for more than 30 minutes to work                            | Road and Bonar Street increases pedestrian and cyclist connectivity. |
|   | Council is a major employer, supports local apprenticeships and cadetships              | N/A  |
|   | People who need to can access affordable housing  | N/A  |
| <b>Strategic Direction –</b><br>The transport system works            | We can easily travel around the LGA – traffic problems/gridlock are a thing of the past | See above  |
|   | We can easily travel to work by accessible, reliable public transport                   |  |
| <b>Strategic Direction –</b><br>We are prepared for a sharing economy | Innovative businesses are supported to locate in Bayside                                | N/A  |
|   | Local Plans and regulations have kept pace with the sharing economy                     | N/A  |



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**Q5 Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

Yes.

The consistency of the Planning Proposal with the State Environmental Planning Policies is provided in **Table 2** below (noting which Policies are not applicable or not relevant to the Planning Proposal).

**Table 3** below reviews the consistency of the Planning Proposal with the formerly named State Regional Environmental Plans, now identified as deemed SEPPs.

**Table 2 - Consistency with State Environmental Planning Policies**

| No. | Title   | Consistency with Planning Proposal  |
|-----|---|---|
| 1   | Development Standards   | (Repealed by RLEP 2011)   |
| 19  | Bushland in Urban Areas   | N/A   |
| 21  | Caravan Parks   | N/A   |
| 30  | Intensive Aquaculture   | N/A   |
| 32  | Urban Consolidation (Redevelopment of Urban Land)                 | Repealed  |
| 33  | Hazardous and Offensive Development                               | N/A   |
| 36  | Manufactured Home Estates   | N/A   |
| 44  | Koala Habitat Protection  | N/A   |
| 47  | Moore Park Showground   | N/A   |
| 50  | Canal Estate Development  | N/A   |
| 52  | Farm Dams and Other Works in Land and Water Management Plan Areas | N/A   |
| 55  | Remediation of Land   | Not relevant to Planning Proposal. The Planning Proposal does not change the zoning or development standards for the land. Any land contamination matters were addressed as part of the development assessment process. |
| 62  | Sustainable Aquaculture   | N/A   |
| 64  | Advertising and Signage   | N/A   |
| 65  | Design Quality of Residential Apartment Development               | Not relevant to Planning Proposal. SEPP 65 was addressed as part of the development assessment process.   |
| 70  | Affordable Housing (Revised Schemes)                              | N/A   |
|     | (Affordable Rental Housing) 2009                                  | N/A   |
|     | (Building Sustainability Index: BASIX) 2004                       | Not relevant to Planning Proposal. BASIX was addressed as part of the development assessment process.   |
|     | (Coastal Management) 2018   | N/A   |
|     | (Educational Establishments and Child Care Facilities) 2017       | N/A   |
|     | (Exempt and Complying Development Codes) 2008                     | N/A   |
|     | (Housing for Seniors or People with a Disability) 2004            | N/A   |
|     | (Infrastructure) 2007   | N/A   |
|     | (Kosciuszko National Park – Alpine Resorts) 2007                  | N/A   |
|     | (Kurnell Peninsula) 1989  | N/A   |
|     | (Mining, Petroleum Production and Extractive Industries) 2007     | N/A   |
|     | (Miscellaneous Consent Provisions) 2007                           | N/A   |
|     | (Penrith Lakes Scheme) 1989                                       | N/A   |
|     | (Rural Lands) 2008  | N/A   |
|     | (State and Regional Development) 2011                             | Not relevant to Planning Proposal.  |

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**Table 2 - Consistency with State Environmental Planning Policies**

|  |  |   |
|--|--|---|
|  | (State Significant Precincts) 2005     | N/A   |
|  | (Sydney Drinking Water Catchment) 2011 | N/A   |
|  | (Sydney Region Growth Centres) 2006    | N/A   |
|  | (Three Ports) 2013                     | N/A   |
|  | (Urban Renewal) 2010                   | N/A   |
|  | (Vegetation in Non-Rural Areas) 2017   | N/A   |
|  | (Western Sydney Employment Area) 2009  | N/A   |
|  | (Western Sydney Parklands) 2009        | N/A   |
|  | Draft Environment SEPP                 | Not relevant to Planning Proposal. May be relevant to future DAs. |
|  | Draft Remediation of Land SEPP         | See above response to SEPP 55                                     |

**Table 3 - Consistency with deemed State Environmental Planning Policies**

| No. | Title   | Consistency with Planning Proposal   |
|-----|---|--|
| 8   | (Central Coast Plateau Areas)   | N/A  |
| 9   | Extractive Industry (No.2 – 1995)   | N/A  |
| 16  | Walsh Bay   | N/A  |
| 20  | Hawkesbury-Nepean River (No.2 – 1997)   | N/A  |
| 24  | Homebush Bay Area   | N/A  |
| 26  | City West   | N/A  |
| 30  | St Marys  | N/A  |
| 33  | Cooks Cove  | N/A  |
|     | (Sydney Harbour Catchment) 2005   | N/A  |
|     | Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment | Not relevant to Planning Proposal. Drainage and stormwater issues arising from development were addressed as part of the development assessment process. |

**Q6 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?**

Yes

**Table 4** below assesses the consistency of the Planning Proposal with the Ministerial Directions for LEPs under section 9.1 (formerly section 117) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

**Table 4 - Consistency with applicable Ministerial Directions**

**1. Employment and Resources**

| No. | Title  | Consistency with Planning Proposal |
|-----|--|------------------------------------|
| 1.1 | Business and Industrial Zones                        | N/A                                |
| 1.2 | Rural Zones  | N/A                                |
| 1.3 | Mining, Petroleum Production & Extractive Industries | N/A                                |
| 1.4 | Oyster Aquaculture                                   | N/A                                |
| 1.5 | Rural Lands  | N/A                                |

**2. Environment and Heritage**

| No. | Title   | Consistency with Planning Proposal |
|-----|---|------------------------------------|
| 2.1 | Environmental Protection Zones  | N/A                                |
| 2.2 | Coastal Protection  | N/A                                |
| 2.3 | Heritage Conservation   | N/A                                |
| 2.4 | Recreation Vehicle Areas  | N/A                                |
| 2.5 | Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs | N/A                                |

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### 3. Housing, Infrastructure and Urban Development

| No. | Title  | Consistency with Planning Proposal  |
|-----|--|---|
| 3.1 | Residential Zones  | Consistent. The Planning Proposal does not alter the existing zoning of the land (Zone R4). |
| 3.2 | Caravan Parks and Manufactured Home Estates                    | N/A   |
| 3.3 | Home Occupations   | N/A   |
| 3.4 | Integrating Land Use and Transport                             | Consistent. The Planning Proposal does not alter the existing zoning of the land (Zone R4). |
| 3.5 | Development near Regulated Airports and Defence Airfields      | N/A   |
| 3.6 | Shooting Ranges  | N/A   |
| 3.7 | Reduction in non-hosted shore term rental accommodation period | N/A   |

### 4. Hazard and Risk

| No. | Title                             | Consistency with Planning Proposal   |
|-----|-----------------------------------|--|
| 4.1 | Acid Sulfate Soils                | Consistent. The land contains Class 5 Acid Sulfate Soils. The Planning Proposal does not change this classification. |
| 4.2 | Mine Subsidence and Unstable Land | N/A  |
| 4.3 | Flood Prone Land                  | N/A  |
| 4.4 | Planning for Bushfire Protection  | N/A  |

### 5. Regional Planning

| No.  | Title  | Consistency with Planning Proposal |
|------|--|------------------------------------|
| 5.1  | Implementation of Regional Strategies                                    | Revoked 17 October 2017            |
| 5.2  | Sydney Drinking Water Catchments   | N/A                                |
| 5.3  | Farmland of State and Regional Significance on the NSW Far North Coast   | N/A                                |
| 5.4  | Commercial and Retail Development along the Pacific Highway, North Coast | N/A                                |
| 5.5  | Development in the vicinity of Ellalong, Paxton and Millfield            | Revoked 18 June 2010               |
| 5.6  | Sydney to Canberra Corridor  | Revoked 10 July 2008               |
| 5.7  | Central Coast  | Revoked 10 July 2008               |
| 5.8  | Second Sydney Airport: Badgerys Creek                                    | N/A                                |
| 5.9  | North West Rail Link Corridor Strategy                                   | N/A                                |
| 5.10 | Implementation of Regional Plans   | N/A                                |
| 5.11 | Development of Aboriginal Land Council land                              | N/A                                |

### 6. Local Plan Making

| No. | Title                              | Consistency with Planning Proposal   |
|-----|------------------------------------|--|
| 6.1 | Approval and Referral Requirements | Consistent. The Planning Proposal does not include any concurrence, consultation or referral provisions.   |
| 6.2 | Reserving Land for Public Purposes | Consistent. The Planning Proposal does not alter any existing land reservations. A future planning proposal may be prepared to extinguish the now redundant road reservation applying to the land. |
| 6.3 | Site Specific Provisions           | Consistent. The Planning Proposal includes site specific provisions to facilitate reclassification of the land but no other site specific provisions.  |

### 7. Metropolitan Planning

| No. | Title                                       | Consistency with Planning Proposal   |
|-----|---|--|
| 7.1 | Implementation of A Plan for Growing Sydney | Consistent. The Planning Proposal is consistent with <i>The Greater Sydney Region Plan - A Metropolis of</i> |

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|      |   |   |
|------|---|---|
|      |   | Three Cities (see Q3 above).  |
| 7.2  | Implementation of Greater Macarthur Land Release Investigation  | N/A   |
| 7.3  | Parramatta Road Corridor Urban Transformation Strategy  | N/A   |
| 7.4  | Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan                 | N/A   |
| 7.5  | Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | N/A   |
| 7.6  | Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan             | N/A   |
| 7.7  | Implementation of Glenfield to Macarthur Urban Renewal Corridor   | N/A   |
| 7.8  | Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan             | N/A   |
| 7.9  | Implementation of Bayside West Precincts 2036 Plan  | Consistent. The land is within an area nominated for future investigation on Figure 2 of the Bayside West Precincts 2036. |
| 7.10 | Implementation of Planning Principles for the Cooks Cove Precinct   | N/A   |

### C Environmental, social and economic impact

#### Q7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No

The land does not contain any critical habitat or threatened species, populations or ecological communities or their habitats.

#### Q8 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

No

Rockdale LEP 2011 contains heritage, biodiversity, foreshore, flood, wetland and riparian lands overlays (see planning maps at **Attachment F**). The land is not identified as being subject to any environmental or other constraints and the Planning Proposal will not result in any additional environmental effects. Any relevant environmental issues were addressed during the development assessment process.

#### Q9 Has the Planning Proposal adequately addressed any social and economic effects?

Yes

Reclassification of the land will facilitate its transfer to the owner of the Martin Avenue Site, giving the Martin Avenue Site a street frontage. This is key to delivery of the Bonar Street Park/Central Square, implementing the Bonar Street Precinct Structure Plan as set out in Part 7.2 of Rockdale DCP 2011 and Bonar Street PDP. The public interest is best served by the orderly and economic use of land for permissible purposes in accordance with the adopted Structure Plan.

In relation to the economic impacts, the Planning Proposal is part of the innovative arrangements put in place by Council to deliver the planned Bonar Street Park/Central Square.



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**D State and Commonwealth interests**

**Q10 Is there adequate public infrastructure for the Planning Proposal?**

The land is in an existing high density residential area where utility services are available. Notwithstanding, the Planning Proposal proposes a reclassification of land only and is unlikely to increase demand for infrastructure.

**Q11 What are the views of State and Commonwealth public authorities consulted in accordance with**

Consultation with planning authorities/organisations under section 3.34(2)(d) of the EP&A Act is not required for this planning proposal.

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#### **Part 4 – Mapping**

In accordance with Part 12.11 Land Reclassification (Part Lots) (RPL) of the *Standard Technical Requirements for Spatial Datasets and Maps V1.0* published by the NSW DP&E, no map is required where an entire lot is being reclassified, which is the circumstance in this case.

A site location map and aerial photograph were provided at **Figures 1** and **2**.

Existing maps to Rockdale LEP 2011 are attached (**Attachment F**). No changes are proposed to the existing LEP maps.

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## **Part 5 - Community Consultation**

Community consultation on the Planning Proposal will be undertaken by Bayside Council in accordance with the publication *A Guide to Preparing Local Environmental Plans*, published by the NSW DP&E. Community consultation will not be commenced prior to obtaining approval from the Minister or Director-General.

Council's consultation methodology will include, but not be limited to, the following:

- Giving notice of the public exhibition in the main local newspaper (the Leader);
- Exhibiting the Planning Proposal in accordance with the gateway determination for at least 28 days;
- Exhibiting the Planning Proposal pursuant to Section 57 of the EP&A Act and all supporting documentation at Council's Administration Centre and on Council's website;
- Notifying the Planning Proposal's exhibition on Council's website, including providing copies of the Planning Proposal, all supporting studies and additional information and the gateway determination;
- Notifying affected landowners and adjoining land owners where relevant;
- Holding a Public Hearing under Section 29 of the LG Act (required for all planning proposal that reclassify public land from 'community' to 'operational'); and
- Any other consultation methods deemed appropriate for the Planning Proposal.

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## Reclassification of Public Land

### Secretary's requirements

Pursuant to Section 55(3) of the EP&A Act, the Director-General may issue requirements with respect to the preparation of a Planning Proposal. In this regard, the NSW DP&E 'A Guide to Preparing Local Environmental Plans' establishes the Director-General's requirements regarding matters that must be addressed in the justification of planning proposals for the reclassification of public land. These requirements are addressed below.

#### a) Is the planning proposal the result of a strategic study or report?

Yes.

As outlined in the Preliminaries to this Planning Proposal, the Planning Proposal is the result of the following Council resolution and development control plan/public domain plan:

- Council resolved at its Meeting of 7 November 2012 to classify the land Operational land (**Attachment D**); and
- Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see **Figures 3 and 4**) which illustrate an indicative concept plan for the Bonar Street Park and Central Square.

#### b) Is the planning proposal consistent with the local council's community plan, or other local strategic plan?

Yes.

As outlined at Q4, the Planning Proposal is consistent with the Bayside Community Strategic Plan 2030. It is also consistent with the Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP.

#### c) If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided

The certificate of title (see **Attachment C**) notes that the land is a 'public reserve'. The planning proposal would enable extinguishment of this interest to enable transfer of the land to the owner of the Martin Avenue Site. As explained in the Preliminary sections of this Planning Proposal, this transfer is critical to delivery of the Bonar Street Park Stage 2 as the land provides the only street frontage for the Martin Avenue Site.

#### d) The concurrence of the landowner, where the land is not owned by the relevant planning.

Bayside Council, the landowner, resolved on 7 November 2012 to classify the land as Operational land.

### Practice Note

**Table 5** considers the matters that must be addressed by planning proposals that classify or reclassify public land, as listed in the Attachment 1 - Checklist to the *Department of Planning & Environment LEP Practice note (PN 16-001)* (see **Attachment A**).



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**Table 5 – Department of Planning & Environment LEP Practice note (PN 16-001): CHECKLIST**

| Matters to be addressed   | Response   |
|---|--|
| <ul style="list-style-type: none"> <li>the current and proposed classification of the land;</li> </ul>  | Current classification: Community<br>Proposed classification: Operational  |
| <ul style="list-style-type: none"> <li>whether the land is a 'public reserve' (defined in the LG Act);</li> </ul>   | The land is a public reserve.  |
| <ul style="list-style-type: none"> <li>the strategic and site specific merits of the reclassification and evidence to support this;</li> </ul>  | The reclassification will enable the land to be transferred to the owner of the adjoining Martin Avenue Site to provide a street frontage for the high density residential development which is currently under construction. As noted above, the developer of the Martin Avenue Site has entered into a VPA to dedicate land for and embellish the Bonar Street Park Stage 2 and Central Square (2,020m <sup>2</sup> ) and paid a monetary contribution towards the embellishment of Bonar Street Park Stage 1. Provision of the Park and Central Square implements the Bonar Street Precinct Structure Plan as now described in Part 7.2 Rockdale DCP 2011 and Bonar Street PDP. |
| <ul style="list-style-type: none"> <li>whether the planning proposal is the result of a strategic study or report</li> </ul>  | The Planning Proposal is the result of the following Council resolution and development control plan/public domain plan: <ul style="list-style-type: none"> <li>Council resolved at its Meeting of 7 November 2012 to classify the land as Operational land (<b>Attachment D</b>); and</li> <li>Bonar Street Precinct Structure Plan now described in Rockdale DCP 2011 (Part 7.2) and Bonar Street PDP (see <b>Figures 3 and 4</b>) which illustrate an indicative concept plan for the Bonar Street Park and Central Square.</li> </ul>  |
| <ul style="list-style-type: none"> <li>whether the planning proposal is consistent with council's community plan or other local strategic plan</li> </ul>   | Yes, see <b>Table 1</b> above.   |
| <ul style="list-style-type: none"> <li>a summary of council's interests in the land, including:               <ul style="list-style-type: none"> <li>how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)</li> <li>if council does not own the land, the land owner's consent;</li> <li>the nature of any trusts, dedications etc;</li> </ul> </li> </ul> | The land was transferred to Council by the owner of 9-11 Wollongong Road on 13 August 2012. The land is a residual parcel from the dedication/construction of Bidjigal Road.<br><br>Council is the landowner.<br><br>There are no trusts or dedications.   |
| <ul style="list-style-type: none"> <li>whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;</li> </ul>   | The Public Reserve notation is to be discharged to enable transfer of the land to the owner of the Martin Avenue Site. There are no other interests in the land to be discharged.  |
| <ul style="list-style-type: none"> <li>the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will</li> </ul>   | The reclassification will not result in the loss of public open space. Reclassification of the land enables its transfer to the Martin Avenue Site, giving that site a street frontage which is  |

Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'

**Table 5** – Department of Planning & Environment LEP Practice note (PN 16-001): CHECKLIST

|  |   |
|--|---|
| be discharged);  | key to delivery of the Bonar Street Park/Central Square.  |
| ▪ evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);   | A copy of the certificate of title is attached ( <b>Attachment C</b> ) confirming the public reserve notation on the title.   |
| ▪ current use(s) of the land, and whether uses are authorised or unauthorised;   | The land forms part of the construction site for the Martin Avenue Site where an approved high density housing development is under construction.   |
| ▪ current or proposed lease or agreements applying to the land, together with their duration, terms and controls;  | On 20 June 2016, Council and the owner of the Martin Avenue Site entered into a deed of agreement to transfer the land. The deed contained conditions to be fulfilled prior to transfer including subdivision of the Council lots to align the physical boundary with the zoning boundary (complete), the registration of a no FSR covenant on the title (prepared/pending) and the removal of the Public Reserve notation from the title. Reclassification of the land, as described herein, is required to enable removal of the Public Reserve notation. |
| ▪ current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time); | As detailed in the Preliminaries, the Council has entered into a VPA with the owner of the Martin Avenue Site to transfer the land the owner of the Martin Avenue Site. The transfer would occur after reclassification of the land.  |
| ▪ any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);   | N/A<br>There is no rezoning associated with the reclassification.   |
| ▪ how council may or will benefit financially, and how these funds will be used;   | There is no direct financial benefit for Council, but transfer of the land to the owner of the Martin Avenue Site is key to delivery of the Bonar Street Park/Central Square.   |
| ▪ how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;  | See above.  |
| ▪ a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and   | N/A<br>The reclassification applies to the whole lot, therefore a Land Reclassification (part lots) Map is not required.  |
| ▪ preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.   | N/A<br>The land was not dedicated to Council by a government agency.  |

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## Part 6 – Project Timeline

**Table 6** provides a proposed timeframe for the Planning Proposal.

**Table 6** – Approximate Project Timeline

| Task  | Timing   |
|---|--|
| Consideration of the Planning Proposal by the Bayside Local Planning Panel                                  | 19 March 2019  |
| Consideration of the Planning Proposal by Council   | 27 March 2019  |
| Anticipated commencement date (date of Gateway determination)   | 3 May 2019   |
| Anticipated timeframe for the completion of required technical information                                  | 3 May 2019   |
| Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination) | N/A  |
| Commencement and completion dates for public exhibition period  | 15 May to 14 June 2019   |
| Dates for public hearing  | 9 July 2019<br>(Factored in 21 days public notice after the exhibition period has ended) |
| Timeframe for consideration of submissions  | 16 July 2019   |
| Timeframe for the consideration of a Planning Proposal post-exhibition                                      | 23 July 2019 (BLPP)<br>14 August 2019 (Council)  |
| Date of submission to the Department to finalise the LEP  | 16 August 2019   |
| Anticipated date Planning Proposal Authority (PPA) will make the plan (if delegated)                        | 6 September 2019   |
| Anticipated date RPA will forward to the Department for notification  | 6 September 2019   |

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

**Attachment A**

*Department of Planning & Environment LEP Practice note (PN 16-001)*





## LEP practice note

### LOCAL PLANNING

|                |                      |
|----------------|----------------------|
| <b>Ref No.</b> | PN 16-001            |
| <b>Issued</b>  | 5 October 2016       |
| <b>Related</b> | Supersedes PN 09-003 |

## Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update guidance on classifying and reclassifying public land through a local environmental plan (LEP). This practice note emphasises the need for councils to demonstrate strategic and site specific merit, includes a comprehensive information checklist and clarifies issues arising for public reserves and interests in land. It should be read in conjunction with *A guide to preparing local environmental plans* and *A guide to preparing planning proposals*.

### Classification of public land

Public land is managed under the *Local Government Act 1993* (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26).

- **Community land** – is land council makes available for use by the general public, for example, parks, reserves or sports grounds.
- **Operational land** – is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

#### What is public land?

*Public land* is defined in the LG Act as any land (including a *public reserve*) vested in, or under council control. Exceptions include a public road, land to which the *Crown Lands Act 1989* applies, a common, land subject to the *Trustees of Schools of Arts Enabling Act 1902* or a regional park under the *National Parks and Wildlife Act 1974*.

### Why classify public land?

The purpose of classification is to identify clearly that land made available for use by the general public (community) and that land which need not (operational). How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. It also provides for transparency in council's strategic asset management or disposal of public land.

Community land must not be sold, exchanged or otherwise disposed of by a council. It can be leased,

but there are restrictions on the grant of leases and licences, and also on the way community land can be used. A plan of management (PoM), adopted by council, is required for all community land, and details the specific uses and management of the land.

There are no special restrictions on council powers to manage, develop, dispose, or change the nature and use of operational land.

#### How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- council resolution under ss.31, 32, or 33 (through LG Act s.27(2)), or
- an LEP under the *Environmental Planning and Assessment Act* (through LG Act s.27(1)).

Councils are encouraged to classify or reclassify land by council resolution where suitable.

**Classification** of public land occurs when it is first acquired by a council and classified as either community or operational.

**Reclassification** of public land occurs when its classification is changed from community to operational, or from operational to community.

### Reclassification through an LEP

Classification and reclassification of public land through an LEP is subject to both the local plan-making process in the EP&A Act and the public land management requirements of the LG Act.

A planning proposal to classify or reclassify public land, will need to be prepared in accordance with this practice note and the additional matters specified in Attachment 1 to this practice note.

Reclassification through an LEP is the mechanism by which council can remove any public reserve status applying to land, as well as any interests affecting all or part of public land (LG Act s.30).

It is critical that all interests are identified upfront as part of any planning proposal. If public land is reclassified from community to operational, without relevant interests being identified and discharged, then the land will need to be reclassified back to community (usually by council resolution under LG Act s.33<sup>1</sup>) before being reclassified in a new planning proposal to operational, to explicitly discharge any interests.

While a reclassification proposal to remove the public reserve status of land and/or discharge interests may not necessarily result in the immediate sale or disposal of the land, the community should be aware the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational.

Councils should obtain their own advice when proposing to discharge any interests and be aware that this may attract a claim for compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Where land has been dedicated to council by a State agency for a particular purpose and a trust exists, it is advisable for council to seek the views of that agency prior to council commencing any planning proposal affecting the land.

**Public reserve** is defined in the LG Act and includes a public park and land declared or dedicated as a public reserve.

Land can be dedicated as a public reserve by either:

- registering a deposited plan with a statement creating a lot(s) as 'public reserve', or
- publishing a notification in the Government Gazette for an existing parcel.

**Interests in land** refers to property ownership as well as rights and privileges affecting land, such as leasehold, easements, covenants and mortgages.

For the purpose of reclassification through an LEP, 'interests' means trusts, estates, dedications, conditions, restrictions and covenants affecting the land.

A legal owner of land may not be the only person with an interest in the land. For example, one person may have the benefit of an easement for services, such as water, electricity or sewerage over someone else's land.

Certain interests are registered on title to ensure they are on record and cannot be disregarded if sold to a new owner. An electronic title search is generally conducted to determine the land owner, correct land description and the type of interests which may affect the land.

### Standard Instrument LEP requirements

Clause 5.2—Classification and reclassification of public land in Standard Instrument LEPs enables councils to classify or reclassify public land as operational land or community land in accordance with the LG Act. The land to be reclassified or classified is described in Schedule 4 of the LEP.

Schedule 4 is not to refer to any land already classified or reclassified.

Where there is no public land to be classified, or reclassified, through a principal LEP (i.e. the LEP applies to the whole of a local government area), Schedule 4 will appear blank.

Note: At a later stage council may lodge a planning proposal to remove previous listings in Schedule 4. This will not affect the classification status of these parcels of land.

### Department assessment

A proposal to classify or reclassify public land through an LEP must have planning merit. The Department will undertake an assessment to determine whether the proposal demonstrates strategic and site specific merit.

### Community consultation

Planning proposals to reclassify public land are to be publicly exhibited for at least 28 days.

A copy of this practice note is to be included in the public exhibition materials.

<sup>1</sup> Note: Council is required to give public notice of the proposed resolution and provide a period of at least 28 days during which submissions may be made (LG Act s.34).

### Public hearings

Councils must hold a public hearing when reclassifying public land from community to operational (EP&A Act s.57 & LG Act s.29). This gives the community an opportunity to expand on written submissions and discuss issues with an independent person in a public forum.

After the exhibition period has ended, at least 21 days public notice is to be given before the hearing. This allows the person chairing the hearing sufficient time to consider written submissions and all issues raised.

There are specific requirements for the independence of the person chairing the hearing, their preparation of a public hearing report and council making the report publicly available (LG Act s.47G).

### Governor's approval

The Governor's approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharge any interests affecting public land (s.30).

When a council reports back to the Department on the community consultation undertaken and requests the Department make the LEP, the Department will arrange legal drafting of the LEP, including recommending the Governor approve the provisions before the LEP can be legally made.

Where the Governor's approval is required, the council's report accompanying the final planning proposal must address:

- council's interests in the land;
- whether the land is a 'public reserve';
- the effect of the reclassification, including loss of open space, any discharge of interests, and/or removal of public reserve status;
- the strategic and site specific merits of the reclassification and evidence to support this;
- any current use of the land, and whether uses are authorised or unauthorised;
- how funds obtained from any future sale of the land will be used;
- the dates the planning proposal was publicly exhibited and when the public hearing was held;
- issues raised in any relevant submissions made by public authorities and the community;
- an explanation of how written and verbal submissions were addressed or resolved; and
- the public hearing report and council resolution.

### Authorisation of delegation

Local plan making functions are now largely delegated to councils.

A Written Authorisation to Exercise Delegation is issued to a council as part of the Gateway determination. However, where an LEP requires the Governor's approval, this council delegation cannot be issued. In this instance, the council must request the Department make the LEP.

A decision to classify or reclassify public land cannot be sub-delegated by council to the general manager or any other person or body (LG Act s.377(1)(l)).

### Background

On July 1, 1993 when the LG Act commenced, the following land under council ownership or control, was automatically classified as *community* land:

- land comprising a public reserve,
- land subject to a trust for a public purpose,
- land dedicated as a condition of consent under s.94 of the EP&A Act,
- land reserved, zoned or otherwise designated for use under an environmental planning instrument as open space,
- land controlled by council and vested in Corporation Sole - Minister administering the EP&A Act.

Councils must keep a register of land under their ownership or control (LG Act s.53) and anybody can apply to a council to obtain a certificate of classification (LG Act s.54).

### Further information

A copy of this practice note, *A guide to preparing planning proposals* and *A guide to preparing local environmental plans* is available at:  
<http://www.planning.nsw.gov.au>

For further information, please contact the Department of Planning and Environment's Information Centre by one of the following:

Post: GPO Box 39, Sydney NSW 2001.

Tel: 1300 305 695

Email: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

**Authorised by:**  
**Carolyn McNally**  
**Secretary**

Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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## ATTACHMENT 1 – INFORMATION CHECKLIST FOR PROPOSALS TO CLASSIFY OR RECLASSIFY PUBLIC LAND THROUGH AN LEP

The process for plan-making under the EP&A Act is detailed in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*.

Importantly, *A guide to preparing local environmental plans* contains the Secretary's requirements for matters that must be addressed in the justification of all planning proposals to reclassify public land. Councils must ensure the Secretary's requirements are addressed.

Councils must also comply with any obligations under the LG Act when classifying or reclassifying public land. More information on this can be found in *Practice Note No. 1 - Public Land Management* (Department of Local Government, 2000).

All planning proposals classifying or reclassifying public land must address the following matters for Gateway consideration. These are in addition to the requirements for all planning proposals under section 55(a) – (e) of the EP&A Act (and further explained in *A guide to preparing planning proposals* and *A guide to preparing local environmental plans*).

- ☐ the current and proposed classification of the land;
- ☐ whether the land is a 'public reserve' (defined in the LG Act);
- ☐ the strategic and site specific merits of the reclassification and evidence to support this;
- ☐ whether the planning proposal is the result of a strategic study or report;
- ☐ whether the planning proposal is consistent with council's community plan or other local strategic plan;
- ☐ a summary of council's interests in the land, including:
  - how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)
  - if council does not own the land, the land owner's consent;
  - the nature of any trusts, dedications etc;
- ☐ whether an interest in land is proposed to be discharged, and if so, an explanation of the reasons why;
- ☐ the effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged);
- ☐ evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents);
- ☐ current use(s) of the land, and whether uses are authorised or unauthorised;
- ☐ current or proposed lease or agreements applying to the land, together with their duration, terms and controls;
- ☐ current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time);
- ☐ any rezoning associated with the reclassification (if yes, need to demonstrate consistency with an endorsed Plan of Management or strategy);
- ☐ how council may or will benefit financially, and how these funds will be used;
- ☐ how council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal;
- ☐ a Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot; and
- ☐ preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable.



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment B**

Deposited Plan (Lot 3 in DP 1247416)



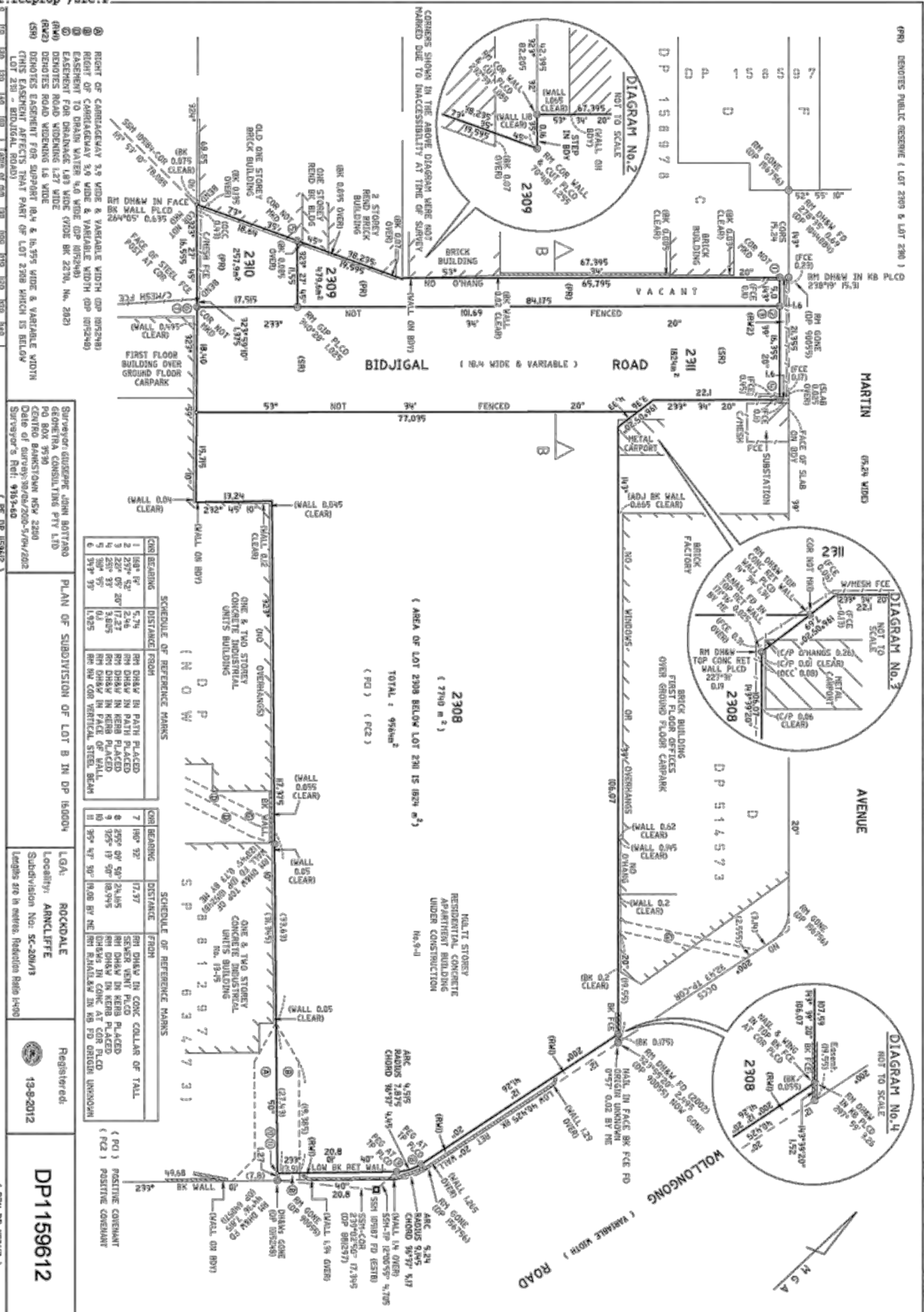
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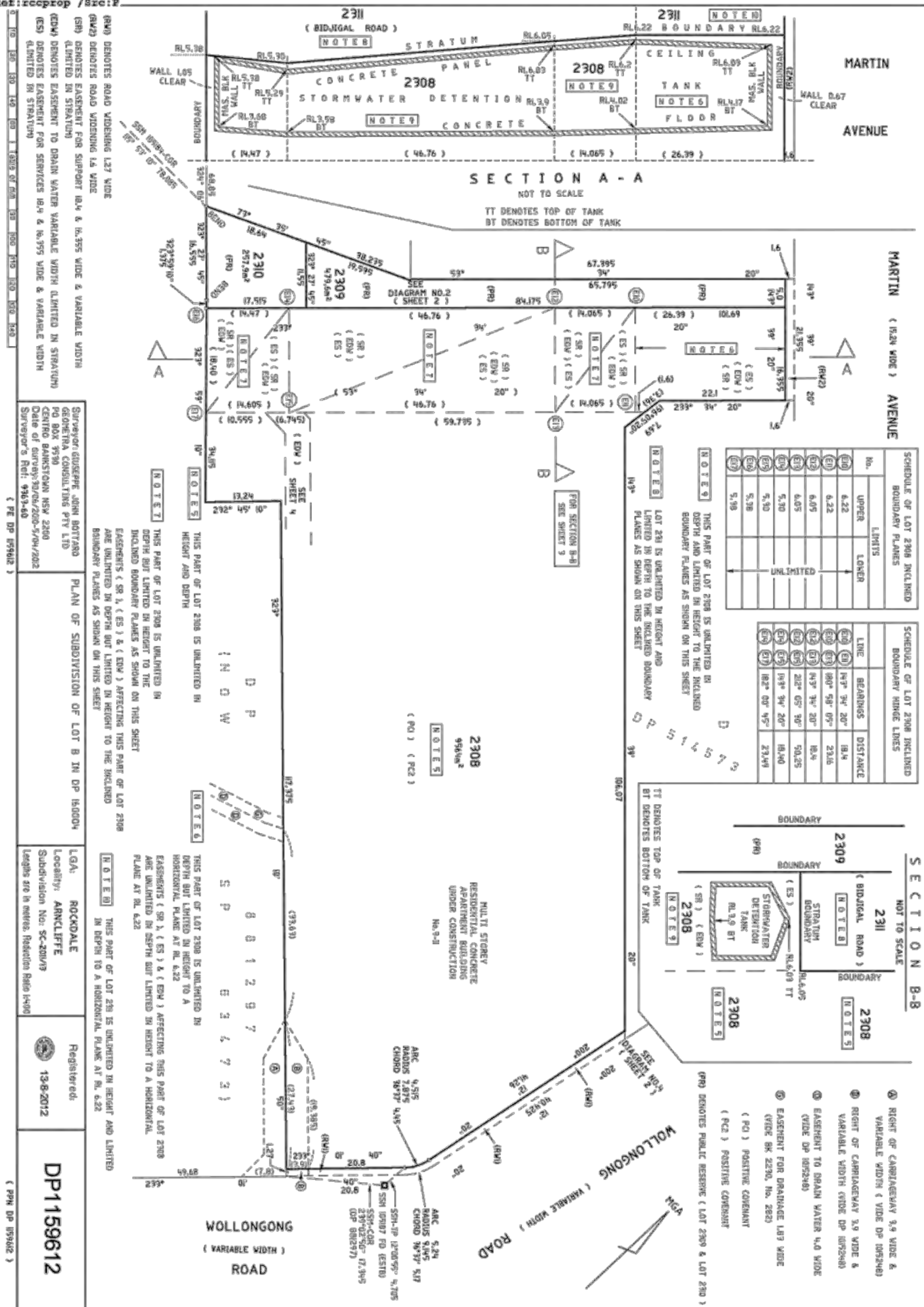
PLAN FORM 2 (A2)

DP1159612

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

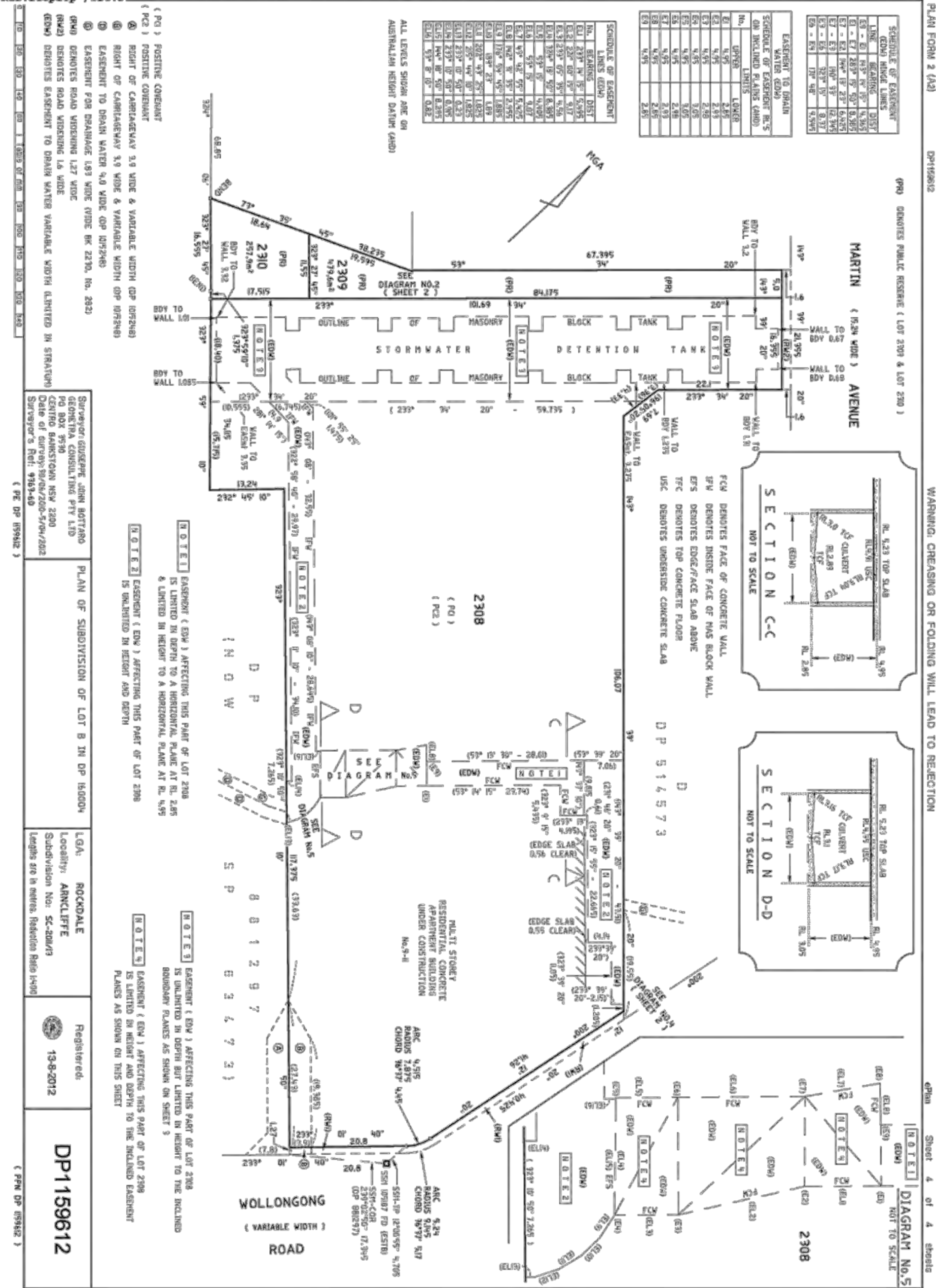
Plan Sheet 2 of 4 sheets







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Ref:rcoprop /Src:P






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 Ref:rcoprop /Src:P DP1159612

PLAN FORM 6

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ePlan


| DEPOSITED PLAN ADMINISTRATION SHEET  |  | Sheet 1 of 3 sheet(s) |
|--|--|-----------------------|
| SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads, public reserves and drainage reserves or create easements, restrictions on the use of land and positive covenants<br><br>SEE SHEET TWO   | Office Use Only  |                       |
|  | <b>DP1159612</b>   |                       |
|  | Office Use Only  |                       |
|  | Registered:  13-8-2012<br>Title System: TORRENS<br>Purpose: SUBDIVISION |                       |
| <b>PLAN OF SUBDIVISION OF LOT B IN DP 160004</b>   |  |                       |
| LGA: ROCKDALE<br>Locality: ARNCLIFFE<br>Parish: ST GEORGE<br>County: CUMBERLAND  |  |                       |
| <b>Survey Certificate</b><br><b>GIUSEPPE JOHN BOTTARO</b><br>Of <b>GEOMETRA CONSULTING PTY LTD</b><br><b>PO BOX 3530 CENTRO BANKSTOWN NSW 2200</b><br>a surveyor registered under the Surveying and Spatial Information Act, 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying and Spatial Information Regulation, 2006 and was completed on: 5 APRIL 2012<br>The survey relates to LOTS 2308, 2309, 2310 & 2311<br>(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)<br>Signature:  Dated: 28/6/2012<br>Surveyor registered under the Surveying and Spatial Information Act, 2002 |  |                       |
| <b>Subdivision Certificate</b><br>I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:<br>the proposed <b>SUBDIVISION</b> set out herein<br>(insert 'subdivision' or 'new road')<br><br>* Authorised Person/General Manager/Accredited Certifier<br>Consent Authority: <b>ROCKDALE CITY COUNCIL</b><br>Date of Endorsement: <b>11.7.2012</b><br>Accreditation no: <b>SC-2011/13</b><br>Subdivision Certificate no: <b>DA-2006/453</b><br>File no: <b>DA-2006/453</b><br>* Strike through Inapplicable parts.   |  |                       |
| Datum Line: 'X' - 'Y'<br>Type: Urban/ <del>Rural</del><br><b>Plans used in the preparation of survey/compilation</b><br>DP 28085    DP 233666    SP 63473<br>DP 90055    DP 514573<br>DP 155885    DP 554958<br>DP 156756    DP 881297<br>DP 158597    DP 974988<br>DP 158978    DP 1015248<br>DP 160004    DP 1044084<br>If space is insufficient use PLAN FORM 6A annexure sheet<br>Surveyor's Reference: 9363-60 (PPN DP 1159612)   |  |                       |

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PLAN FORM 6A

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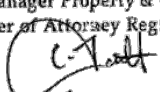
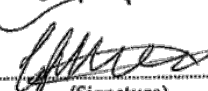
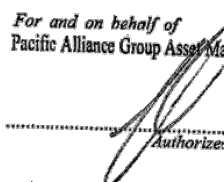

| DEPOSITED PLAN ADMINISTRATION SHEET  |   | Sheet 2 of 3 sheet(s)                |
|--|---|--------------------------------------|
| PLAN OF SUBDIVISION OF LOT B IN<br>DP 160004   | Office Use Only<br><b>DP1159612</b>   |                                      |
|  | Office Use Only<br>Registered:  13-8-2012 |                                      |
| Subdivision Certificate No.: <u>SC-2011/13</u>   |   | Date of Endorsement: <u>6.8.2012</u> |
| <p>IT IS INTENDED TO DEDICATE THE LAND MARKED "ROAD WIDENING (RW1) &amp; (RW2)" TO THE PUBLIC AS ROAD.</p> <p>IT IS INTENDED TO DEDICATE LOT 2311 (BIDJIGAL ROAD) TO THE PUBLIC AS ROAD</p> <p>IT IS INTENDED TO DEDICATE LOTS 2309 &amp; 2310 AS PUBLIC RESERVES.</p> <p>PUBLIC RESERVES ARE TO BE DEDICATED TO ROCKDALE CITY COUNCIL.</p> <p><i>LM</i></p> <p><b>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919,<br/>IT IS INTENDED TO CREATE:</b></p> <ol style="list-style-type: none"> <li>1. POSITIVE COVENANT (PC1)</li> <li>2. POSITIVE COVENANT (PC2)</li> <li>3. EASEMENT TO DRAIN WATER (VAR.WIDTH) LIMITED IN STRATUM SHOWN AS (EDW)</li> <li>4. EASEMENT FOR SUPPORT (18.4 &amp; 16.355 WIDE &amp; VARIABLE WIDTH) SHOWN AS (SR)</li> <li>5. EASEMENT FOR SERVICES (18.4 &amp; 16.355 WIDE &amp; VARIABLE WIDTH) SHOWN AS (ES)</li> </ol> <p><b>IT IS INTENDED TO RELEASE:</b></p> <ol style="list-style-type: none"> <li>1. EASEMENT FOR DRAINAGE 1.83 WIDE (VIDE BK 2230 No.282)</li> </ol> <p>DIAGRAMS N° 7 &amp; 8 ON SURVEY PLAN<br/>         REF: 9363-60, DATED 5/4/2012, SHEET N° 1<br/>         HAS BEEN ACKNOWLEDGED &amp; ACCEPTED<br/>         BY ROCKDALE CITY COUNCIL.</p> |   |                                      |
| Surveyor's Reference: 9363-60  |   |                                      |

Req:R998705 /Doc:DP 1159612 P /Rev:13-Aug-2012 /Sts:SC.OK /Pgs:ALL /Prt:22-Feb-2019 12:45 /Seq:7 of 7  
Ref:rcoprop /Src:F DP1159612

PLAN FORM 6A

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| DEPOSITED PLAN ADMINISTRATION SHEET   |   | Sheet 3 of 3 sheet(s) |
|---|---|-----------------------|
| PLAN OF SUBDIVISION OF LOT B IN<br>DP 160004  | Office Use Only<br><b>DP1159612</b>   |                       |
|   | Office Use Only<br>Registered:  13-8-2012 |                       |
| Subdivision Certificate No.: SC-2011/13   | Date of Endorsement: 11.7.2012  | <i>LM</i>             |
| <b>SIGNATURES &amp; SEALS</b>   |   |                       |
| <div style="display: flex; justify-content: space-around;"><div><br/><b>MAHMOUD MOHANNA</b><br/>REGISTERED PROPRIETOR</div><div><br/><b>MOHAMED MOUSSLIMANI</b><br/>REGISTERED PROPRIETOR</div></div>  |   |                       |
| <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"><p>Dated at Sydney this <u>12<sup>th</sup></u> Day of <u>JULY</u> 2012<br/>Executed by Australia and New Zealand Banking Group Limited (ACN 005 357 522)<br/>signed by its Attorney <u>CHRIS JALLA</u><br/>who certifies that he is Manager Property &amp; Construction Finance pursuant to Power of Attorney Registered No. 564 Book 4388<br/><br/>Signed in the presence of <br/>(Signature)<br/><u>GEORGE PAPANIKOLAOU</u><br/>(Print Name)<br/><u>MANAGER</u><br/>(Title)</p></div> |   |                       |
| <div style="display: flex; justify-content: space-between;"><div><p>For and on behalf of<br/>Pacific Alliance Group Asset Management Limited</p><br/>Authorized Signature(s)<br/><b>JON ROBERT LEWIS</b><br/>DIRECTOR</div></div>   |   |                       |
| <p><b>ST GEORGE BANK LIMITED</b> <br/>MORTGAGEE<br/>BY ITS EXECUTION, CONSENTS TO THE REGISTRATION OF THIS DOCUMENT</p>  |   |                       |
| Surveyor's Reference: 9363-60   |   |                       |



*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

### **Attachment C**

Certificate of title (Lot 3 in DP 1247416)

22/02/2019

Order — Property Information



## NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 3/1247416

-----

| SEARCH DATE | TIME    | EDITION NO | DATE      |
|-------------|---------|------------|-----------|
| 22/2/2019   | 4:04 PM | 1          | 8/11/2018 |

## LAND

-----

LOT 3 IN DEPOSITED PLAN 1247416  
AT ARNCLIFFE  
LOCAL GOVERNMENT AREA BAYSIDE  
PARISH OF ST GEORGE COUNTY OF CUMBERLAND  
TITLE DIAGRAM DP1247416

## FIRST SCHEDULE

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BAYSIDE COUNCIL

## SECOND SCHEDULE (4 NOTIFICATIONS)

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- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 THE LAND WITHIN DESCRIBED IS PUBLIC RESERVE
- 3 DP1015248 RIGHT OF CARRIAGEWAY 3.9 METRE(S) WIDE AND VARIABLE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 AK703146 PLANNING AGREEMENT PURSUANT TO SECTION 7.6 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

## NOTATIONS

-----

UNREGISTERED DEALINGS: PP DP1223657 PP SP94064.

\*\*\* END OF SEARCH \*\*\*

rccprop

PRINTED ON 22/2/2019

Obtained from NSW LRS on 22 February 2019 03:04 PM AEST

\* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

© Office of the Registrar-General 2019

<https://online.globalx.com.au/propertyinformation/>

1/1

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment D**

Report titled *Land Dedication Arising from The Development of 9-11 Wollongong Road, Arncliffe* and resolution from Rockdale Council Meeting of 7 November 2012

## Council Meeting

Meeting Date 07/11/2012

### Public

#### Report Header

---

|                                |  |
|--------------------------------|--|
| <b>Item Number:</b>            | ORD13  |
| <b>Subject:</b>                | LAND DEDICATION ARISING FROM THE DEVELOPMENT OF 9-11 WOLLONGONG ROAD ARNCLIFFE |
| <b>File Number:</b>            | F08/386  |
| <b>Report by:</b>              | Property Manager (Benjamin Heraud)   |
| <b>Contributors:</b>           |  |
| <b>Community Engagement:</b>   | No   |
| <b>Financial Implications:</b> | No   |

#### Precis

---

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe, as well as public domain works creating a new roadway now known as Bidjigal Road. Arising from the creation of the roadway three parcels of land were dedicated to Council, one dedicated via the Roads Act 1993 that comprised the road and the two other lots adjoining the road that were dedicated to Council via the Local Government Act 1993.

Under the Local Government Act the two lots not comprising the road need to be classified as either community or operational within three months of acquisition. In order to facilitate the intentions of the Bonar Street Masterplan, this report recommends the lands dedicated to Council under the Local Government Act be classified as operational.

#### Council Resolution

---

##### NOTE:

Councillor Nagi had previously declared a significant non-pecuniary interest in this item and left the Chamber for discussion and voting.

RESOLVED on the motion of Councillors Awada and Bezic

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

#### Officer Recommendation

---

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.



2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

### Report Background

---

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe (refer to Annexure 1 - Location Map). As part of the development, public domain works were undertaken that aligned with the principles contained within Council's Bonar Street Precinct DCP Landscape Masterplan ("Bonar Street Masterplan"). Specifically, the subject development delivered the construction of a section of new roadway, now known as Bidjigal Road, and two parcels of land adjoining the road (refer to Annexure 2 - Bonar Street Masterplan and Annexure 3 - Parcels Created).

A sub-division plan was registered with Land and Property Information (LPI) on 13 August 2012 dedicating to Council:

- The new roadway via Section 9 of the *Roads Act 1993* ("the Road"); and
- Two ancillary parcels, 8 Martin Avenue and 9 Bidjigal Road ("the Lots"), via Section 49 of the *Local Government Act 1993*.

The Lots were, at the request of Council, noted as public reserve on the associated deposited plan, which meant that under Section 49 of the *Local Government Act* the land vested automatically with Council upon registration. This was done for the purpose of ensuring that the developer divested the Lots to Council upon registration in order to facilitate the Bonar Street Masterplan.

Division 1 of Part 2 of *The Local Government Act* requires all Council land to be classified as either community or operational land within three months of acquisition. No such requirement exists within the *Roads Act* to classify the Road itself and therefore this is not the subject of this report.

The dedication of the Lots to Council facilitates the delivery of additional principles within the Bonar Street Masterplan, being:

1. The creation of a linear street frontages for future developments associated with 10 Martin Avenue, 47 Bonar Street and 49 Bonar Street; and
2. The partial delivery of land for the creation of a central square.

The creation of linear street frontages associated with point 1 above will involve disposing the Lots to the adjoining landowners at the point these sites develop. Under the *Local Government Act*, Council can only dispose of land that is classified as operational. To this end, classifying the Lots as community land would hinder future disposal, which would impede the intentions of the Bonar Street Masterplan. To this end, it is recommended that the Lots be classified as operational land in order to facilitate Council's stated intentions with the Lots in the future.

### Community Engagement

---

The issues raised in this report concern matters that do not require community consultation under Council's Community Engagement Policy

#### COMMUNITY STRATEGY

The proposal is consistent with Council's Community Outcome "Appropriate Infrastructure" and Community Outcome objective:

- The City of Rockdale has well connected and integrated systems and networks that support the Rockdale community.

and is also consistent with the (or is a nominated) strategy in the Community Strategic Plan being:

- Roads, Drainage and other like infrastructure - Ensure that Roads, Drainage and other like infrastructure are designed, delivered and maintained in a manner which provides network integration and sustainability to meet the current and future transport and

### Financial Implications

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#### Additional Comments

There are no financial implications applicable to this report.

### Supporting Information

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Action From Resolution  
File Attachments

[Action raised by Heather Davis on 09/11/2012](#)



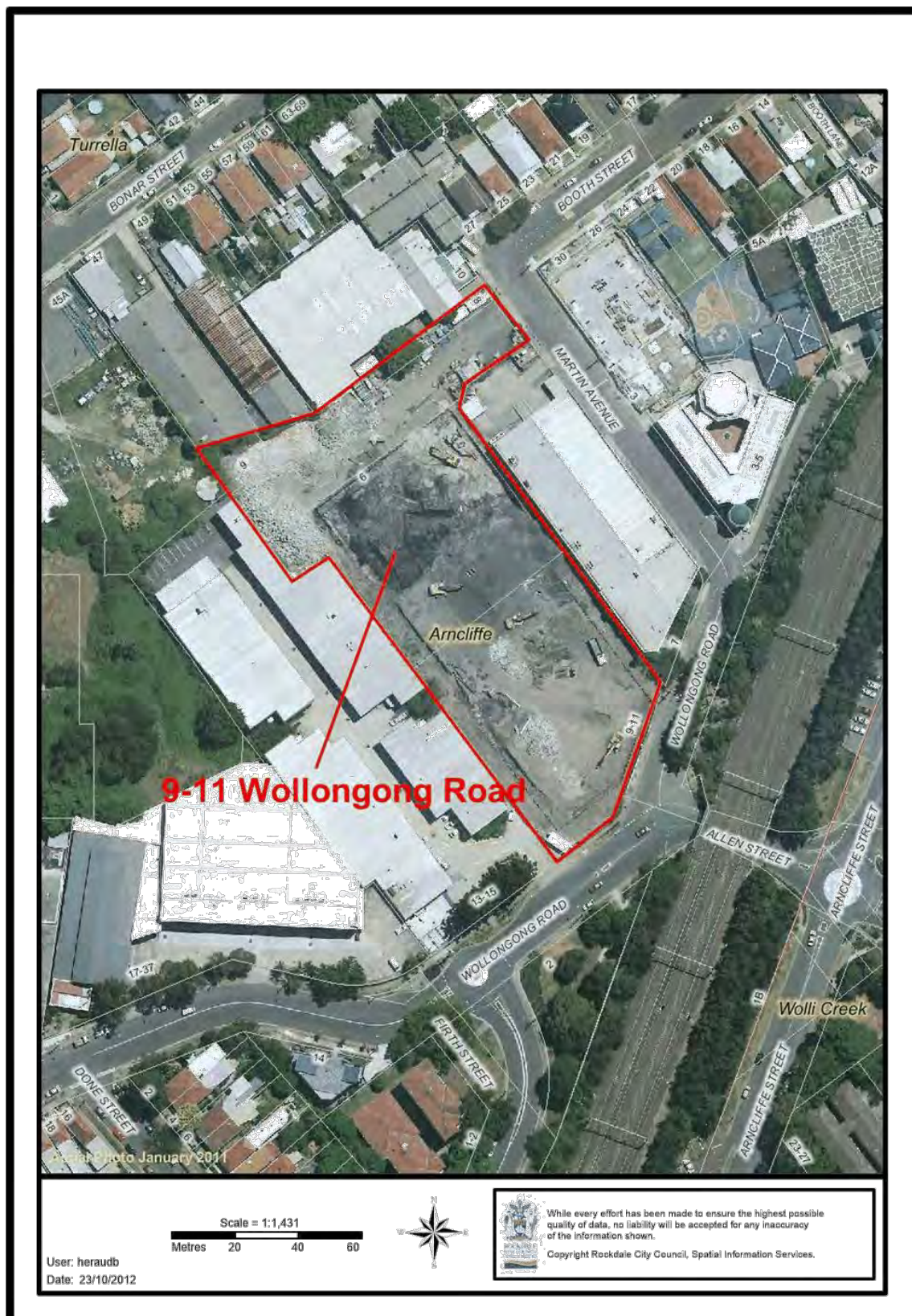
Annexure 1 - Location Map.pdf



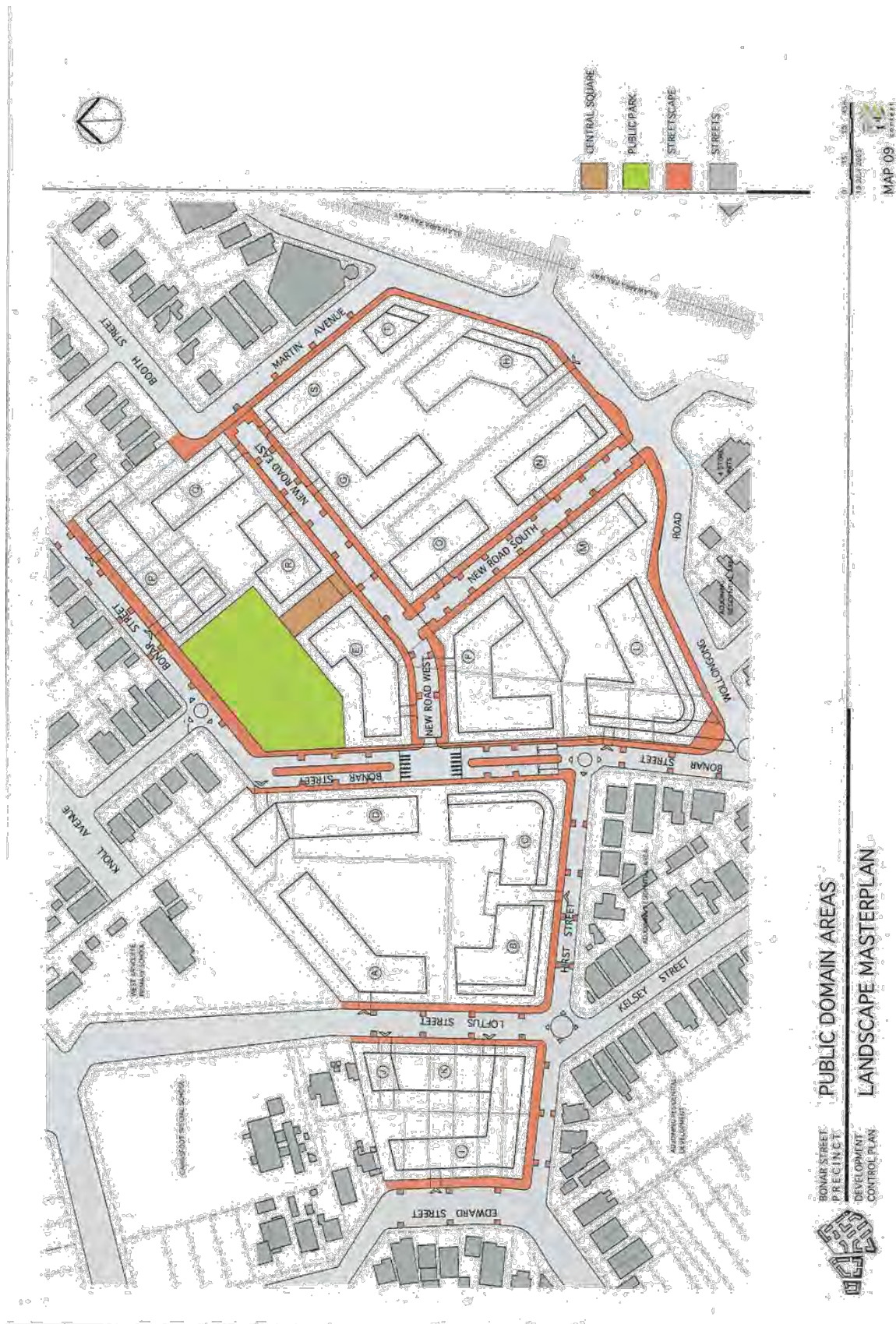
Annexure 2 - Bonar Street Masterplan.pdf



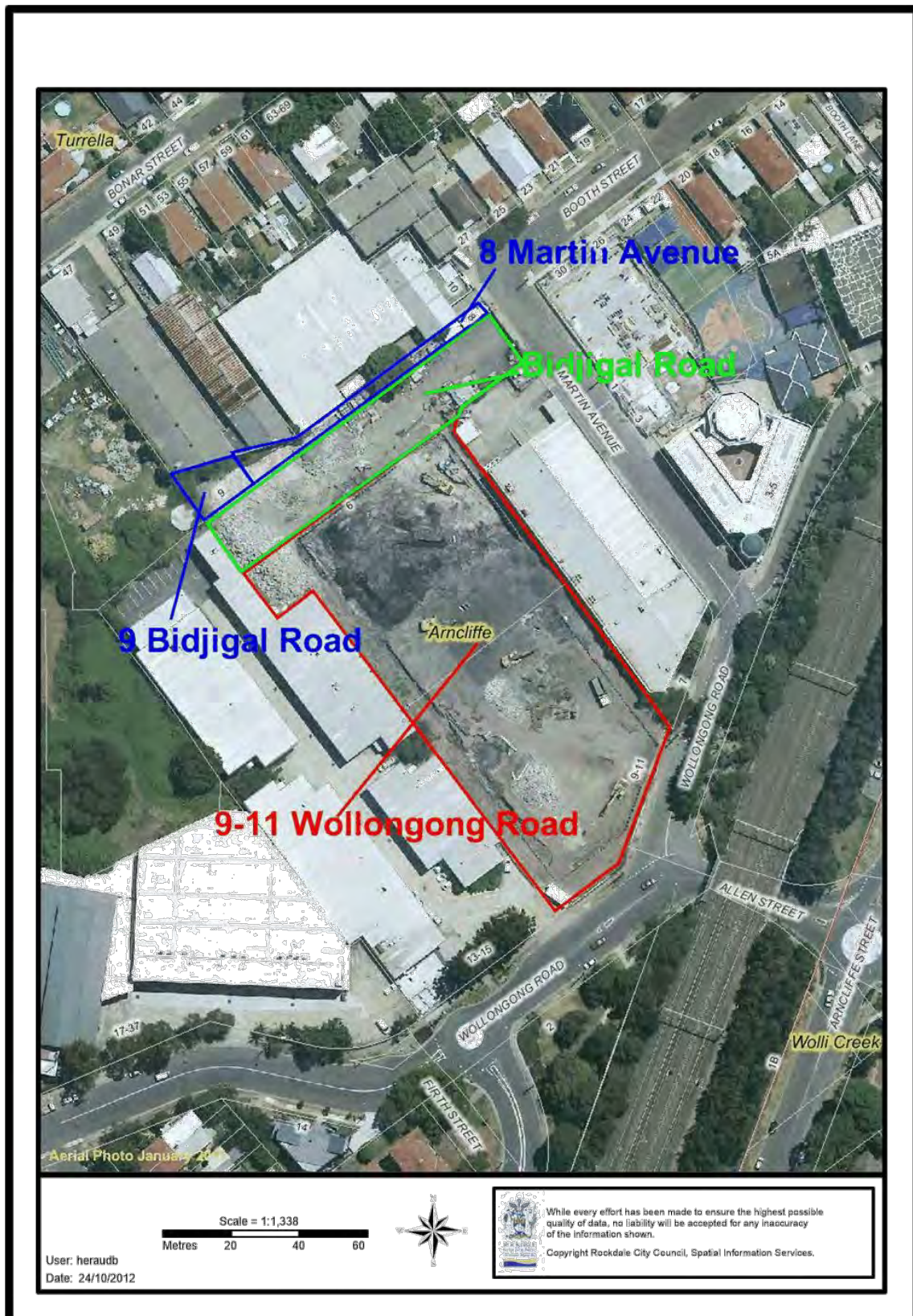
Annexure 3 - Parcels Created.pdf











2/27/2019

Business Paper authored by Property Manager (Benjamin Heraud) on 11/09/2012



## Council Meeting

[Back](#) [Print](#)

### General Report - Meeting Date: 11/07/2012

Public -

Item Number: ORD13

Subject: LAND DEDICATION ARISING FROM THE DEVELOPMENT OF 9-11 WOLLONGONG ROAD ARNCLIFFE

File Number: F08/386

Report by: Property Manager (Benjamin Heraud)

Community Engagement: No

Financial Implications: No

### Precis

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe, as well as public domain works creating a new roadway now known as Bidjigal Road. Arising from the creation of the roadway three parcels of land were dedicated to Council, one dedicated via the Roads Act 1993 that comprised the road and the two other lots adjoining the road that were dedicated to Council via the Local Government Act 1993.

Under the Local Government Act the two lots not comprising the road need to be classified as either community or operational within three months of acquisition. In order to facilitate the intentions of the Bonar Street Masterplan, this report recommends the lands dedicated to Council under the Local Government Act be classified as operational.

### Council Resolution

NOTE:

Councillor Nagi had previously declared a significant non-pecuniary interest in this item and left the Chamber for discussion and voting.

RESOLVED on the motion of Councillors Awada and Bezic

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

### Officer Recommendation

1 That the report titled Land Dedication Arising From The Development of 9-11 Wollongong Road, Arncliffe be received and noted.

2 That Council classify 8 Martin Avenue, Arncliffe (Lot 2309 in DP 1159612) and 9 Bidjigal Road, Arncliffe (Lot 2310 in DP 1159612) as operational land in accordance with Section 31 of the Local Government Act 1993.

### Report Background

Council at their meeting of 5 August 2009 approved a development application permitting the construction two multi-storey residential towers at 9-11 Wollongong Road, Arncliffe (refer to Annexure 1 - Location Map). As part of the development, public domain works were undertaken that aligned with the principles contained within Council's Bonar Street Precinct DCP Landscape

[https://rccnet.rockdale.nsw.gov.au/RBP/CBP.nsf/\(vwUnid\)/AC235D83AE756C7ECA257AB100121F04?OpenDocument](https://rccnet.rockdale.nsw.gov.au/RBP/CBP.nsf/(vwUnid)/AC235D83AE756C7ECA257AB100121F04?OpenDocument)

1/2

2/27/2019

Business Paper authored by Property Manager (Benjamin Heraud) on 11/09/2012

Masterplan ("Bonar Street Masterplan"). Specifically, the subject development delivered the construction of a section of new roadway, now known as Bidjigal Road, and two parcels of land adjoining the road (refer to Annexure 2 - Bonar Street Masterplan and Annexure 3 - Parcels Created).

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### Financial Implications

There are no financial implications applicable to this report.

### Community Engagement

The issues raised in this report concern matters that do not require community consultation under Council's Community Engagement Policy

### Community Strategy

The proposal is consistent with Council's Community Outcome "Appropriate Infrastructure" and Community Outcome objective:

- The City of Rockdale has well connected and integrated systems and networks that support the Rockdale community.

and is also consistent with the (or is a nominated) strategy in the Community Strategic Plan being:

- Roads, Drainage and other like infrastructure - Ensure that Roads, Drainage and other like infrastructure are designed, delivered and maintained in a manner which provides network integration and sustainability to meet the current and future transport and



[Annexure 1 - Location Map.pdf](#)



[Annexure 2 - Bonar Street Masterplan.pdf](#)



[Annexure 3 - Parcels Created.pdf](#)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

## **Attachment E**

Terms of positive covenant



**"A"**

**Terms of Positive Covenant**

**1. Definitions**

**"Consent Authority"** means any authority empowered to approve any development of Lot 3 in Deposited Plan 1247416.

**"Council"** means Bayside Council and its successors

**"FSR"** means floor space ratio and has the same meaning as used in the Rockdale Local Environmental Plan 2011 and includes any local environmental plan that amends or supersedes the Rockdale Local Environmental Plan 2011 applying to the Land.

**"Land"** means Lot 21 in Deposited Plan 1238386, Lot 1 in Deposited Plan 233666, Lot 2 in Deposited Plan 233666 and Lot 3 in Deposited Plan 1247416.

**"Registered Proprietor"** means the registered proprietor of Lot 3 in Deposited Plan 1247416 from time to time.

2. The Registered Proprietor irrevocably and unconditionally covenants that no FSR entitlements are to be considered, given or allowed by the Council or any other Consent Authority in relation to any development of Lot 3 in Deposited Plan 1247416.
3. The Registered Proprietor must pay all legal costs and out of pocket disbursements incurred by the Council in relation to preparation, execution and registration of this Positive Covenant.
4. This Positive Covenant may only be released or varied by the Council in writing.

**Execution by the Prescribed Authority**

I certify that I am an eligible witness and that the authorised officer of the prescribed authority signed this application in my presence.

\_\_\_\_\_  
Signature of witness:

\_\_\_\_\_  
Signature of an authorised officer:

\_\_\_\_\_  
Name of witness:

\_\_\_\_\_  
Name of authorised officer:

\_\_\_\_\_  
Address of witness:

\_\_\_\_\_  
Position of authorised officer:

**Execution by the Registered Proprietor**

I certify that I am an eligible witness and that the authorised officer of the prescribed authority signed this application in my presence.

**Executed by Martin Land Pty Limited**  
**ACN 617 410 054** in accordance with  
section 127 of the *Corporations Act 2001* (Cth)  
by:

---

Signature of Director

---

Signature of Director

---

Full name (print)

---

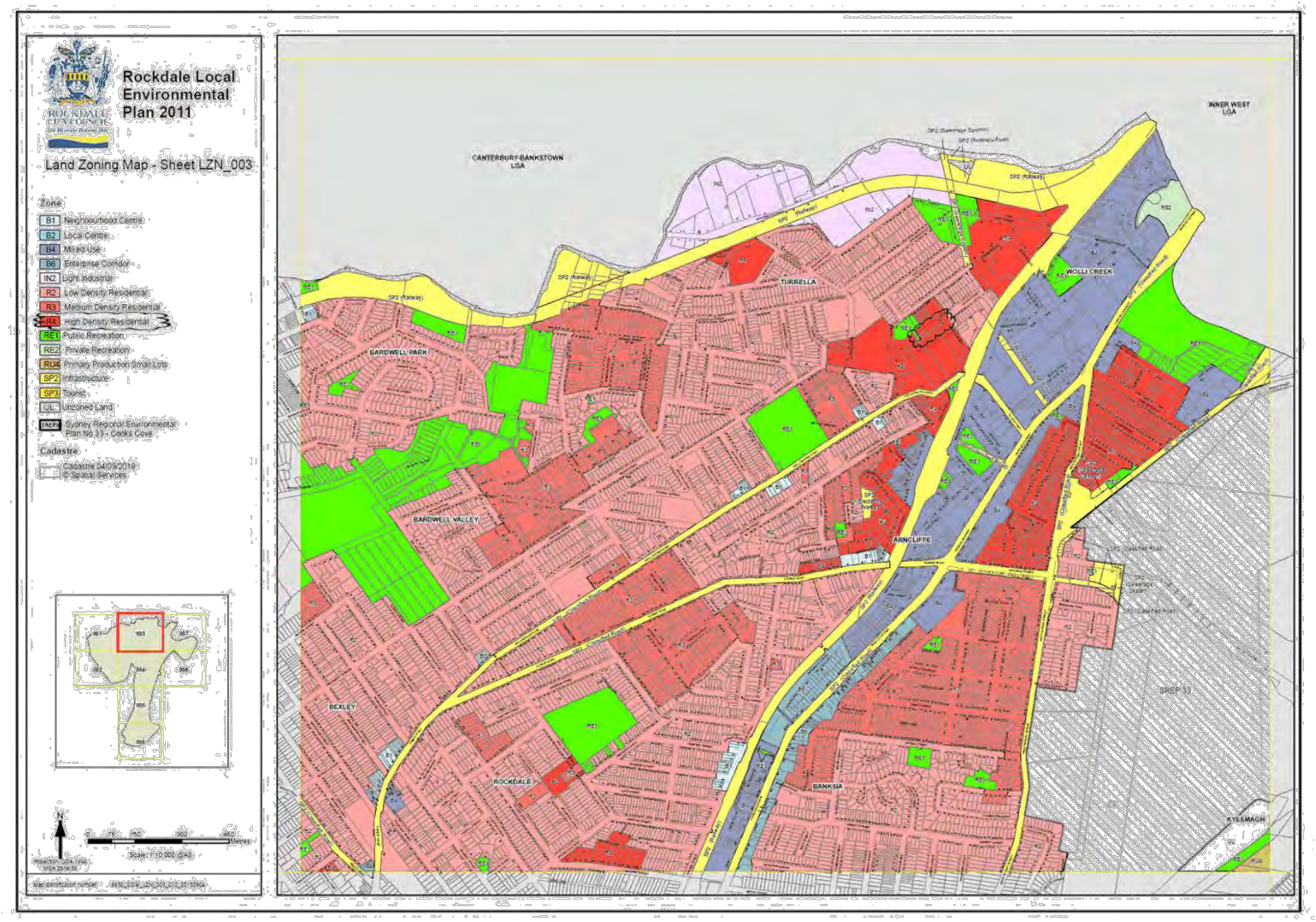
Full name (print)

*Planning Proposal – Lot 3 DP 1247416 - Reclassification from 'Community land' to 'Operational land'*

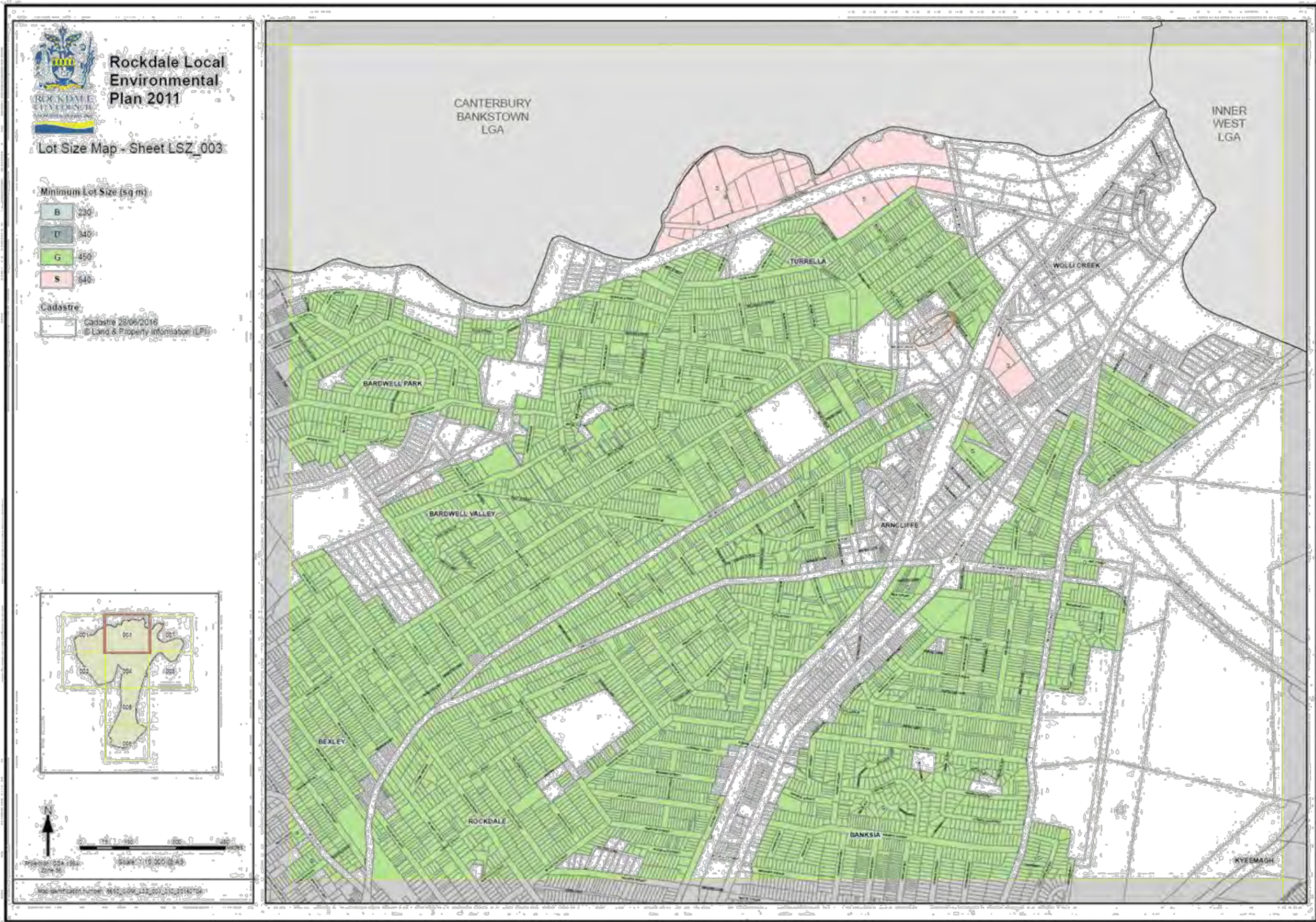
## **Attachment F**

Rockdale LEP 2011 Maps

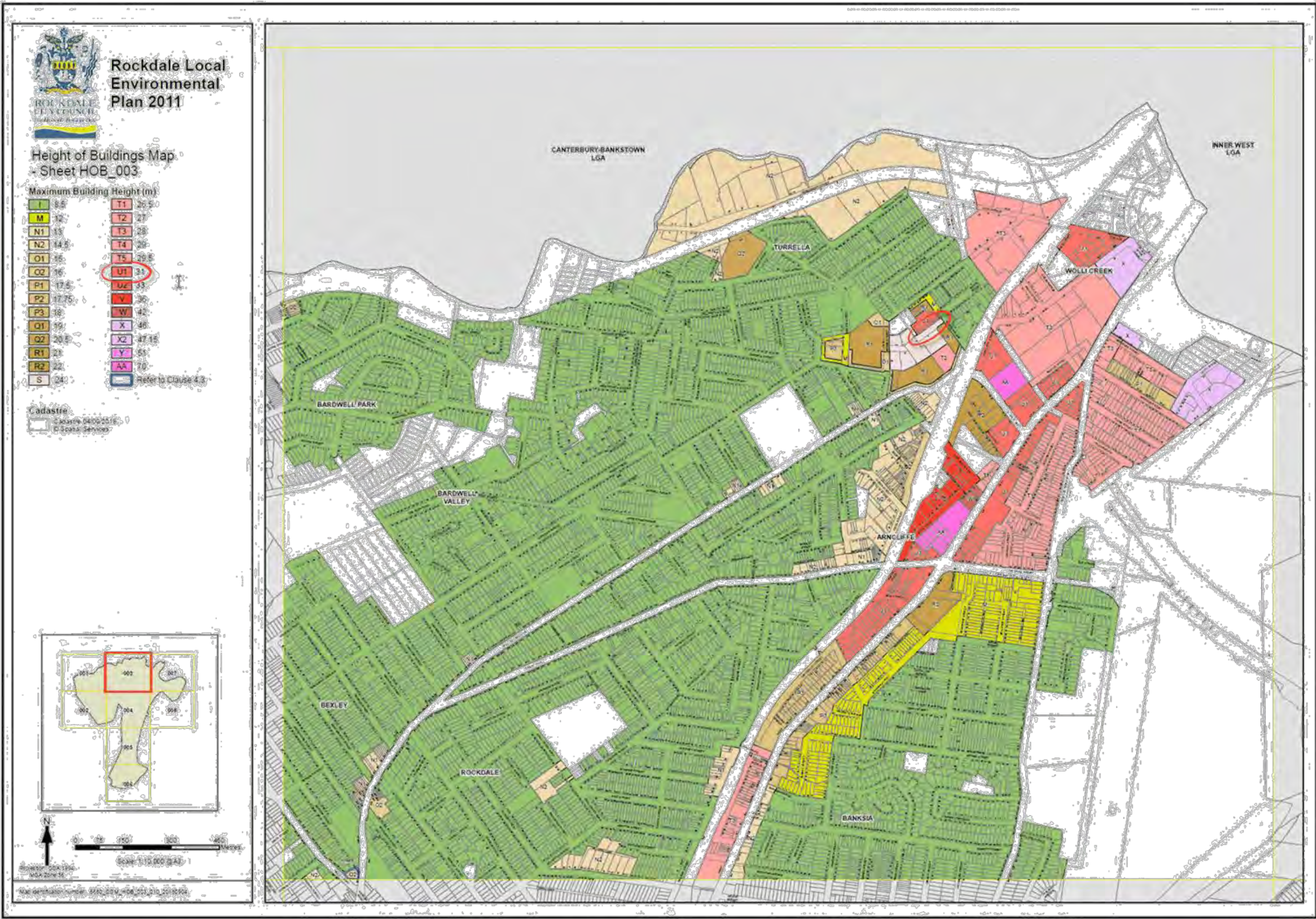




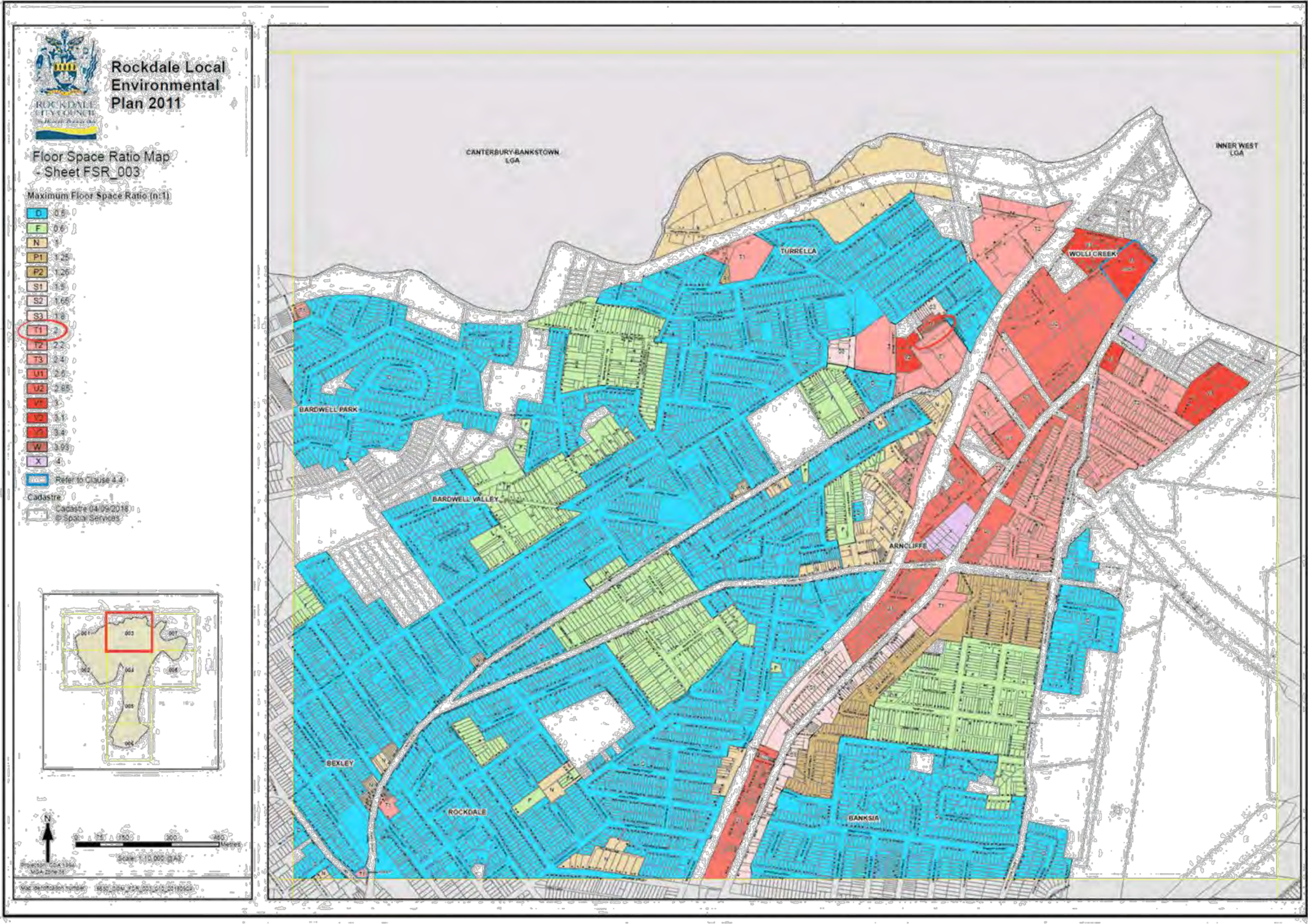












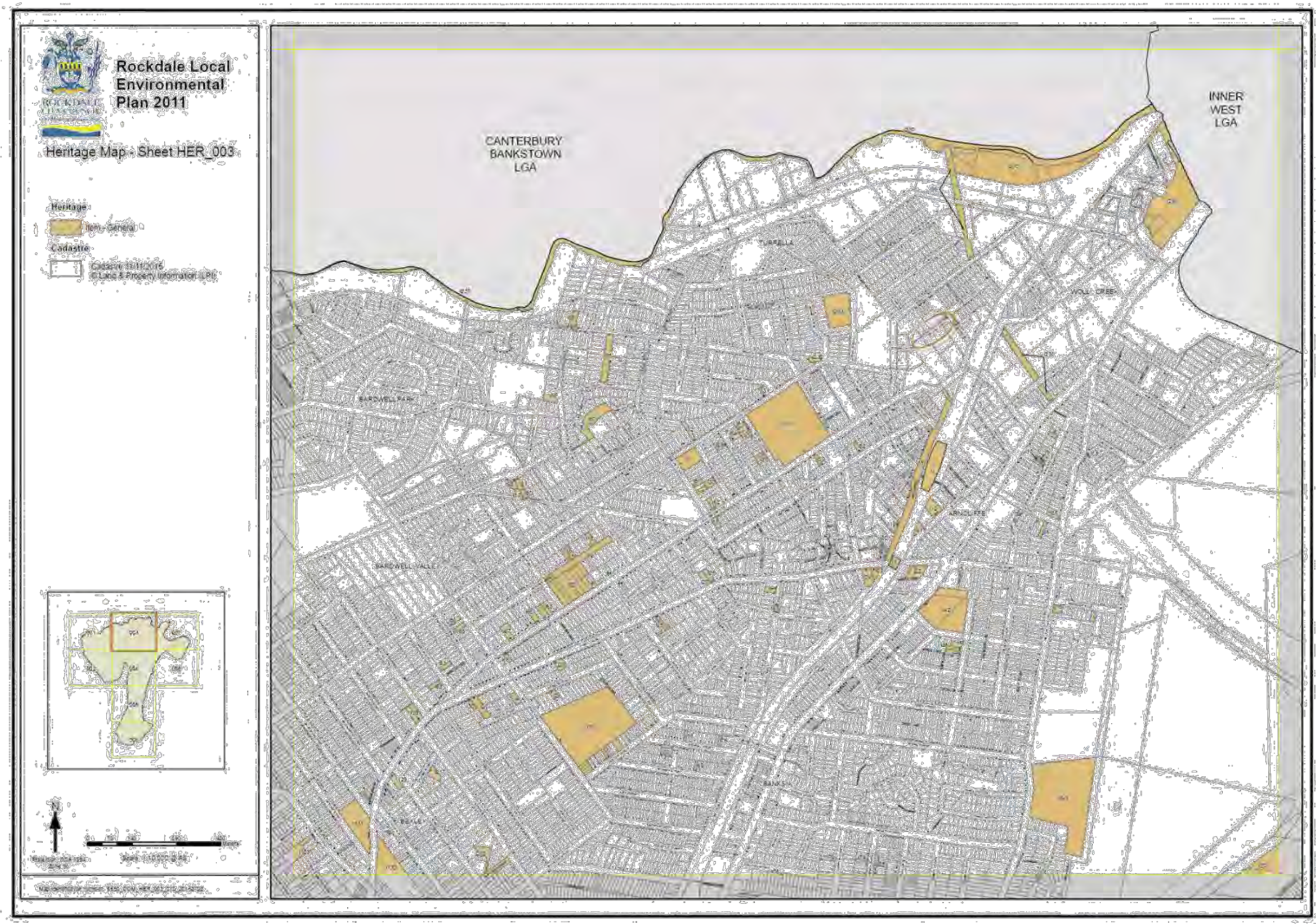




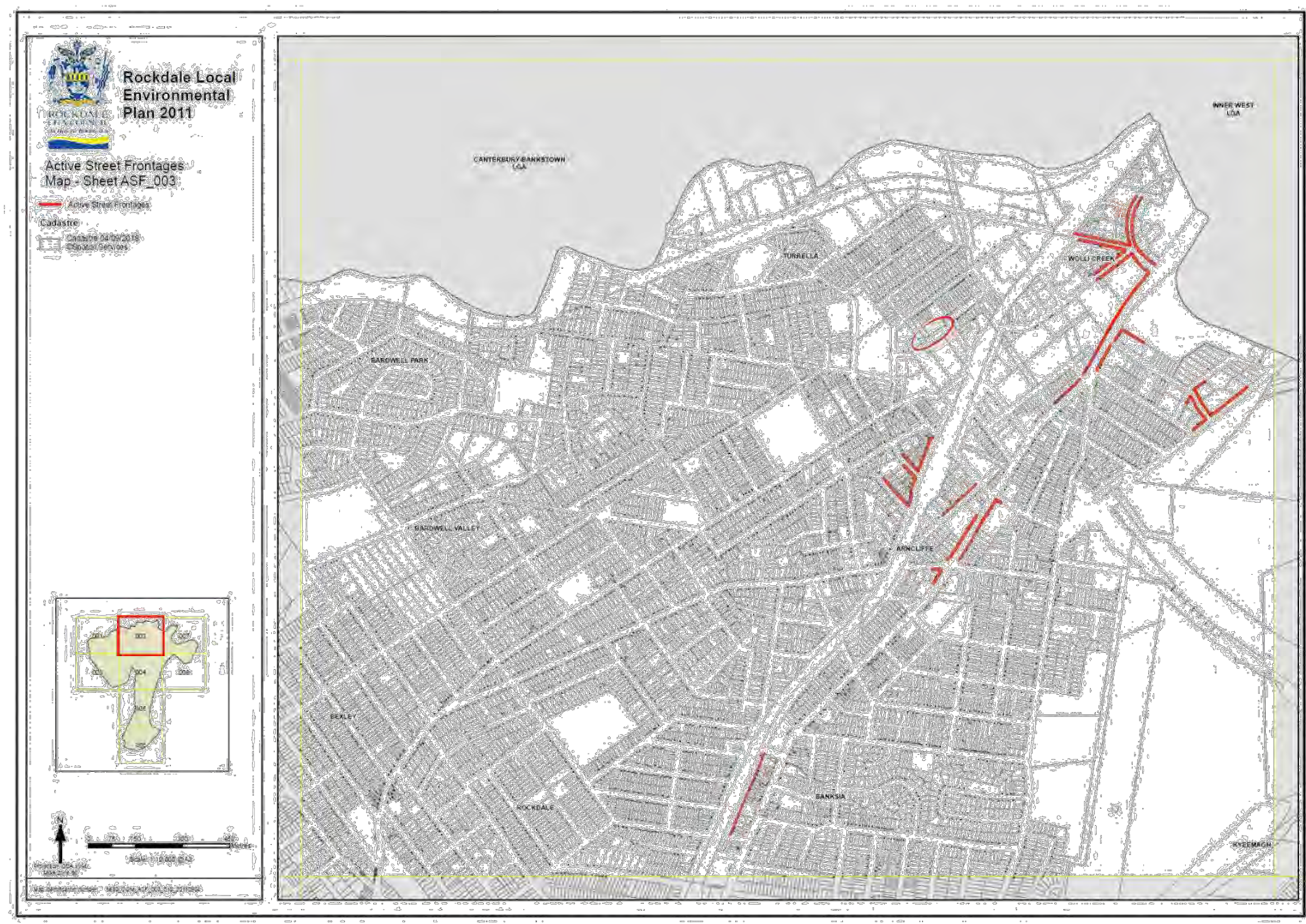




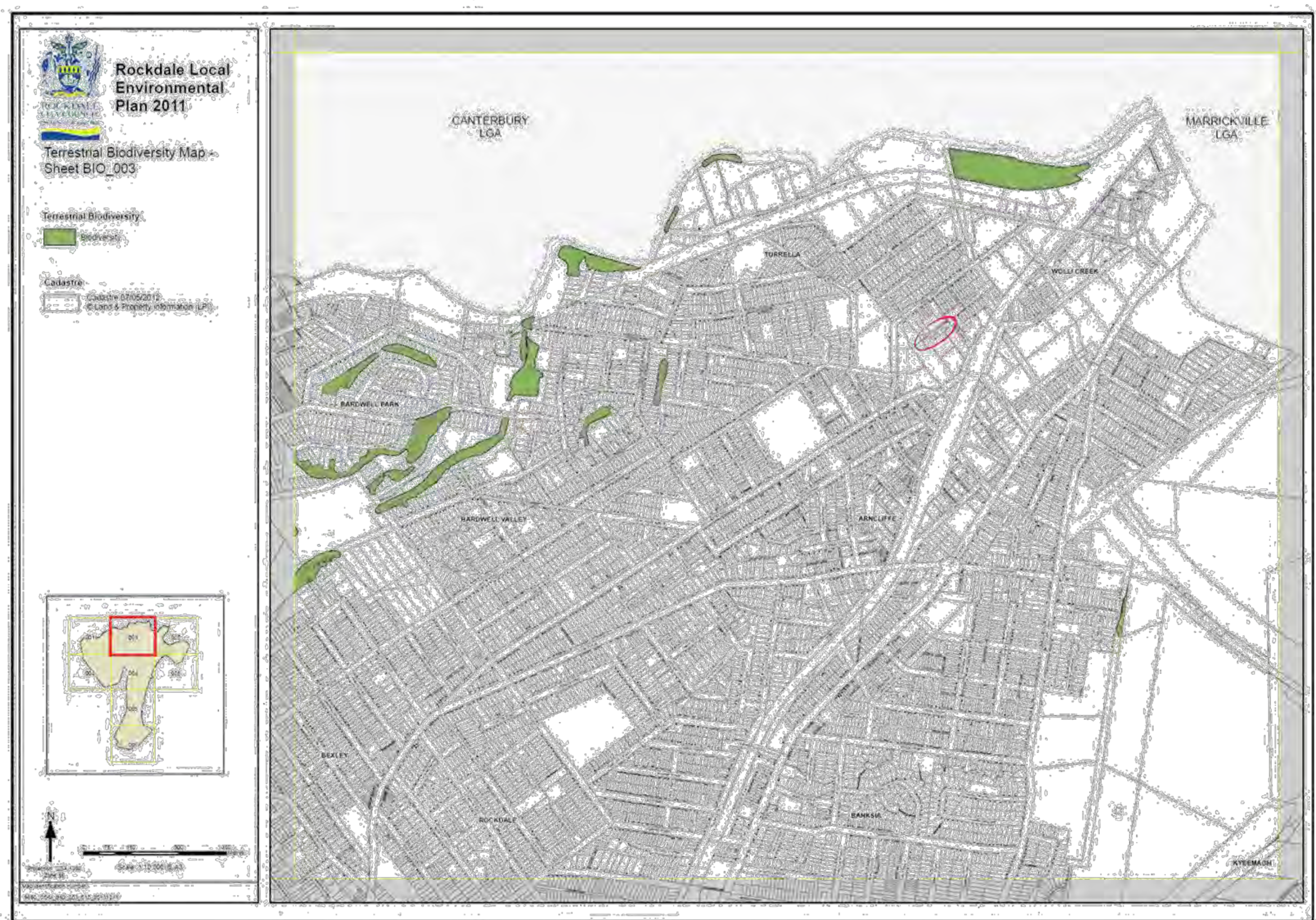




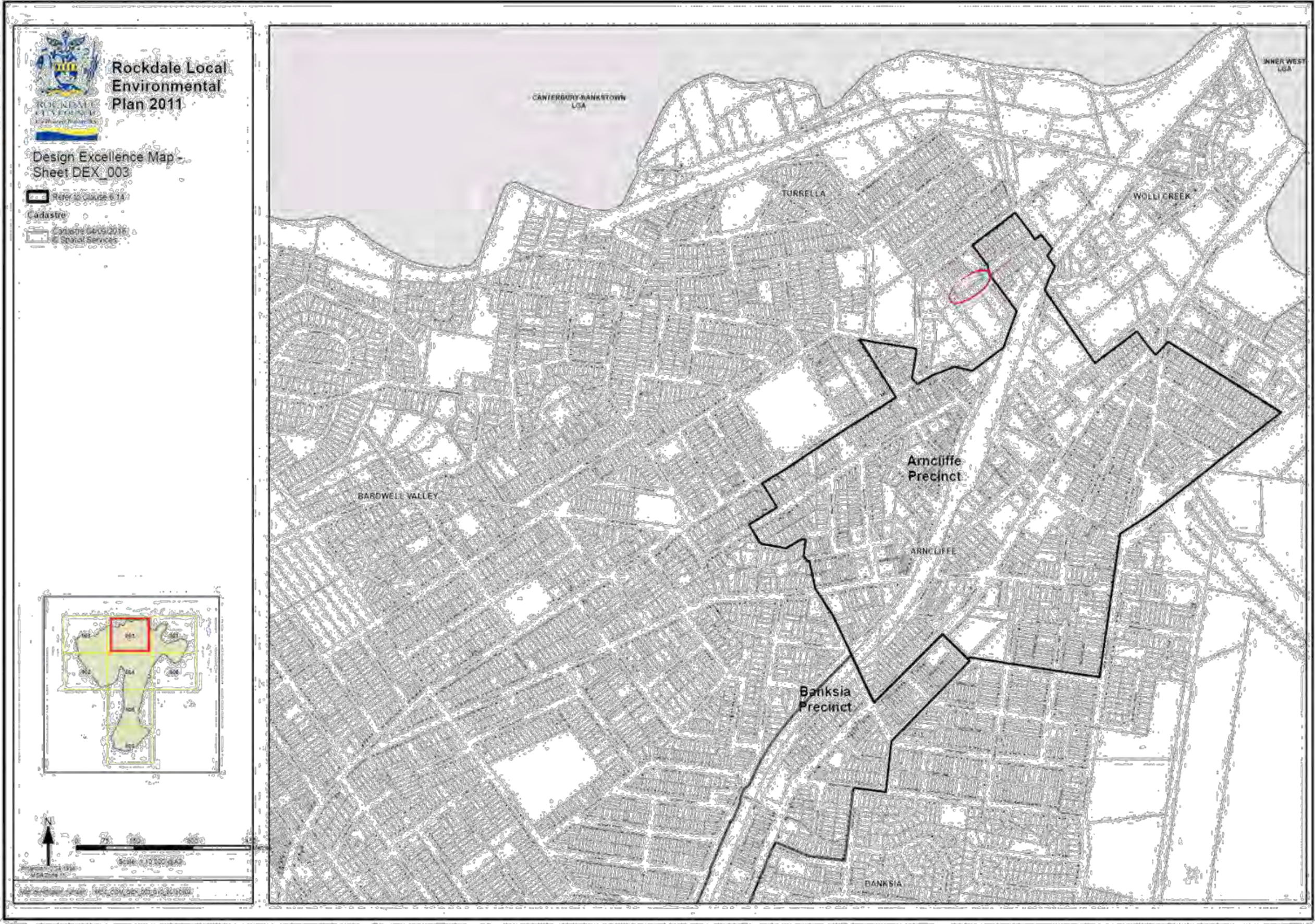




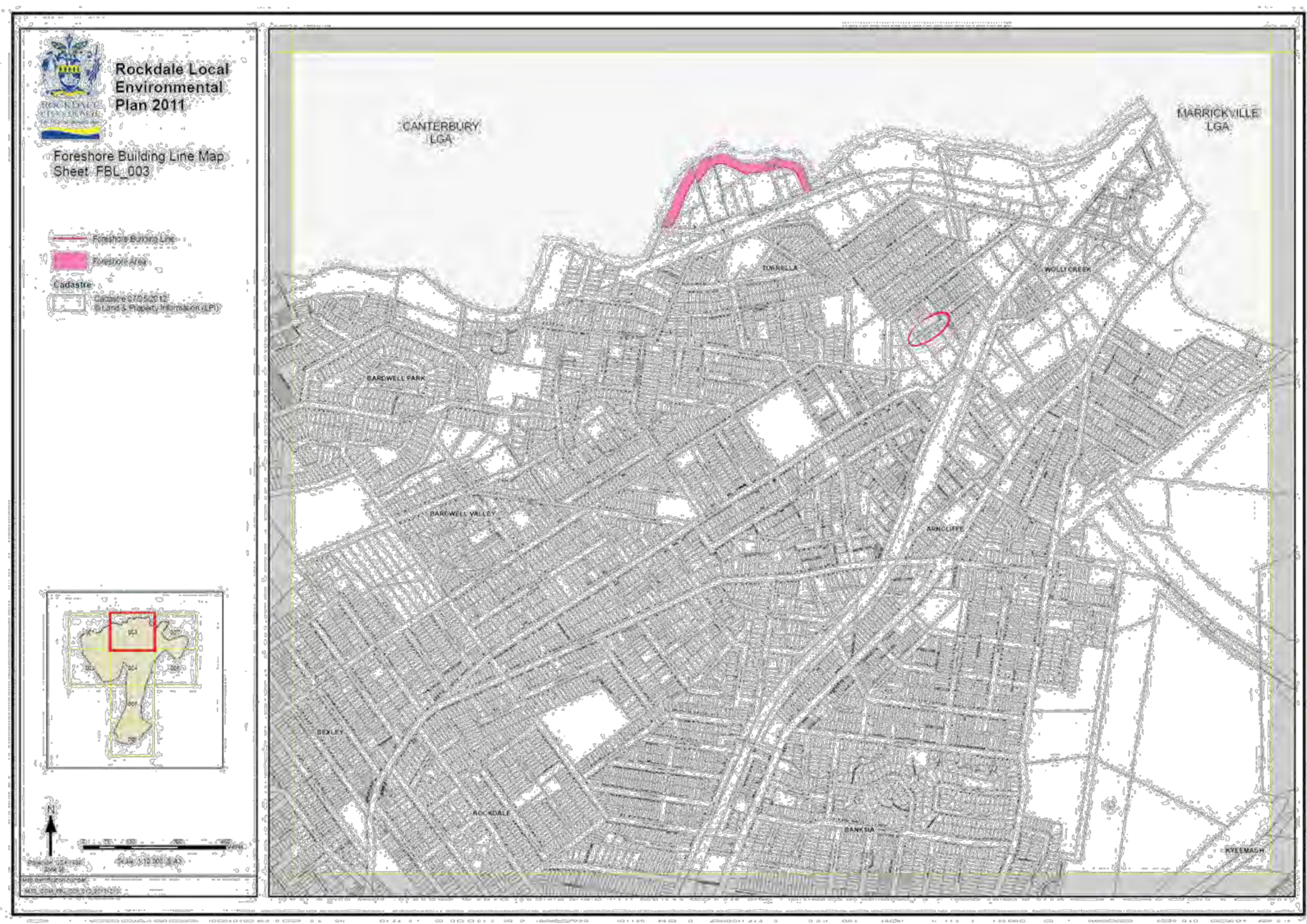




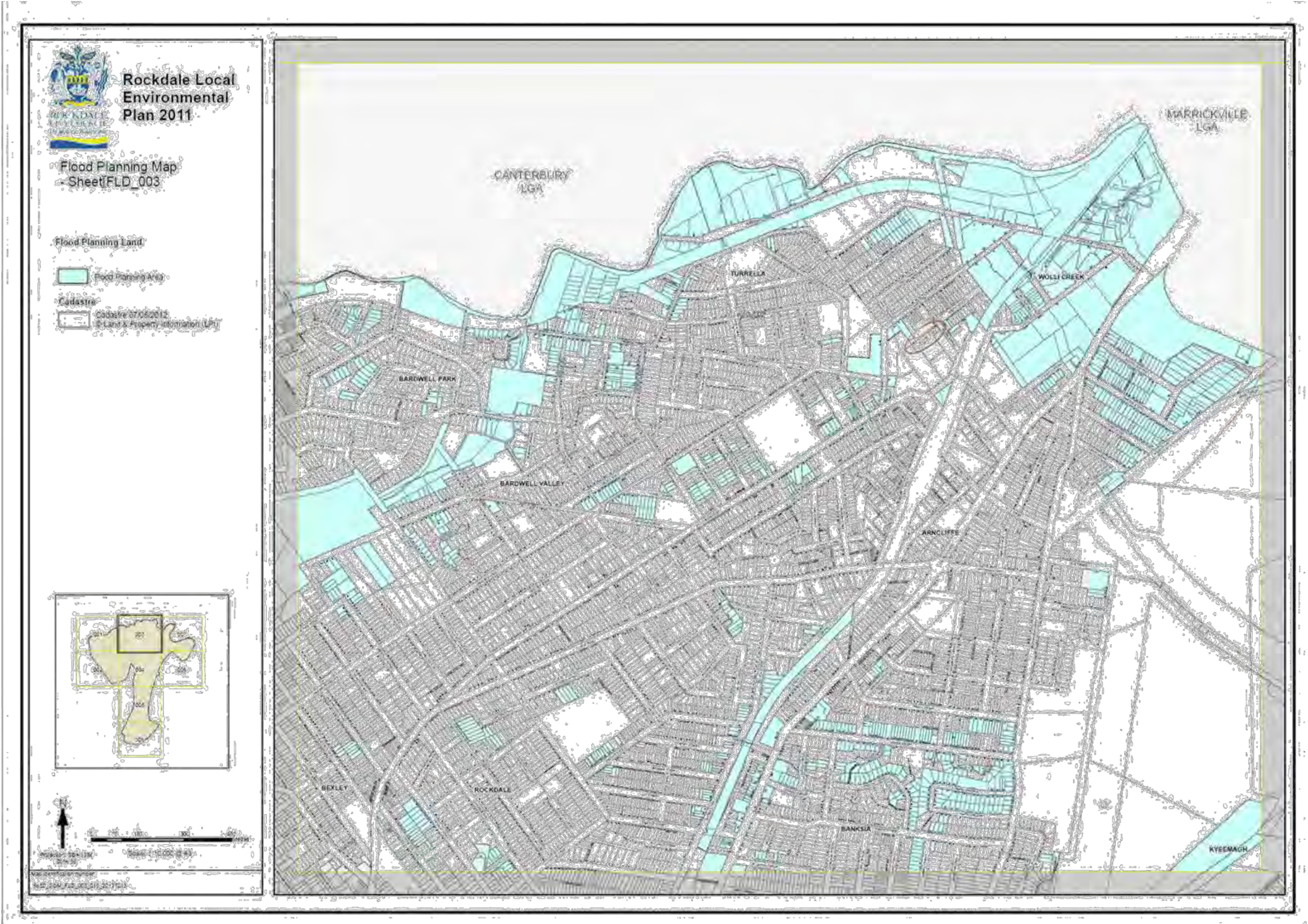




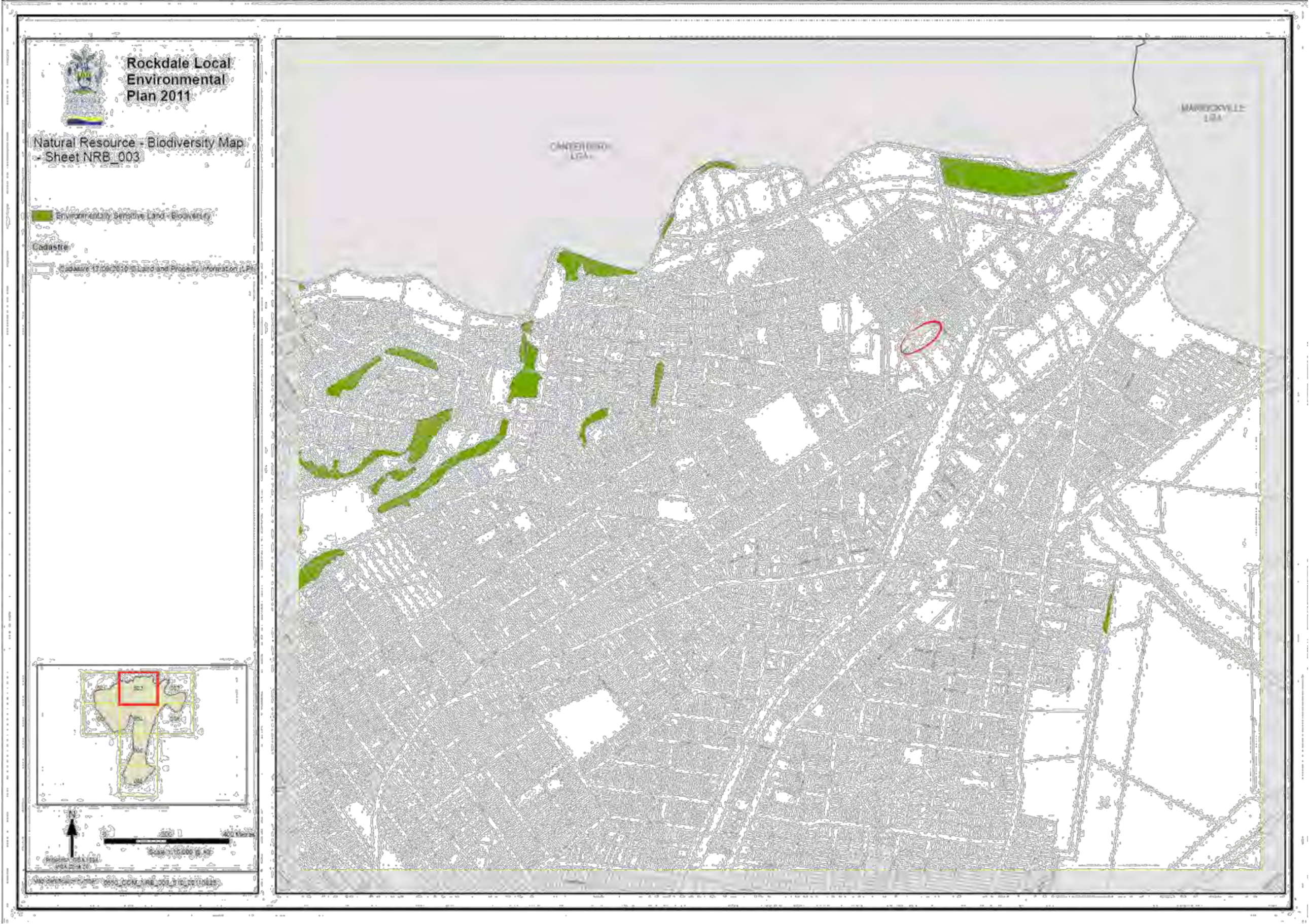




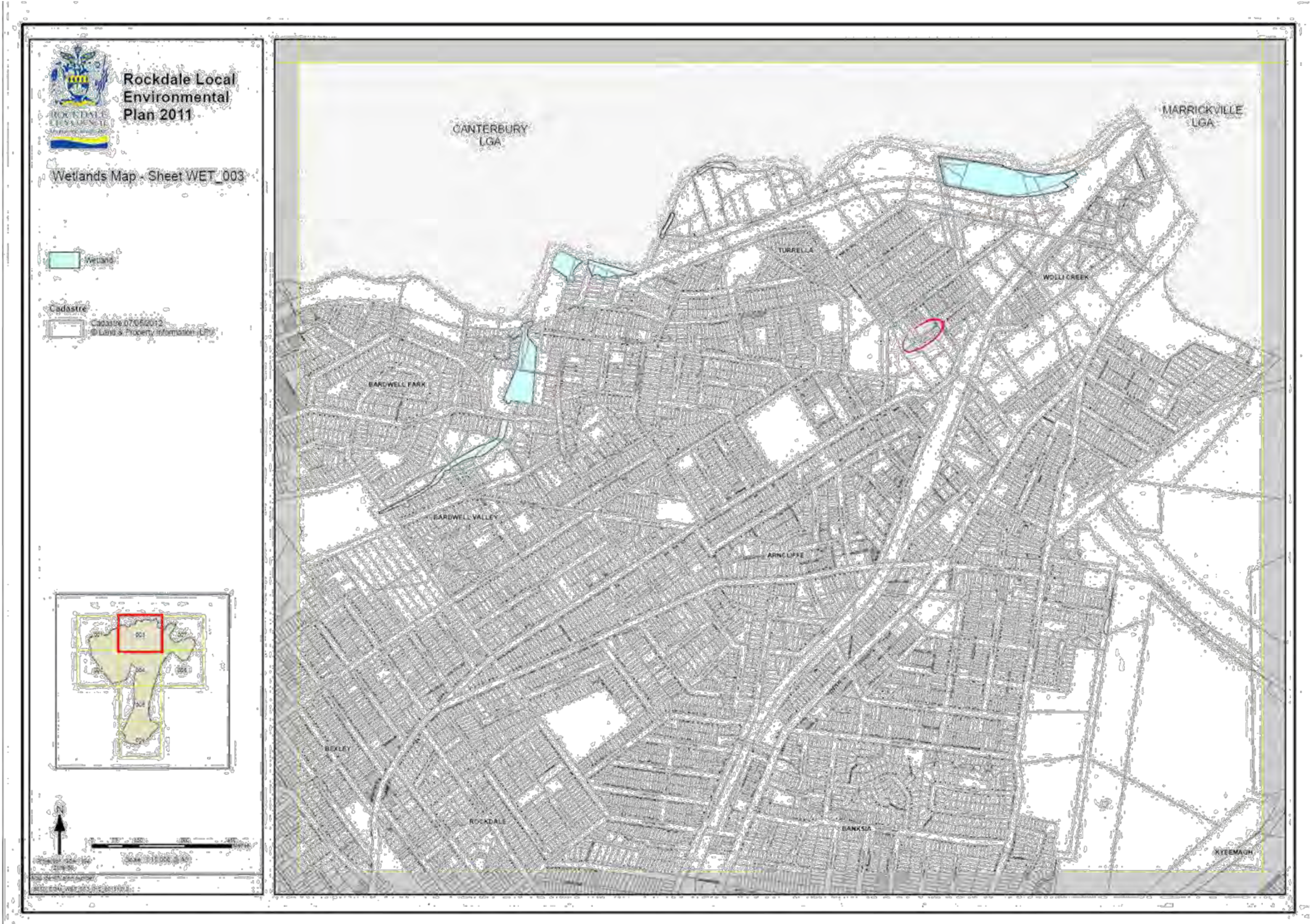














Attachment 2: Written Submission



[REDACTED] just submitted the survey 'Submission Lot 3 DP1247416 (No. 9) Bidjigal Road, Arncliffe F19/171 ' with the responses below.

**Do you support the Planning Proposal 9 Bidjigal Road Arncliffe**

Yes

**Any other comments about the proposal?**

No Answer

**You can upload a file here**

No Answer

**About you**

**First name**

[REDACTED]

**Surname**

[REDACTED]

**Contact details; email or address**

[REDACTED] Martin Av, Arncliffe

**Have you made a reportable political donation in the past two years?**

No

## Bayside Local Planning Panel

23/07/2019

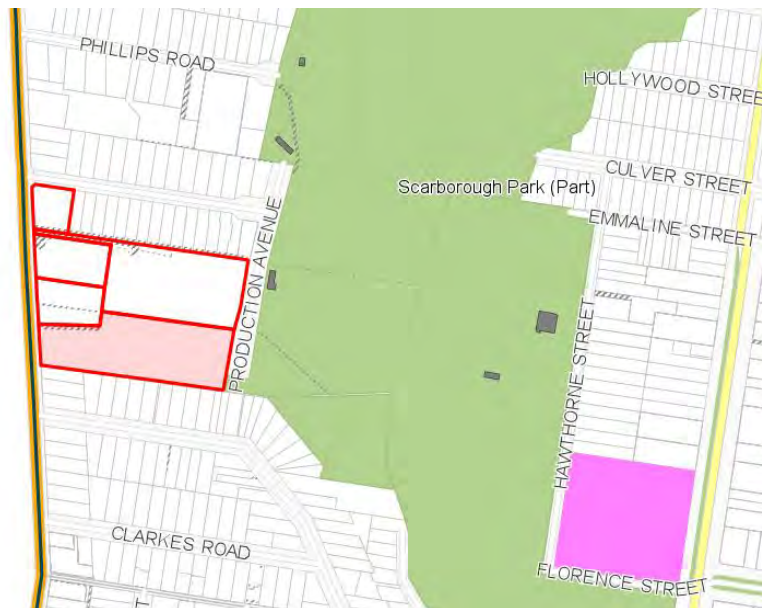
|                     |  |
|---------------------|--|
| Item No             | 6.1  |
| Application Type    | Section 4.55(1A) Application   |
| Application No      | DA-2017/224/E  |
| Lodgement Date      | 13/07/2018   |
| Property            | <b>152-200 &amp; 206 Rocky Point Road, Kogarah</b>   |
| Ward                | Rockdale   |
| Owner               | Rocky Point Road Development Pty Ltd   |
| Applicant           | Rocky Point Road Development Pty Ltd   |
| Proposal            | Modification to permit subdivision in two stages, to update conditions to reflect the Deed of Variation to the Voluntary Planning Agreement (VPA) and to amend the Proposal description on the Notice of Determination to refer to twenty-one (21) townhouses. |
| No. of Submissions  | Nil  |
| Cost of Development | N/A  |
| Report by           | Michael McCabe, Director City Futures  |

## Officer Recommendation

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to s4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
  - i is of minimal environmental impact;
  - ii is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - iii has not been notified as this is not required; and
  - iv has been assessed having regard to the relevant matters in s4.15(1A) of the Environmental Planning and Assessment Act 1979.
- 2 That the Bayside Local Planning Panel take into account the reasons of the consent authority that granted the consent that is sought to be modified.
- 3 That Modification Application No. DA-2017/224/E, being a Section 4.55(1A) application to amend Development Consent No. DA-2017/224, to permit subdivision into two (2) stages and to update conditions to reflect the Deed of Variation to the Voluntary Planning Agreement (VPA), at 152-200 & 206 Rocky Point Road, Rockdale, be **APPROVED** pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and subject to the modifications of conditions of consent attached to this report.
  - i By amending the Proposal description to include reference to twenty-one (21) townhouses;
  - ii By amending condition 2, 3, 14, 52, 96, 105, 106, 125, 126, 127 and 128; and

- 
- iii By deleting condition 124 and condition (d)(ii) under Development Consent Advice.
- 

## Location Plan



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## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Stage 1 Subdivision Plan [↓](#)
- 3 Stage 2 Subdivision Plan [↓](#)



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

---

|                            |  |
|----------------------------|--|
| <b>Application Number:</b> | DA-2017/224/E  |
| <b>Date of Receipt:</b>    | 13 July 2018   |
| <b>Property:</b>           | 206 Rocky Point Road, KOGARAH (Lot 1 DP 666138)<br>152 - 200 Rocky Point Road, KOGARAH (Lot 2 DP 405531),<br>(Lot 1 DP 599502),<br>(Lot 22 DP 620329),<br>(Lot 2 DP 838198),<br>(Lot 1 DP 1144981)   |
| <b>Owner:</b>              | JQZ NINE PTY LTD   |
| <b>Applicant:</b>          | Rocky Point Road Development Pty Ltd   |
| <b>Proposal:</b>           | 152-200 & 206 Rocky Point Road, KOGARAH NSW 2217 - Modification<br>to permit subdivision in two stages, to update conditions to reflect the<br>Deed of Variation to the Voluntary Planning Agreement (VPA) and to<br>amend the Proposal description on the Notice of Determination to refer to<br>twenty (21) townhouses |
| <b>Recommendation:</b>     | Approved   |
| <b>No. of submissions:</b> | N/A - notification not required  |
| <b>Author:</b>             | Helen Lai  |
| <b>Date of Report:</b>     | 8 July 2019  |

### Key Issues

---

- That conditions reflect the correct staging for delivery of commitments within the Voluntary Planning Agreement (VPA) as amended by the Deed of Variation;
- That the proposed stages of subdivision will contain correct easements and restrictions to ensure ongoing access is provided for users of the future road (including footpaths), to give effect to the widening of Rocky Point Road, to ensure dedication of the road widening and New Road to Council and RMS, and to allow services to pass to and from the residential land in the R4 zone (and beyond).

### Recommendation

---

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:

- (i) is of minimal environmental impact

- (ii) is substantially the same development as the development for which consent was originally granted and before that consent was modified;
- (iii) has not been notified as this is not required and,
- (iv) has been assessed having regard to the relevant matters in s4.15(1A) of the Environmental Planning and Assessment Act 1979.

2. That the Bayside Local Planning Panel consider any submissions made concerning the proposed modification and take into account the reasons of the consent authority that granted the consent that is sought to be modified.

3. That modification application DA-2017/224/E seeking to modify development consent DA-2017/224 to permit subdivision in two stages, to update conditions to reflect the Deed of Variation to the Voluntary Planning Agreement (VPA) and to amend the Proposal description on the Notice of Determination to refer to twenty-one (21) townhouses at 152-200 and 206 Rocky Point Road, Kogarah, be APPROVED. The proposal is modified in the following manner:

**(i) By amending the description on Notice of Determination to read as follows:**

"Integrated Development and Staged Development – Stage 1 includes construction of four (4) residential flat buildings comprising 513 units and ~~twenty (20)~~ **twenty-one (21)** townhouses; basement car parking; construction of a new access road connecting Rocky Point Road and Production Avenue, including the construction of a new signalised intersection at Rocky Point Road and road upgrade works to Production Avenue; landscaping works, including ground level landscaping for communal open space and communal terraces to some rooftops of the residential flat buildings; land subdivision, land dedication and building envelope for a child care centre; retention of the existing commercial building at 168 Rocky Point Road; and tree removal and bulk earthworks"

**(ii) By amending conditions 2, 3, 14, 52, 96, 105, 106, 125, 126, 127 and 128 and by deleting condition 124 and condition (d)(ii) under Development consent advice as detailed below:**

- **Amend condition 2:**

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

| Plan/Dwg No.                               | Issue No. | Dated      | Received   |
|--|-----------|------------|------------|
| <b>ARCHITECTURAL PLANS—prepared by PTW</b> |           |            |            |
| DA-002 SITE ANALYSIS                       | 6         | 14/07/2017 | 17/11/2017 |
| DA-099 BASEMENT B3                         | 2         | 13/11/2017 | 17/11/2017 |
| DA-1007BASEMENT B2                         | 7         | 13/11/2017 | 17/11/2017 |
| DA-101 BASEMENT B1                         | 8         | 31/01/2018 | 5/10/2018  |
| DA-110 LEVEL GROUND                        | 12        | 17/09/2018 | 5/10/2018  |
| DA-111 LEVEL 1                             | 8         | 23/03/2018 | 5/10/2018  |
| DA-112 LEVEL 2                             | 8         | 23/03/2018 | 5/10/2018  |
| DA-113 LEVEL 3                             | 8         | 28/09/2018 | 5/10/2018  |

|   |          |                   |                   |
|---|----------|-------------------|-------------------|
| DA-114 LEVEL 4-5  | 7        | 13/11/2017        | 17/11/2017        |
| DA-116 LEVEL 6  | 7        | 13/11/2017        | 17/11/2017        |
| DA-117 LEVEL 7  | 7        | 13/11/2017        | 17/11/2017        |
| DA-118 LEVEL 8  | 7        | 13/11/2017        | 17/11/2017        |
| DA-119 LEVEL 9  | 7        | 13/11/2017        | 17/11/2017        |
| DA-120 LEVEL 10   | 7        | 13/11/2017        | 17/11/2017        |
| DA-121 LEVEL 11-12  | 7        | 13/11/2017        | 17/11/2017        |
| DA-123 ROOF PLAN  | 8        | 31/01/2018        | 10/08/2018        |
| DA-200 STREET<br>ELEVATIONS                                 | 5        | 14/07/2017        | 17/11/2017        |
| <b>DA-210 ELEVATIONS –<br/>BUILDING B</b>                   | <b>5</b> | <b>14/07/2017</b> | <b>17/11/2017</b> |
| DA-211 ELEVATIONS –<br>BUILDING C                           | 5        | 14/07/2017        | 17/11/2017        |
| DA-212 ELEVATIONS –<br>BUILDING D                           | 5        | 14/07/2017        | 17/11/2017        |
| <b>DA-213 ELEVATIONS –<br/>BUILDING E</b>                   | <b>6</b> | <b>13/11/2017</b> | <b>17/11/2017</b> |
| DA-214 ELEVATIONS –<br>BUILDING F&G                         | 6        | 23/03/2018        | 5/10/2018         |
| DA-300 SECTIONS –<br>BUILDING B & C                         | 5        | 14/07/2017        | 17/11/2017        |
| DA-301 SECTIONS –<br>BUILDING D & E                         | 5        | 14/07/2017        | 17/11/2017        |
| DA-302 SECTION PARK   | 5        | 14/07/2017        | 17/11/2017        |
| DA-303 SECTIONS - ROCKY<br>POINT ROAD TO<br>PRODUCTION LANE | 1        | 14/07/2017        | 17/11/2017        |
| DA-304 SECTIONS –<br>WESTERN & SOUTHERN<br>BOUNDARY         | 1        | 14/07/2017        | 17/11/2017        |
| DA-310 DRIVEWAY PROFILE<br>RAMP 1 – MAIN ENTRY              | 6        | 13/11/2017        | 17/11/2017        |
| DA-311 DRIVEWAY PROFILE<br>RAMP 3                           | 6        | 14/07/2017        | 17/11/2017        |
| DA-312 DRIVEWAY PROFILE<br>RAMP 4 – TOWNHOUSE<br>ENTRY      | 7        | 23/03/2018        | 5/10/2018         |
| DA-400 DA ADAPTABLE<br>APARTMENT – TYPE PLAN                | 6        | 14/07/2017        | 17/11/2017        |
| DA-401 DA LIVABLE SILVER<br>TYPE PLAN                       | 6        | 14/07/2017        | 17/11/2017        |
| DA-511 LEVEL 1<br>STORAGE                                   | 2        | 13/11/2017        | 17/11/2017        |
| DA-612 DA DEEP SOIL<br>DIAGRAM                              | 7        | 13/11/2017        | 17/11/2017        |



|  |            |                   |                   |
|--|------------|-------------------|-------------------|
| DA-710 FAÇADE ELEVATIONS (BUILDING B)  | 5          | 14/07/2017        | 17/11/2017        |
| DA-711 FAÇADE ELEVATIONS (BUILDING C&D)  | 5          | 14/07/2017        | 17/11/2017        |
| DA-712 FAÇADE ELEVATIONS BUILDING E)   | 5          | 14/07/2017        | 17/11/2017        |
| DA-713 FAÇADE ELEVATIONS (LINK BUILDING & BUILDING F&G)  | 5          | 14/07/2017        | 17/11/2017        |
| PROJECT SCHEDULE   | 6          | 14/11/2017        | 17/11/2017        |
| <b>MATERIALS &amp; FINISHES</b>  |            |                   |                   |
| DA-700 DA COLOUR SAMPLE BOARD  | 5          | 14/11/2017        | 17/11/2017        |
| <b>ARCHITECTURAL PLANS—prepared by mosca pserras architects</b>  |            |                   |                   |
| <i>Operable Louvre Sections / OL1</i>  | <i>C</i>   | <i>15/04/2019</i> | <i>17/04/2019</i> |
| <i>Operable Louvre Elevations / OL2</i>  | <i>A</i>   | <i>12/02/2019</i> | <i>1/03/2019</i>  |
| <i>Block B East &amp; West Elevations / 802</i>  | <i>K</i>   | <i>17/12/2018</i> | <i>17/04/2019</i> |
| <i>Block E East &amp; West Elevations / 804</i>  | <i>K</i>   | <i>17/12/2018</i> | <i>17/04/2019</i> |
| <i>Horizontal Operable Louvre Panel</i>  | <i>A</i>   | <i>13/12/2018</i> | <i>1/03/2019</i>  |
| <b>SUBDIVISION PLAN</b>  |            |                   |                   |
| <i>Sheets 1 &amp; 2</i>  | <i>N/A</i> | <i>No date</i>    | <i>16/11/2017</i> |
| <i>Surveyor's Reference 118031505_12</i>   |            | <i>6/07/2018</i>  | <i>26/06/2019</i> |
| <i>Stage 1 Surveyor's Reference 118462501_07 - Sheet 1 of 1</i>  |            |                   |                   |
| <i>Stage 2</i>   | <i>N/A</i> | <i>6/07/2018</i>  | <i>26/06/2019</i> |
| <i>Surveyor's Reference 118462503_00</i>   |            |                   |                   |
| <b>LANDSCAPE PLANS – prepared by Arcadia Landscape Architecture</b>  |            |                   |                   |
| Pages 1 – 34<br>200_Masterplan,<br>400_Plant Schedule,<br>Softscape Plans No.'s 401 – 406<br>Landscape Details (2 pages) | Issue S    | November 2017     | 16 Nov 2017       |
| <b>CIVIL &amp; STORMWATER PLANS – Prepared by AT&amp;L with Project No. 16-380</b>                                       |            |                   |                   |
| SKC25_ACCESS ROAD LAYOUT OPTION 2  | B          | 13-11-17          | 13/11/2017        |

|   |   |          |            |
|---|---|----------|------------|
| SKC26_ACCESS ROAD CROSS SECTION OPTION 2                | B | 14-11-17 | 13/11/2017 |
| SKC27_TOWNHOUSES RAMP                                   | B | 14-11-17 | 13/11/2017 |
| SKC28_ACCESS ROAD AND PRODUCTION INTERSECTION           | B | 14-11-17 | 13/11/2017 |
| DAC011 - SITEWORKS AND STORMWATER DRAINAGE PLAN SHEET 1 | C | 14-07-17 | 28/07/2017 |
| DAC012 - SITEWORKS AND STORMWATER DRAINAGE PLAN SHEET 2 | D | 14-07-17 | 28/07/2017 |
| DAC013 - SITEWORKS AND STORMWATER DRAINAGE PLAN SHEET 3 | D | 14-07-17 | 28/07/2017 |
| DAC015 - STORMWATER DETAILS SHEET 1                     | B | 19-12-16 | 28/07/2017 |
| DAC016 - STORMWATER DETAILS SHEET 2                     | A | 14-07-17 | 28/07/2017 |
| DAC050 – STORMWATER DRAINAGE CATCHMENT PLAN             | E | 14-07-17 | 28/07/2017 |
| DAC051 - OSD TANK 1 DETAILS                             | C | 14-07-17 | 28/07/2017 |
| DAC052 - OSD TANK 2 DETAILS                             | C | 14-07-17 | 28/07/2017 |
| DAC053 - OSD TANK 3 DETAILS                             | D | 14-07-17 | 28/07/2017 |
| DAC080 – EROSION AND SEDIMENTATION CONTROL PLAN         | D | 14-07-17 | 28/07/2017 |
| DAC081 – EROSION AND SEDIMENTATION CONTROL DETAILS      | B | 19-12-16 | 28/07/2017 |

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

*[Amendment A - S4.55(1A) amended on 20 April 2018]*

*[Amendment B - S.455(1A) amended on 11 September 2018]*

*[Amendment D - S4.55(1A) amended on 8 October 2018]*

*[Amendment F – S4.55(1A) amended on 14 May 2019]*

- **Amend condition 3:**

**Voluntary Planning Agreement**

(a) A voluntary planning agreement (VPA) was entered into between Council, the Developer

(Land and Portfolio Pty Ltd) and the Lot Owner (D.L.N. Pty Limited) on 9 May 2016 in connection with the making of the amendment to the Rockdale LEP to permit the carrying out of the development which is the subject of this consent.

The VPA was novated to the Developer (Land & Portfolio Pty Ltd) and Purchaser (JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust) on 15 December 2016.

***The VPA was subsequently amended by the Deed of Variation dated 1 March 2019 entered into by Bayside Council and JQZ Nine Pty Ltd, which varies the Original Planning Agreement to reflect and accommodate changes in circumstances since the Original Planning Agreement.***

The VPA ***as amended*** requires that Development Contributions with Item No. A, B, C, D, E, F, G and H referred to in Column 1 of the Table provided in clause 1.1 of Schedule 3 of the VPA be made at a time referred to in Column 4 of the Table provided in clause 1.1 of Schedule 3 (Timing) ***as modified by the Deed of Variation dated 1 March 2019.***

No occupation certificate or construction certificate as referred to in Column 4 of the table provided in clause 1.1. of Schedule 3 (Timing) can be issued until the corresponding Development Contributions referred to in Schedule 3 have been made ***other than the timing of delivery of the child care centre.***

For the purposes of the VPA, the approved Floor Space Ratio of the Development is 2:1 or higher (for Land within the 'R4 - High Density Residential' zone) and the maximum building height is in accordance with the building height plane defined by clause 4.3(3) of Rockdale LEP 2011 ***except to the extent permitted by the Deed of Variation dated 1 March 2019.***

(b) ***Child Care Centre - Item G of the Voluntary Planning Agreement:***

(i) ***Construction of the child care centre required under Item G of the VPA (Approved under DA-2018/222) and the Deed of Variation dated 1 March 2019 must be completed eighteen (18) months after the later of the date:***

- A. The Child Care Centre is granted Development Consent; or***
- B. Council provides its final written approval to the Child Care Centre Specification.***

***Note: This condition was previously included in Condition 96, however the timing for completion of construction of the child care centre is no longer linked to the issue of any Occupation Certificate and the condition has therefore been moved here to the 'General' section.***

- **Amend Condition 14:**

#### **Roads and Maritime Services**

The following conditions imposed by Roads and Maritime Services (RMS) in their letters dated 12 September 2017, ***15 January 2019 and 5 June 2019*** must be complied with:

- (i) The proposed Traffic Control Signals (TCS) at the intersection of Rocky Point Road/Weeney Street and the "site access road" shall be designed to meet Roads and



Maritime requirements. The TCS plan shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Roads and Maritime supplements (available on [www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)). The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a Construction Certificate and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

(ii) Roads and Maritime is prepared to extinguish the existing easement upon completion of the development and provision of the replacement drainage system as per the attached draft "Plan of Easement Affecting Lot 1 in DP 599502 and Lot 22 in DP 620329" referred to Roads and Maritime on 28 July 2017. The new system is to be protected by a new easement in favour of Roads and Maritime providing overland flow and not solely subsurface drainage.

Roads and Maritime will require a suitable notation on title, acceptable to Roads and Maritime, in relation to Roads and Maritime ongoing right to discharge stormwater into the development drainage system. All works and fees associated with the relocation of the easement and infrastructure are to be at no cost to Roads and Maritime. Furthermore, detailed design plans and hydraulic calculations of the proposed changes to Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au)

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

(iii) The developer will be responsible for undertaking any community consultation required in relation to the impacts of proposed road works, including the impacts any loss of on street parking required to facilitate the works.

(iv) Any realignment boundary/dedication of land to facilitate the works must be dedicated as road at no cost to Roads and Maritime.

(v) A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

(vi) The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be accordance with

AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.

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

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

Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au)

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

(viii) All demolition and construction vehicles are to be wholly within the site as construction zone will not be permitted on Rocky Point Road.

(ix) Road Occupancy Licence must be obtained from Transport Management Centre for any works that may impact on traffic flows on Rocky Point Road during construction activities.

(x) All works and signposting associated with the subject development, including any public utility adjustment/relocation works, shall be at no cost to Roads and Maritime.

(xi) ***The section of roadway within proposed Lot 1 of Stage 1 is to be dedicated to Roads and Maritime prior to the issue of any Construction Certificate for any development on proposed Lot 1 in Stage 1 of the subdivision.***

***Note: The section of roadway to be dedicated to RMS is identified as Lot 11 within the Stage 2 subdivision plan.***

(xii) ***The following additional condition imposed by Roads and Maritime Services (RMS) in their letter dated 15 January 2019 must be complied with:***

***The Traffic Control Signals (TCS) at the intersection of Rocky Point Road/Weeney Street agreed to 'in principle', under Section 87 of the Roads Act 1993, (letter issued on 12 September 2017) are to be installed and completed prior to the issue of any Occupation Certificate for any lots and in accordance with all conditions issued by Roads and Maritime detailed in the letter issued on the 12 September 2017.***

- **Amend condition 52:**

#### Engineering Modifications - New Road

Prior to the issue of the relevant Construction Certificate, engineering plans must be submitted to, and

approved by, Council's Director City Futures, that comply with the following:

- (a) Provide a 20.1m road reserve width, in accordance with Council's 'Road Widths' Policy, for the internal access road except for that portion of the road to the immediate north of the approved Child Care Centre lot, which is required to have a road reserve width of 18.2 metres, consistent with the approved engineering sketch titled SKC25 listed in Condition 2.
- (b) All parking spaces along the New Road must be constructed of porous paving.
- (c) The design of the relocated stormwater pipe within the New Road must include a gutter flow analysis in both Rocky Point Road and the New Road to ensure that the flows are fully contained within the gutter and that there will be no overflows into the development site.
- (d) Include Street lighting in accordance with Council's standards (Note: all footings to be provided within the future road reserve - i.e. within proposed Lot 3 **and that portion of the road within Lot 1 as identified in the Stage 1 approved subdivision plan, and Lots 3 and 12 within the Stage 2 subdivision plan.**
- (e) All landscaping along the New Road to incorporate WSUD treatment of stormwater from the road and parking area pavements.
- (f) With the design of the New Road all footpaths to be a minimum 1.5m wide and the shared cycleway / footpath must be a minimum of 3m wide.
- (g) Underground power supply and servicing.

- **Amend condition 96:**

Voluntary Planning Agreement matters

(i) Contribution towards Sporting Facilities – Item B in the Voluntary Planning Agreement  
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00\* must be provided to Council to be used towards improvement or enhancement of sporting facilities for the Arncliffe Scots Baseball Club in accordance with Item B of the Table in clause 1.1, Schedule 3 of the VPA.

\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

(ii) Contribution towards Sporting Facilities – Item C in the Voluntary Planning Agreement  
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00\* must be provided to Council to be used towards the improvement or enhancement of sporting facilities for the Brighton Seagulls Junior Rugby League Football Club in accordance with Item C of the Table in clause 1.1, Schedule 3 of the VPA.

\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

(iii) Contribution towards Playground Construction – Item E of the Voluntary Planning Agreement

Prior to issue of any Occupation Certificate ***in relation to the 150th residential dwelling on the Development Site for the Child Care Centre*** a monetary contribution of \$415,000.00\* must be provided to Council for construction of a new playground in the northwest section of Tonbridge Reserve, or as otherwise agreed between the parties, in accordance with Item E of



the Table in clause 1.1, Schedule 3 of the VPA **and the Deed of Variation dated 1 March 2019.**

\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

(iv) Shared footpaths and cycleway Construction – Item D of the Voluntary Planning Agreement Prior to issue of any Occupation Certificate ***in relation to the 300th residential dwelling on the Development Site for the Child Care Centre*** a monetary contribution of \$1,595,000.00\* must be provided to Council to be used for carrying out works to create shared footpaths and cycleways in accordance with Item D of the Table in clause 1.1, Schedule 3 of the VPA **and the Deed of Variation dated 1 March 2019.**

\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

(v) Child Care Centre – Item G of the Voluntary Planning Agreement

***(a) Construction of the child care centre required under Item G of the VPA (Note: Item G is the subject of a future Stage 2 DA) must be commenced prior to issue of an Occupation Certificate for the 250th residential dwelling on the site.***

(b) ***Construction of the child care centre and d*** Dedication to Council of the 1,000m2 parcel of land for child care centre purposes in accordance with the approved plans and Item G and Item H in the Table in clause 1.1, Schedule 3 of the VPA **and the Deed of Variation dated 1 March 2019.**

(c) Council requires proof of lodgement of the signed Subdivision Certificate ***relating to Stage 2 of the subdivision*** and 88B Instrument ***relating to the parcel of land for child care centre purposes (Lot 4)*** with the Land Titles Office, prior to the issue of any Occupation Certificate in relation to the 350th dwelling of the Development boundary (as defined in ***Column 4, Part C, Item H in the Table in Clause 1.1 of Schedule 3 of the VPA.***

***Note: Construction of land associated with the proposed child care centre is no longer linked with the issue of any Occupation Certificate. Item (a) above has therefore been moved to Condition 3 in the General Section of this consent.***

(vi) Production Lane Embellishment / Upgrade Works – Item F of the Voluntary Planning Agreement (VPA)

Prior to issue of the last Occupation Certificate for residential accommodation on the Development Site, but no earlier than issue of the Occupation Certificate for the 300th residential dwelling on the Development Site (unless otherwise agreed in writing to an earlier date in accordance with the VPA), the Development must construct road embellishment and remodelling works to upgrade Production Lane in accordance with Item F of the Table in clause 1.1, Schedule 3 of the VPA.

Alternatively, in accordance with the VPA **and the Deed of Variation dated 1 March 2019**, Council may direct the Developer in writing to provide a monetary contribution equivalent to the Contribution Value ***Any Production Lane Direction must be issued within 30 days of the issue of an Occupation Certificate for the 300th residential unit on the Development Site***

~~(as per the VPA)~~ for the purposes of Council carrying out, at the Council's absolute discretion:

- (a) *The Production Lane Works; or*
- (b) *The Works in Part A, Item D [Scarborough Park South (and environs) Contribution], Column 2 being works to create shared footpaths and cycleways in Scarborough Park South, Leo Smith Reserve, Hawthron St Reserve and Tonbridge Reserve with priority being given to works on Scarborough Park South. (Production Lane Direction)*

This contribution is to be subject to annual indexation at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- **Amend condition 105:**

Landscape Easement - B6 Zone

Prior to issue of any Occupation Certificate for Building B:

- (a) A landscape easement shall be created on the title of the land. The landscape easement shall have a minimum width of 6m, shall be deep soil and shall extend into the B6 zoned land immediately adjacent to the R4 zone boundary for that section that is located between the New Road and the sites northern boundary (refer to Figure 2 in the Applicant's Response to Council's RFI Letter prepared by JBA, dated 21 July 2017).
- (b) The landscape easement required by (a) is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council.
- (c) Council requires proof of lodgement of the signed Subdivision Certificate **relating to both Stage 1 and Stage 2 of the subdivision** and 88B Instrument with the Land & Property Information.

**Amend condition 106:**

Dedication to Council/RMS for Road Widening/ New Road Access

Prior to issue of ~~the any~~ Occupation Certificate for the **350th dwelling-residential dwellings located within the R4 zoned land, or prior to** dedication of the child care centre to Council (**whichever is first**), the following shall be dedicated to Council ~~or the RMS for road widening and/or~~ for public road access purposes to ensure that access is available to the child care centre **and the basement parking for the residential tenancies, and the following easements / positive covenants / restrictions created:**

- (a) ~~The dedication to RMS of the proposed intersection at Rocky Point Road and the New Road identified as Lot 3 in the approved Subdivision Plan listed in Condition 2.~~
- (b) The dedication to Council of the **portion of the** proposed new access road identified as ~~Lot 2 Lot 3~~ on the approved Subdivision Plans listed in Condition 2.
- (c) **The applicant shall provide an instrument under the relevant sections of the Conveyancing Act 1919, to the satisfaction of Council, showing:**
  - (i) **All rights of way and / or easements as necessary to allow for full public access over the component of the approved internal access road shown on Lot 1 in the**

**approved Stage 1 Subdivision Plan, and full access to the RMS for maintenance purposes, until such time as that land is dedicated to Council and the RMS.**

**(ii) Easements for all services over the internal access road as required.**

**(d) The applicant shall create a restriction on the title of proposed Lot 1 requiring that the section of road located within that parcel of land be dedicated to Council and the RMS prior to issue of any Construction Certificate for any development located within that parcel of land. The restriction is to expire once the road has been dedicated to Council and the RMS.**

**(e) A positive covenant for the management of the road infrastructure shall be placed on the Certificate of Title of the Lot 1 containing the infrastructure. The positive covenant shall instruct that the section of road (and associated infrastructure) located within Lot 1 must be kept in good condition at all times and that all management undertaken in the road reserve (including but not limited to maintenance and cleaning) shall be conducted in accordance with the approved Road Reserve Maintenance Specification. The covenant shall confirm that, where the road maintenance is not carried out, that Council may enter the land to carry out required maintenance work to ensure the safe and efficient operation of the road (and associated infrastructure), and recover the costs from the land owner. The public infrastructure in the road reservation includes, but is not limited to, all:**

- (i) Road carriageway and footpath pavements;**
- (ii) Road carriageway and footpath furniture;**
- (iii) Road carriageway and footpath pavement markings and signs;**
- (iv) Road drainage pipelines, inlet pits, and subsoil drainage; and**
- (v) Street trees and landscaping.**

**This covenant is to expire once the road has been dedicated to Council in accordance with (d) above.**

Council requires proof of lodgement of the signed Subdivision Certificate **relating to Stage 1 of the subdivision** and 88B Instrument with the Land Titles Office **prior to issue of any Occupation Certificate.**

- **Delete condition 124:**

**~~-Dedication to Council for Road Widening—Rocky Point to RMS & New access road to Council as follows:~~**

**~~(a) The dedication to RMS for road widening purposes that parcel of land identified as Lot 3 in the approved subdivision plan; and~~**

**~~(b) The dedication to Council for new public road that parcel of land identified as Lot 2 in the approved subdivision plan.~~**

**~~These provisions are to be put into effect prior to release of the Subdivision Certificate.~~**

- **Amend condition 125:**

The **Stage 1 and Stage 2** subdivision is to occur in accordance with all relevant conditions of this consent. **This includes, but is not limited to, the landscape easement required by condition 105.**



- **Amend condition 126:**

A Subdivision Certificate **for both stages of subdivision**, and four (4) copies of the plans for the endorsement of the General Manager, shall be submitted to Council prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.

- **Amend Condition 127:**

**Prior to issue of the Subdivision Certificate for the Stage 2 subdivision**, A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

- **Amend condition 128:**

**Visitor Parking - Townhouse Access**

**A For the Stage 1 subdivision**, a positive covenant shall be created over the visitor parking spaces within the main basement to ensure that visitors to the Townhouses are provided with vehicular and pedestrian access to/from the visitors parking spaces within the main basement at all times.

A suggested wording for the covenant is indicated below:

*"The Registered Proprietors covenant as follows with Council in respect to the area of common property identified as 'Visitor Parking' spaces on the Strata Plan (herein called 'The Burdened Land').*

*The Registered Proprietor will:*

- i) permit the registered proprietors and/or invitees of the registered proprietors of the Townhouse lots # inclusive to enter upon The Burdened Land with a vehicle or vehicles whether motorized or not and to park, leave or place such a vehicle upon The Burdened Land at all times that the registered proprietor or invitee enters upon The Burdened Land.*
- ii) not obstruct or inhibit in any manner whatsoever access to or exclusive use of The Burdened Land in accordance with the prior cause.*
- iii) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.*

- **Delete condition d(ii) from "Development Consent Advice"**

In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:

- i) all of the above conditions of consent must be complied with;
- ii) **~~a Section 73 certificate from Sydney Water must be supplied. If it is for a Torrens Title subdivision, the certificate must clearly state subdivision into the relevant number of lots;~~**
- iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
- iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.

## Background

### History

The site was most recently zoned primarily for industrial purposes and was occupied by Darrell Lea Chocolates. The site was the subject of a Planning Proposal in 2014 and was rezoned to both B6 Enterprise Corridor and R4 High Density Residential under Rockdale Local Environmental Plan (RLEP 2011). This application relates to subdivision of the land to permit two (2) stages of subdivision.

Demolition and construction works associated with DA-2017/224 have substantially commenced.

The following applications are of relevance to the subject site:

- DA-2017/224 Approved by the Sydney Eastern City Planning Panel (SECPP) on 28 November 2017 Staged Development Stage 1 included construction of four (4) residential flat buildings comprising 513 units and twenty (20) townhouses (total of 533 dwellings); basement car parking; construction of a new access road connecting Rocky Point Road and Production Avenue, including the construction of a new signalised intersection at Rocky Point Road and road upgrade works to Production Avenue; landscaping works, including ground level landscaping for communal open space and communal terraces to some rooftops of the residential flat buildings; land subdivision, land dedication and building envelope for a child care centre; retention of the existing commercial building at 168 Rocky Point Road; and tree removal and bulk earthworks at 152200 and 206 Rocky Point Road, Sans Souci.
- DA-2017/224/A - This Section 4.55(1) Application is to correct minor errors with plan references, Section 94 Contributions and tree removal requirements. This application was approved on 20 April 2018.
- DA-2017/224/B - Section 4.55(1A) Application to modify condition 19(a)(ii) to convert 3 bedroom units to 2 bedroom units on lower three levels in Building D rather than to 1 bedroom

units. No change to the total number of units was proposed. This application was approved on 11 September 2018.

- DA-2017/224/C - Section 4.55(1A) Application to modify Condition 35 (b) to reduce the clearance height for the basement access ramp. This application was approved on 6 July 2018.
- DA-2017/224/D - The subject of this report. Section 4.55(1A) Application including provision of an additional townhouse to result in a total of twenty one (21) townhouses located along the southern side of the new road. This application was approved on 8 October 2018.
- DA-2017/245 - Torrens Title Subdivision of the site into two (2) lots. This application was withdrawn on 29 October 2018 and modification application No. 2017/224/E lodged to deal with subdivision matters.
- DA-2017/224/E - Section 4.55(1A) Application to permit subdivision in two stages. This application was modified to include modifications associated with the Deed of Variation which amended the VPA and is the subject of this report.
- DA-2017/224/F - Section 4.55(1A) Application to modify Condition 19(h) regarding louvres along the western facades of Buildings B and E. This application was approved by the Bayside Local Planning Panel on 14 May 2019.
- DA-2018/222 - Stage 2 development application for the construction of a two (2) storey child care centre for 66 children, car parking, landscaping and signage. This application was approved by the Bayside Local Planning Panel on 14 May 2019.

#### Approved Subdivision

The original approved land subdivision comprised the creation of four (4) lots (see **Figure 1**), however, no subdivision certificate has been issued in relation to the approved subdivision. Therefore, the approved subdivision has not been registered on title and the lots comprising 'the site' remain as existing (refer to 'site description' section of this report).

The original approved land subdivision and dedication as part of the original DA-2017/224 was as follows:

- Land subdivision and dedication of 1000m<sup>2</sup> land parcel to Council for the future child care centre (Lot 4);
- Land subdivision and dedication of 575m<sup>2</sup> land parcel to RMS for intersection widening purposes (Lot 3);
- Land subdivision and dedication of 3843m<sup>2</sup> land parcel to Council for the new public access road (Lot 2); and
- The remaining land to form a two parts within a single title (Lot 1) being the land zoned R4 High Density Residential and B6 Enterprise Corridor.



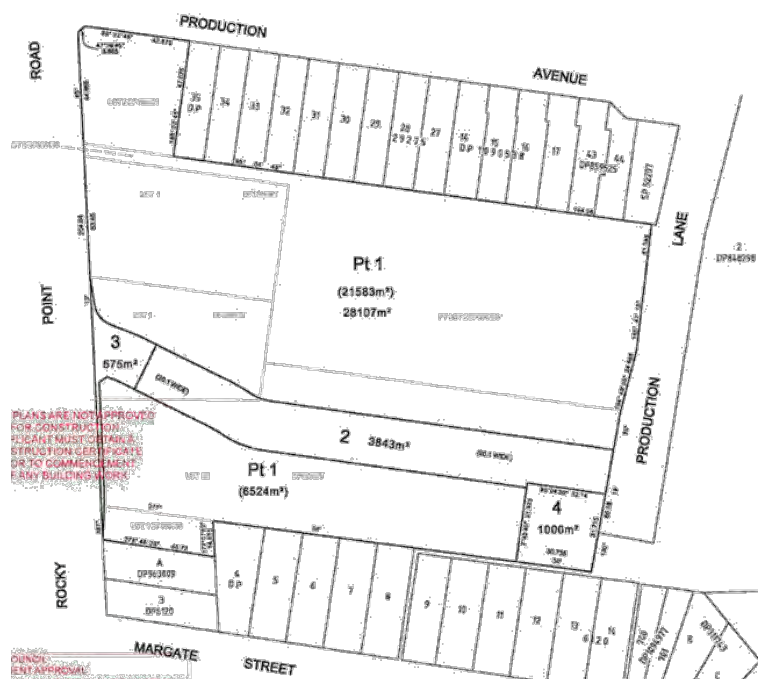


Figure 1 - Original approved land subdivision

## Proposal

Council is in receipt of a s4.55(1A) modification application, DA-2017/224/E, at 152-200 & 206 Rocky Point Road, Kogarah, which seeks consent to amend the approved subdivision to permit subdivision to be undertaken in two (2) stages, to modify relevant conditions to reflect the Deed of Variation to the VPA, and to make a minor correction to the Description of the Proposal on the Notice of Determination which was not updated to include the additional townhouse approved under DA-2017/224/D.

Specifically, the proposal consists of:

### Amendments relating to Deed of Variation to VPA

Modification of Conditions 3 and 96 to reflect the amended VPA obligations as detailed in the Deed of Variation (refer to Section 7.4 of the report for discussion). This amendment was requested by the applicant on 11 March 2019.

### Correction of Description of Proposal on the Notice of Determination

The Notice of Determination for the most recently approved modification application on the site (DA-2017/224/F) incorrectly refers to 'twenty (20) townhouses'. An additional townhouse was approved under DA-2017/224/D. Therefore, the description of the proposal is required to be corrected as follows:

*"Integrated Development and Staged Development – Stage 1 includes construction of four (4) residential flat buildings comprising 513 units and ~~twenty (20)~~ twenty-one (21) townhouses;*

*basement car parking; construction of a new access road connecting Rocky Point Road and Production Avenue, including the construction of a new signalised intersection at Rocky Point Road and road upgrade works to Production Avenue; landscaping works, including ground level landscaping for communal open space and communal terraces to some rooftops of the residential flat buildings; land subdivision, land dedication and building envelope for a child care centre; retention of the existing commercial building at 168 Rocky Point Road; and tree removal and bulk earthworks"*

#### **Amendments relating to Subdivision**

Modification of the approved subdivision (as described previously in the 'history' section of this report) to permit subdivision in two (2) stages as follows:

##### **Stage 1**

Adopt a subdivision pattern that is generally consistent with the approved subdivision pattern on the site for land zoned R4 - High Density Residential, however consolidate all land zoned B6 - Enterprise Corridor within the overall site into a single lot (Proposed 'Lot 1').

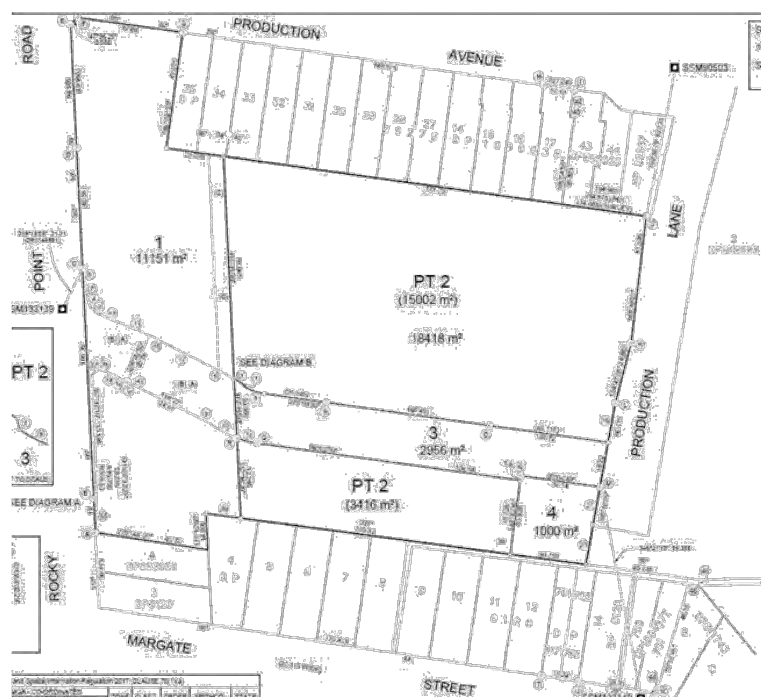
The proposed subdivision as amended will result in the creation of four (4) allotments for Stage 1 which are described below (see **Figure 1**):

(i) Lot 1 - includes all land located within the B6 Enterprise Corridor zone (including part of the new north-south road). This lot is to be subject to a series of easements that will allow a right of way over the future road on the B6 Land, give effect to the widening of Rocky Point Road and allow services through to and from the residential land in the R4 zone (and beyond). A condition will also require the creation of the landscape easement agreed to in DA-2017/224, as well as a restriction on the title to ensure that the section of roadway within proposed Lot 1 will be dedicated to Council and RMS prior to issue of any Construction Certificate for development on proposed 1. The easements and restrictions are to be secured through conditions of consent.

(ii) Lot 2 - includes land zoned R4 High Density Residential which contains the residential flat buildings and townhouses approved under this DA-2017/224 (as modified);

(iii) Lot 3 - comprises that section of New Road linking Rocky Point Road and Production lane that is located within the R4 zoned part of the site (and which will be dedicated to Council prior to issue of any Occupation Certificate for the residential development); and

(iv) Lot 4 - comprises of the approved child care centre that will also be dedicated to Council in accordance with the VPA (Refer to Stage 2 development application No. DA-2018/222).



**Figure 1 - Amended Stage 1 of the proposed subdivision - subdivision into four (4) lots**

## **Stage 2**

Subdivide the approved Lot 1 created in Stage 1 to create three (3) lots (Lots 11, 12, 13). The proposed lots can be described as follows:

- (i) Lot 11 - includes those parts of the land zoned B6 Enterprise Corridor that are located north and south of the approved internal access road (9,662m<sup>2</sup>);
- (ii) Lot 12 - comprises of the section of approved internal access road that will be dedicated to Council in the future (907m<sup>2</sup>); and,
- (iii) Lot 13 - comprises of the section of approved internal access road that will be dedicated to RMS in the future (582m<sup>2</sup>).



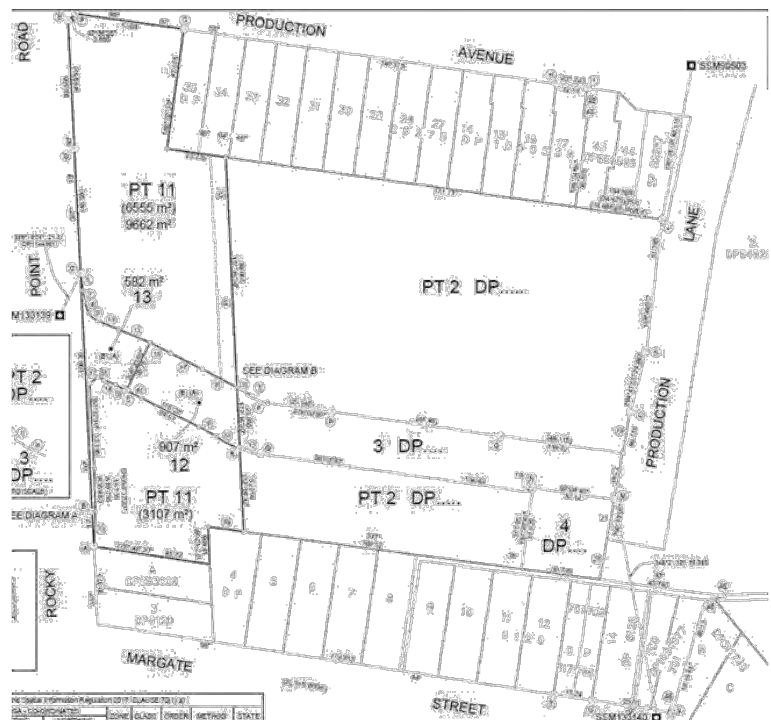


Figure 2 - Amended Stage 2 of the proposed subdivision - subdivision Lot 1 to create three (3) lots

The application was referred to RMS who have agreed with the proposed subdivision, creation of easements and dedication of the relevant part of road to RMS prior to issue of any Construction Certificate for development on proposed Lot 1 of Stage 1.

The proposal seeks to modify the following conditions to permit the subdivision as proposed to be amended:

- Amend condition 2, 3, 14, 52, 96, 105, 106, 125, 126, 127 and 128;
- Delete condition 124 and condition (d)(ii) under Development consent advice

Site location and context

The subject site is known as 152-200 and 206 Rocky Point Road, Kogarah. The site is generally rectangular in shape. The total site area is approximately 33,525m2 comprising of six (6) allotments (refer to Table 1 and Figure 1 below). The site frontage to Rocky Point Road (a Classified Road) is approximately 204m. The eastern frontage is approximately 142m to Production Avenue (Lane), the northern side boundary is 232.4m to the rear of the properties with frontage to Production Avenue (located within the IN1 zone), and the southern boundary length is 197.4m primarily to the rear of properties fronting Margate Street.

TABLE 1 - Legal description and land area comprising the site

|                      |   |        |                       |
|----------------------|---|--------|-----------------------|
| 152 Rocky Point Road | 2 | 405531 | 1,929.7m <sup>2</sup> |
|----------------------|---|--------|-----------------------|

|                        |    |         |                            |
|------------------------|----|---------|----------------------------|
| 160 Rocky Point Road   | 2  | 838198  | 11,704.7m <sup>2</sup>     |
| 168 Rocky Point Road   | 1  | 1144981 | 3,750.5m <sup>2</sup>      |
| 200 Rocky Point Road   | 22 | 620329  | 12,376m <sup>2</sup>       |
|                        | 11 | 599502  | 3,124.5m <sup>2</sup>      |
| 206 Rocky Point Road   | 1  | 666138  | 639.6m <sup>2</sup>        |
| <b>Total Land Area</b> |    |         | <b>33,525m<sup>2</sup></b> |

The proposal relates to modifications to conditions of consent. No physical works, including tree removal, are proposed as part of this modification application.

This modification application is to split into zoning - R4 - High Density Residential and B6 - Enterprise Corridor (refer to Figure 5), and to ensure dedication of the child care centre land and New Road. The total site area is approximately 33,525m<sup>2</sup> (see **Table 2**).

**TABLE 2 - Area of land associated with each of the R4 & B6 zones**

| Land Use Zone   | Land Area   |
|---|---|
| B6 - Enterprise Corridor (including 152 and 206 Rocky Point Road) | 11,151m <sup>2</sup> (including the area to be dedicated for intersection and road widening purposes) |
| R4 - High Density Residential                                     | 22,374m <sup>2</sup>  |



**FIGURE 4 - Site Area**



**FIGURE 5** - 'Site Boundary' refers to areas subject to physical works under the approved development application, DA-2017/224 (and as subsequently modified). 'Relevant Site Area' refers to those parts of the site subject to the construction of residential dwellings and the child care centre under DA-2017/224.

The Land Area for the B6 Enterprise Corridor zone includes the area that is subject to future road widening for the proposed new intersection at Rocky Point Road.

Works at the site are substantially under way, including construction of the road and all buildings associated with the approved development.

Generally, the sites slope down from Rocky Point Road to the rear Production Lane. The difference in levels between Rocky Point Road and Production Lane varies between 6m and 10m, with a maximum difference in levels between the sites highest point (152 Rocky point Road RL12.5) and its lowest point at the northeastern corner of the site at Production Lane (RL 2.5). The site also contains a cross fall generally from southwest down to northeast. The rear southeastern portion of the site is relatively level and elevated approximately 2m - 2.5m above the sites northern rear side. There is also a difference in levels between the Margate Street properties and the subject site. Toward the rear southern boundary of the site, primarily at the rear southeastern corner where the proposed child care centre is located, the subject site is approximately 2 metres lower than the Margate Street properties.

A Deed has been entered into between the owner of the subject site and the adjoining owner of No. 2028 Production Avenue. This 'Deed' provides that owner with the right to use a 3m strip of land located immediately to the south of their property for fire egress and building maintenance purposes.

The site is identified as potentially contaminated, is affected by Acid Sulfate Soils Class 3 and 5, and a very small part of the sites northeastern fringe is affected by flooding.



Surrounding Context

The surrounding site context includes:

- North – the rear of an array of light industrial uses within the IN2 Light Industrial zone. These properties have frontage to Production Avenue and include car repair station, warehouses and a range of other light industrial uses.
- South - the rear yard of detached dwellings within the R2 Low Density Residential zone. These properties have frontage to Margate Street and Rocky Point Road. Ramsgate town centre located approximately 300m further the south contains a range of small scale commercial and retail business, and some more recent four and five storey mixed use developments.
- East - Production Lane, Leo Smith Reserve / Scarborough Park which include a selection of sport fields used for baseball, soccer, rugby and cricket among other areas of the park for alternate active recreational uses. The park interconnects with broader Scarborough Park to the North and Rotary Park and Tornbridge Street Reserve to its south, forming a local grid of functional open spaces for residents and the community within the wider area. Part of the park is zoned SThe reserve takes a more natural vegetated parkland form to its south west. The part of Production Lane that immediately adjoins the site includes public car parking that is primarily utilised by the sporting fields. Access to Production Lane is via an existing oneway system from Rocky Point Road with access using Production Avenue and egress using Philips Road to gain access to Rocky Point Road (a oneway road located to the north of Production Avenue).
- West - a new Aged Care Facility, low density detached dwellings and a series of four (4) storey apartment buildings are located on the opposite side of Rocky Point Road within the Georges River Council area.

The Kogarah Town Centre is located approximately 1.4km further north. Kogarah Town Centre contains a mix of local businesses and retail shops, St George Hospital and other health and medical related facilities.

The site is also located within approximately 1.8 kilometres south east from Kogarah Railway Station and 1.5 kilometres east of Carlton Railway Station. These stations are serviced by the T4 Eastern Suburbs and Illawarra Rail line, which connects Bondi Junction to Wolli Creek, Kogarah, Sutherland and Cronulla via Central Sydney stops.

Local bus networks (Route 476 and Route 477) provide regular services in front of the site and connect the site to Kogarah and Carlton Station as well as service the local and surrounding suburbs of Rockdale, San Souci, Dolls Point, and Ramsgate.



**FIGURE 6 - Local Context (Source: PTW Architects).**



**FIGURE 7 - Aerial view of site in broader context (Source: PTW Architects).**



**FIGURE 8 - Extract of RLEP 2011 Zoning Map.**

## Statutory Considerations

### *Environmental Planning and Assessment Act, 1979*

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

#### **S4.55 (1A) - Modification**

Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 states:

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

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

Comment: The application seeks consent to permit subdivision into two (2) stages, as well as amendments to reflect the Deed of Variation to the VPA and a correction to the description of the proposal. The proposal does not result in any physical changes to the site and/or development, and will not affect rights of persons and/or services to retain access across all relevant parts of the site. The proposed amendments will permit the proposal to function as approved. The proposal is therefore considered to be of minimal environmental impact.

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

Comment: The application is for minor modifications to the development consent. The proposal will



remain as previously approved, namely a mixed use development comprising residential flat buildings, townhouses and a child care centre, and land subdivision and dedication. The proposed modifications will not change the land use or substantially alter the nature of the development. As such it is considered substantially the same development.

*c) it has notified the application in accordance with:*

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

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The application was not required to be notified as per Rockdale DCP 2011.

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

Comment: Not applicable given the application was not notified.

#### S4.55(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

S4.55(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

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

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 4.15(1) of the Environmental and Planning Assessment Act.

### **S7.4 - Planning Agreements**

Council is required to detail any Voluntary Planning Agreement (VPA) and its relationship to the application under assessment in accordance with Section 4.15(1)(a)(iii) of the EP&A Act.

In accordance with the provisions of Section 7.4 of the EP&A Act 1979, a Voluntary Planning Agreement (VPA) was entered into on the 9 May 2016 between Council, Land and Portfolio Pty Ltd (developer) and D.L.N (lot owner) in connection with the Planning Proposal for the site resulting in increased FSR and height. The VPA was novated to the new owner JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust on 15 December 2016.

The VPA includes the construction of a child care centre and dedication to Council of a parcel of land containing the new child care centre. A broad range of other works and monetary contributions are also included.

The VPA has since been amended by a Deed of Variation (dated 1 March 2019). The original planning

agreement required the child care centre to be delivered and handed over prior to the occupation certificate on the 350th residential dwelling. Due to a delay in the determination for the Development Application for the child care centre (DA-2018/222), a negotiation was made regarding the required timing for delivery of the centre, as well as to mitigate exposure to cost variations and provide extended time frames to deliver other works under the VPA.

**Deed of Variation** The Deed of Variation to the VPA between Bayside Council and JQZ for 152-206 Rocky Point Road, Kogarah, includes the following key changes:

- (i) To vary the timing that the Developer must provide several of the Development Contributions provided under the Original Planning Agreement. Under the draft Deed of Variation:
  - (a) the Scarborough Park South (and environs) Contributions and the Playground Contributions must be provided prior to the issue of an Occupation Certificate for the Child Care Centre; and
  - (b) the Child Care Centre Works must be completed eighteen (18) months after the later of the date:
    - (i) The Child Care Centre is granted Development Consent;
    - (ii) Council provides its final written approval to the specifications for the Child Care Centre Specification.
- (ii) To allow the Council to direct the Developer, instead of carrying out the Production Lane Works, to provide a monetary contribution to be utilised by the Council for either the Production Lane Works or the Scarborough Park South (and environs) works;
- (iii) To allow the Original Planning Agreement to be removed from the title register of the Land prior to the completion of the Child Care Centre Works;
- (iv) To allow the Developer to provide replacement security in the form of a mortgage to the Council over six (6) residential strata units in the development, in substitute of the bank guarantee required under the Original Planning Agreement and to amend the definition of "Security Amount" for the Bank Guarantees for Contribution Works;
- (v) To change the specified area of the Child Care Centre from 1,200sqm to 1,000sqm so as to be consistent with the planning approval;
- (vi) To provide that the provision of the Child Care Centre by the Developer is not subject to a Fit-Out Value; and
- (vii) To provide who is responsible for any costs associated with changes to the proposed plans for the Child Care Centre required by the Council.

As part of this application, the applicant proposes to amend conditions of consent to reflect the updated VPA obligations contained within the Deed of Variation, namely Conditions 3 and 96. The proposed changes to the development consent only involve minor wording amendments to reflect the amended VPA obligations and does not affect the proposed staged subdivision.

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

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

The following Environmental Planning Instruments are relevant to this application:

**State Environmental Planning Policy (Infrastructure) 2007****Clause 101 - Development with frontage to classified road**

The proposed development is located on land with a frontage to a classified road i.e. Rocky Point Road. In this regard, Clause 101 - Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposal was referred to Roads & Maritime Service (RMS) for comment on the proposed staged subdivision and modifications to conditions of consent related to road dedication. RMS did not raise objections to the proposed staged subdivision in their letter dated 15 January 2019, subject to an additional condition of consent as follows:

*"The Traffic Control Signals (TCS) at the intersection of Rocky Point Road/Weeney Street agreed to 'in principle', under Section 87 of the Roads Act 1993, (letter issued on 12 September 2017) are to be installed and completed prior to the issue of any Occupation Certificate for any lots and in accordance with all conditions issued by Roads and Maritime detailed in the letter issued on the 12 September 2017."*

Furthermore, in a letter from Roads and Maritime dated 5 June 2019, RMS requested that prior to issue of any Construction Certificate for any development on proposed Lot 1 the section of roadway within Lot 1 be dedicated to Roads and Maritime. As such, condition 14 of the consent proposed to be removed by the applicant is to be retained as dedication of land to RMS for access and maintenance of the traffic signals at the proposed intersection of Rocky Point Road/Weeney Street/new access road is still required.

Accordingly, RMS granted approval for the proposed modifications subject to conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

**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               |
| 2.3 Zone B6 Enterprise Corridor        | Yes                        | Yes - see discussion               |
| 2.6 Subdivision - consent requirements | Yes                        | Yes - see discussion               |
| 6.7 Stormwater                         | Yes                        | Yes - see discussion               |
| 6.12 Essential services                | Yes                        | Yes - see discussion               |

**2.3 Zone R4 High Density Residential**

Part of the subject site is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The approved development within the R4 zone is defined as 'residential flat buildings', 'multi dwelling house', 'child care centre' and 'road'. The proposed modifications does not affect the definitions of the approved development, nor affect the proposal compliance with the objectives of the zone, being:

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



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

The proposed development is consistent with the objectives of the zone.

### 2.3 Zone B6 Enterprise Corridor

Part of the subject site is zoned B6 - Enterprise Corridor under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). Approved works within the B6 zone is limited in nature and do not yet include the approval of any new buildings, however, will involve the future construction of a new road which has been approved. The proposed modifications will not affect the future road construction nor affect compliance with the objectives of the zone, being:

- To promote business along main roads and to encourage a mix of compatible uses.
- To provide a range of employment uses (including business, office, retail and light industrial uses) and residential uses (but only as part of a mixed use development).
- To maintain the economic strength of centres by limiting retailing activity.
- To promote redevelopment which will contribute to the locality including improvement to its visual character, access and parking, reduction of land conflicts and increase amenity for nearby residential development.

The proposed development is consistent with the objectives of the zone.

### 2.6 Subdivision - consent requirements

The application seeks approval for staged subdivision as described in the Proposal section of this report. The proposal will permit subdivision into two (2) stages and dedication of the future road and child care centre to Council and RMS. The proposal will also permit ongoing access for users of the future road reserve, provision of services to and from the R4 zoned land (and beyond), and provision of all relevant easements.

The application was referred to Council's Development Engineer, Landscape Officer and Public Domain for comment, as well as, Roads and Maritime Services (RMS) to review the relevant conditions for modification.

### Landscape

Condition 105 proposed to be modified refers to the Landscape Easement in the B6 zone. The landscape easement in the B6 Zone (within Lot 1) was an original requirement to create a buffer planting strip of six (6) metres wide to ensure adequate separation was provided from Building B to any future development within the B6 zoned lane. Concerns raised by Council's Landscape Officer was that if the subdivision of the lot was completed after the Construction Certificate plans then the density of the development will be higher and the provision of landscape and deep soil areas will be lower. It is considered that the existing conditions, as proposed to be modified, will ensure that the landscape easement will be provided so as to protect the amenity of future occupants of Building B.

### Public Domain

Council's Public Domain Team raised no objection to the proposed staged subdivision and have agreed for the small portion within the new access road connecting into Rocky Point Road to be dedicated to Council.

### Roads and Maritime Services (RMS)

Referral response from RMS raised no objection to the proposed staged subdivision, subject to dedication of land to Roads and Maritime for access and maintenance of the traffic signals at the proposed intersection of Rocky Point Road/Weeney Street/new access road in accordance with condition 14 of the consent.

The relevant section of roadway within proposed Lot 1 is to be dedicated to RMS prior to the issue of any Construction Certificate for any development on proposed Lot 1.

#### **Engineering**

Council's Engineers have reviewed the proposal and confirmed that the applicant's proposed recommendations are generally acceptable subject to minor amendments to conditions of consent which have been incorporated into the draft Notice.

#### **6.7 Stormwater**

The proposal does not involve modifications to stormwater as previously approved. Stormwater from Rocky Point Road and the new road will be managed by a new stormwater pipe and associated infrastructure located within the new Road reserve, including use of permeable paving for the proposed on-street parking spaces and footpaths. Stormwater conditions as previously imposed will be maintained. Relevant conditions will ensure that an easement is created over proposed Lot 1 in Stage 1 of the subdivision to allow water to pass from Rocky Point Road and the New Road to Scarborough Park as approved.

#### **6.12 Essential services**

Services will generally be available on the site.

The applicant proposes to allow the section of roadway closest to Rocky Point Road (within proposed Lot 1) to be held in private ownership until the time that future development is approved on Lot 1, at which time the road will then be dedicated. Until such time, the road will be subject to relevant easements and rights of way to ensure that all required rights are provided for people to utilise the road reserve, and to ensure that all services have the legal right to pass through the land. These easements will be extinguished once land is dedicated to Council.

Information relating to the proposed easements in Stage 1 and 2 will be provided by the applicant post-determination of this Section 4.55 application and prior to the relevant subdivision certificate being released from Council. Council has accepted this proposal subject to conditions of consent being included in the draft Notice of Determination.

Conditions previously imposed by Ausgrid are all to be retained.

#### **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 |
|---|----------------------------|------------------------------------|
| 4.1.3 Water Management                          | Yes                        | Yes                                |
| 4.6 Pedestrian Access and Sustainable Transport | Yes                        | Yes                                |

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

The provisions of the Regulations have been considered in the assessment of the original development application. This is for a s.4.55(1A) application and all relevant provisions of the Regulations have been considered in the assessment of this proposal as modified.

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

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls, as well as in the original assessment (and assessment of previous modifications). There are minimal impacts related to the proposal.

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

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

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

The proposed development did not require notification in accordance with the provisions of Rockdale DCP 2011.

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

The development and proposed to be modified is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

## **Schedule 1 - Draft Conditions of consent**

### **General Conditions**

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

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



following conditions.

| ARCHITECTURAL PLANS—prepared by PTW                         |          |                   |                   |
|---|----------|-------------------|-------------------|
| DA-002 SITE ANALYSIS  | 6        | 14/07/2017        | 17/11/2017        |
| DA-099 BASEMENT B3  | 2        | 13/11/2017        | 17/11/2017        |
| DA-100 BASEMENT B2  | 7        | 13/11/2017        | 17/11/2017        |
| DA-101 BASEMENT B1  | 8        | 31/01/2018        | 5/10/2018         |
| DA-110 LEVEL GROUND   | 12       | 17/09/2018        | 5/10/2018         |
| DA-111 LEVEL 1  | 8        | 23/03/2018        | 5/10/2018         |
| DA-112 LEVEL 2  | 8        | 23/03/2018        | 5/10/2018         |
| DA-113 LEVEL 3  | 8        | 28/09/2018        | 5/10/2018         |
| DA-114 LEVEL 4-5  | 7        | 13/11/2017        | 17/11/2017        |
| DA-116 LEVEL 6  | 7        | 13/11/2017        | 17/11/2017        |
| DA-117 LEVEL 7  | 7        | 13/11/2017        | 17/11/2017        |
| DA-118 LEVEL 8  | 7        | 13/11/2017        | 17/11/2017        |
| DA-119 LEVEL 9  | 7        | 13/11/2017        | 17/11/2017        |
| DA-120 LEVEL 10   | 7        | 13/11/2017        | 17/11/2017        |
| DA-121 LEVEL 11-12  | 7        | 13/11/2017        | 17/11/2017        |
| DA-123 ROOF PLAN  | 8        | 31/01/2018        | 10/08/2018        |
| DA-200 STREET ELEVATIONS                                    | 5        | 14/07/2017        | 17/11/2017        |
| <b>DA-210 ELEVATIONS –<br/>BUILDING B</b>                   | <b>5</b> | <b>14/07/2017</b> | <b>17/11/2017</b> |
| DA-211 ELEVATIONS –<br>BUILDING C                           | 5        | 14/07/2017        | 17/11/2017        |
| DA-212 ELEVATIONS –<br>BUILDING D                           | 5        | 14/07/2017        | 17/11/2017        |
| <b>DA-213 ELEVATIONS –<br/>BUILDING E</b>                   | <b>6</b> | <b>13/11/2017</b> | <b>17/11/2017</b> |
| DA-214 ELEVATIONS –<br>BUILDING F&G                         | 6        | 23/03/2018        | 5/10/2018         |
| DA-300 SECTIONS –<br>BUILDING B & C                         | 5        | 14/07/2017        | 17/11/2017        |
| DA-301 SECTIONS –<br>BUILDING D & E                         | 5        | 14/07/2017        | 17/11/2017        |
| DA-302 SECTION PARK   | 5        | 14/07/2017        | 17/11/2017        |
| DA-303 SECTIONS - ROCKY<br>POINT ROAD TO<br>PRODUCTION LANE | 1        | 14/07/2017        | 17/11/2017        |
| DA-304 SECTIONS –<br>WESTERN & SOUTHERN<br>BOUNDARY         | 1        | 14/07/2017        | 17/11/2017        |
| DA-310 DRIVEWAY PROFILE<br>RAMP 1 – MAIN ENTRY              | 6        | 13/11/2017        | 17/11/2017        |

|   |            |                              |                                  |
|---|------------|------------------------------|----------------------------------|
| DA-311 DRIVEWAY PROFILE RAMP 3  | 6          | 14/07/2017                   | 17/11/2017                       |
| DA-312 DRIVEWAY PROFILE RAMP 4 – TOWNHOUSE ENTRY  | 7          | 23/03/2018                   | 5/10/2018                        |
| DA-400 DA ADAPTABLE APARTMENT – TYPE PLAN   | 6          | 14/07/2017                   | 17/11/2017                       |
| DA-401 DA LIVABLE SILVER TYPE PLAN  | 6          | 14/07/2017                   | 17/11/2017                       |
| DA-511 LEVEL 1 STORAGE  | 2          | 13/11/2017                   | 17/11/2017                       |
| DA-612 DA DEEP SOIL DIAGRAM   | 7          | 13/11/2017                   | 17/11/2017                       |
| DA-710 FAÇADE ELEVATIONS (BUILDING B)   | 5          | 14/07/2017                   | 17/11/2017                       |
| DA-711 FAÇADE ELEVATIONS (BUILDING C&D)   | 5          | 14/07/2017                   | 17/11/2017                       |
| DA-712 FAÇADE ELEVATIONS BUILDING E)  | 5          | 14/07/2017                   | 17/11/2017                       |
| DA-713 FAÇADE ELEVATIONS (LINK BUILDING & BUILDING F&G)   | 5          | 14/07/2017                   | 17/11/2017                       |
| PROJECT SCHEDULE  | 6          | 14/11/2017                   | 17/11/2017                       |
| <b>MATERIALS &amp; FINISHES</b>   |            |                              |                                  |
| DA-700 DA COLOUR SAMPLE BOARD   | 5          | 14/11/2017                   | 17/11/2017                       |
| <b>ARCHITECTURAL PLANS—prepared by mosca pserras architects</b>   |            |                              |                                  |
| <b>Operable Louvre Sections / OL1</b>   | <b>C</b>   | <b>15/04/2019</b>            | <b>17/04/2019</b>                |
| <b>Operable Louvre Elevations / OL2</b>   | <b>A</b>   | <b>12/02/2019</b>            | <b>1/03/2019</b>                 |
| <b>Block B East &amp; West Elevations / 802</b>   | <b>K</b>   | <b>17/12/2018</b>            | <b>17/04/2019</b>                |
| <b>Block E East &amp; West Elevations / 804</b>   | <b>K</b>   | <b>17/12/2018</b>            | <b>17/04/2019</b>                |
| <b>Horizontal Operable Louvre Panel</b>   | <b>A</b>   | <b>13/12/2018</b>            | <b>1/03/2019</b>                 |
| <b>SUBDIVISION PLAN</b>   |            |                              |                                  |
| <b><i>Sheets 1 &amp; 2<br/>Surveyor's Reference<br/>118031505_12<br/>Stage 1 Surveyor's Reference<br/>118462501_07 - Sheet 1 of 1</i></b> | <b>N/A</b> | <b>No date<br/>6/07/2018</b> | <b>16/11/2017<br/>26/06/2019</b> |

|   |            |                  |                   |
|---|------------|------------------|-------------------|
| <b>Stage 2</b>  | <b>N/A</b> | <b>6/07/2018</b> | <b>26/06/2019</b> |
| <b>Surveyor's Reference</b><br><b>118462503_00</b>  |            |                  |                   |
| <b>LANDSCAPE PLANS – prepared by Arcadia Landscape Architecture</b>   |            |                  |                   |
| Pages 1 – 34<br>200_Masterplan,<br>400_Plant Schedule,<br>Softscape Plans No.'s 401 –<br>406<br>Landscape Details (2 pages) | Issue S    | November<br>2017 | 16 Nov 2017       |
| <b>CIVIL &amp; STORMWATER PLANS – Prepared by AT&amp;L with Project No. 16-380</b>  |            |                  |                   |
| SKC25_ACCESS ROAD<br>LAYOUT OPTION 2  | B          | 13-11-17         | 13/11/2017        |
| SKC26_ACCESS ROAD<br>CROSS SECTION OPTION 2   | B          | 14-11-17         | 13/11/2017        |
| SKC27_TOWNHOUSES RAMP   | B          | 14-11-17         | 13/11/2017        |
| SKC28_ACCESS ROAD AND<br>PRODUCTION INTERSECTION  | B          | 14-11-17         | 13/11/2017        |
| DAC011 - SITEWORKS AND<br>STORMWATER DRIANAGE<br>PLAN SHEET 1   | C          | 14-07-17         | 28/07/2017        |
| DAC012 - SITEWORKS AND<br>STORMWATER DRIANAGE<br>PLAN SHEET 2   | D          | 14-07-17         | 28/07/2017        |
| DAC013 - SITEWORKS AND<br>STORMWATER DRIANAGE<br>PLAN SHEET 3   | D          | 14-07-17         | 28/07/2017        |
| DAC015 - STORMWATER<br>DETAILS SHEET 1  | B          | 19-12-16         | 28/07/2017        |
| DAC016 - STORMWATER<br>DETAILS SHEET 2  | A          | 14-07-17         | 28/07/2017        |
| DAC050 – STORMWATER<br>DRAINAGE CATCHMENT<br>PLAN   | E          | 14-07-17         | 28/07/2017        |
| DAC051 - OSD TANK 1<br>DETAILS  | C          | 14-07-17         | 28/07/2017        |
| DAC052 - OSD TANK 2<br>DETAILS  | C          | 14-07-17         | 28/07/2017        |
| DAC053 - OSD TANK 3<br>DETAILS  | D          | 14-07-17         | 28/07/2017        |
| DAC080 – EROSION AND<br>SEDIMENTATION CONTROL<br>PLAN   | D          | 14-07-17         | 28/07/2017        |



|  |   |          |            |
|--|---|----------|------------|
| DAC081 – EROSION AND<br>SEDIMENTATION CONTROL<br>DETAILS | B | 19-12-16 | 28/07/2017 |
|--|---|----------|------------|

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

*[Amendment A - S4.55(1A) amended on 20 April 2018]*

*[Amendment B - S.455(1A) amended on 11 September 2018]*

*[Amendment D - S4.55(1A) amended on 8 October 2018]*

*[Amendment F – S4.55(1A) amended on 14 May 2019]*

***[Amendment E - S4.55(1A) amended on \*\*\*\*\*]***

### 3. Voluntary Planning Agreement

- (a) A voluntary planning agreement (VPA) was entered into between Council, the Developer (Land and Portfolio Pty Ltd) and the Lot Owner (D.L.N. Pty Limited) on 9 May 2016 in connection with the making of the amendment to the Rockdale LEP to permit the carrying out of the development which is the subject of this consent.

The VPA was novated to the Developer (Land & Portfolio Pty Ltd) and Purchaser (JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust) on 15 December 2016.

***The VPA was subsequently amended by the Deed of Variation dated 1 March 2019 entered into by Bayside Council and JQZ Nine Pty Ltd, which varies the Original Planning Agreement to reflect and accommodate changes in circumstances since the Original Planning Agreement.***

The VPA ***as amended*** requires that Development Contributions with Item No. A, B, C, D, E, F, G and H referred to in Column 1 of the Table provided in clause 1.1 of Schedule 3 of the VPA be made at a time referred to in Column 4 of the Table provided in clause 1.1 of Schedule 3 (Timing) ***as modified by the Deed of Variation dated 1 March 2019.***

No occupation certificate or construction certificate as referred to in Column 4 of the table provided in clause 1.1. of Schedule 3 (Timing) can be issued until the corresponding Development Contributions referred to in Schedule 3 have been made ***other than the timing of delivery of the child care centre.***

For the purposes of the VPA, the approved Floor Space Ratio of the Development is 2:1 or higher (for Land within the 'R4 - High Density Residential' zone) and the maximum building height is in accordance with the

building height plane defined by clause 4.3(3) of Rockdale LEP 2011 **except to the extent permitted by the Deed of Variation dated 1 March 2019.**

- (b) **Child Care Centre - Item G of the Voluntary Planning Agreement:**
- (i) **Construction of the child care centre required under Item G of the VPA (Approved under DA-2018/222) and the Deed of Variation dated 1 March 2019 must be completed eighteen (18) months after the later of the date:**
- A. **The Child Care Centre is granted Development Consent; or**
- B. **Council provides its final written approval to the Child Care Centre Specification.**

**Note: This condition was previously included in Condition 96, however the timing for completion of construction of the child care centre is no longer linked to the issue of any Occupation Certificate and the condition has therefore been moved here to the 'General' section.**

4. **Staged DA**

This development consent relates to Stage 1 of the development only. A separate development application shall be submitted to Council for Stage 2 of the development - i.e. the Child Care Centre.

The Child Care centre shall be of two (2) storey construction and with a GFA and external play areas that will enable the centre to accommodate 65 children, generally in accordance with the plans submitted with pre-DA application No. PDA-2017/25. The centre must also accommodate all car parking within the site as required by the Bayside Traffic Development Advisory Committee and RDCP 2011.

5. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
6. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
7. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number ~~(766743M\_02)~~ 766743M\_03

other than superseded by any further amended consent and BASIX certificate.

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

- (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.

**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Note: For further information please see <http://www.basix.nsw.gov.au>.

[Amendment D - S4.55(1A) amended on 8 October 2018]

8. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes modifications to the extent of the basement car parking areas (other than required by other conditions of consent), the fitting of any form of doors and/or walls, location of fire booster valves and proposed substations, etc.
9. A separate development application shall be submitted for the strata subdivision of the development. The entire residential development must be within a single Strata Plan unless separate approval is provided that will ensure access can be provided for all residents to and within all relevant parts of the site.
10. The pergolas and balconies shall not be enclosed at any future time without prior development consent.
11. 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.
12. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
13. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
- 13A. *That a Building Information Certificate to be obtained for the unauthorised building works (erection of louvres to Buildings D & E).*

*[Amendment F - S96(1A) amended on 14 May 2019]*

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

#### **14. Roads and Maritime Services**

The following conditions imposed by Roads and Maritime Services (RMS) in their letters dated 12 September 2017, **15 January 2019** and **5 June 2019** must be complied with:

- (i) The proposed Traffic Control Signals (TCS) at the intersection of Rocky Point Road/Weeney Street and the "site access road" shall be designed to meet Roads and Maritime requirements. The TCS plan shall be drawn by a suitably qualified person and endorsed by a suitably qualified practitioner.

The submitted design shall be in accordance with Austroads Guide to Road Design in association with relevant Roads and Maritime supplements (available on [www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)). The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of a Construction Certificate and commencement of road works.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works. The developer will be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime



assessment of the detailed civil design plans.

- (ii) Roads and Maritime is prepared to extinguish the existing easement upon completion of the development and provision of the replacement drainage system as per the attached draft "Plan of Easement Affecting Lot 1 in DP 599502 and Lot 22 in DP 620329" referred to Roads and Maritime on 28 July 2017. The new system is to be protected by a new easement in favour of Roads and Maritime providing overland flow and not solely subsurface drainage.

Roads and Maritime will require a suitable notation on title, acceptable to Roads and Maritime, in relation to Roads and Maritime ongoing right to discharge stormwater into the development drainage system. All works and fees associated with the relocation of the easement and infrastructure are to be at no cost to Roads and Maritime. Furthermore, detailed design plans and hydraulic calculations of the proposed changes to Roads and Maritime's stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au)

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

- (iii) The developer will be responsible for undertaking any community consultation required in relation to the impacts of proposed road works, including the impacts any loss of on street parking required to facilitate the works.
- (iv) Any realignment boundary/dedication of land to facilitate the works must be dedicated as road at no cost to Roads and Maritime.
- (v) A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
- (vi) The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (vii) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

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

Details should be submitted to Suppiah Thillai: [suppiah.thillai@rms.nsw.gov.au](mailto:suppiah.thillai@rms.nsw.gov.au)

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

- (viii) All demolition and construction vehicles are to be wholly within the site as construction zone will not be permitted on Rocky Point Road.
- (ix) Road Occupancy Licence must be obtained from Transport Management Centre for any works that may impact on traffic flows on Rocky Point Road during construction activities.
- (x) All works and signposting associated with the subject development, including any public utility adjustment/relocation works, shall be at no cost to Roads and Maritime.
- (xi) ***The section of roadway within proposed Lot 1 of Stage 1 is to be dedicated to Roads and Maritime prior to the issue of any Construction Certificate for any development on proposed Lot 1 in Stage 1 of the subdivision.***

***Note: The section of roadway to be dedicated to RMS is identified as Lot 13 within the Stage 2 subdivision plan.***

- (xii) ***The following additional condition imposed by Roads and Maritime Services (RMS) in their letter dated 15 January 2019 must be complied with:***

***The Traffic Control Signals (TCS) at the intersection of Rocky Point Road/Weeney Street agreed to 'in principle', under Section 87 of the Roads Act 1993, (letter issued on 12 September 2017) are to be installed and completed prior to the issue of any Occupation Certificate for any lots and in accordance with all conditions issued by Roads and Maritime detailed in the letter issued on the 12 September 2017.***

***Reason for amending Condition 14:***

- ***To ensure the dedication of the intersection takes place in Stage 2 of the proposed subdivision to RMS prior to the commencement of construction of any future development on Lot 1 of Stage 1.***

***[Amendment E - S4.55(1A) amended on \*\*\*\*\*]***

15. Ausgrid

The following conditions imposed by Ausgrid by letter dated 31 January 2017 must be complied with:

- (a) Method of Electricity  
The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 - 'Premise Connection Requirements'.

- (b) **Supply of Electricity**  
It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure.  
An assessment will be carried out based on the enquiry which may include whether or not:
- \* The existing network can support the expected electrical load of the development
  - \* A substation may be required on-site, either a pad mount kiosk or chamber style and;
  - \* Site conditions or other issues that may on the method of supply.
- Please direct the developer to Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au) about how to connect to Ausgrid's network.
- (c) **Conduit Installation**  
The need for additional electricity in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.
- (d) **Proximity to Existing Network Assets**
- (i) **Overhead powerlines**  
There are existing overhead electricity network assets in Rocky Point Road, Production Avenue, and Production Lane.  
Safework NSW Document - Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/pols to structures within the development throughout the construction. Special consideration should be given the locating and operations of cranes and the location of any scaffolding.  
The 'as constructed' minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au).  
Based on the design of the development provided, it is expected that the 'as constructed' minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.  
Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.  
It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected to be entering and leaving the site.
- (ii) **Underground Cables**  
There are existing underground electricity network assets in Rocky Point Road, and also within an existing easement on the subject property.
- Special care should be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.



Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

(iii) Substation

There are existing electricity substation assets in the subject property. There have been preliminary investigations with Ausgrid to decommission the existing substations and install new substations onsite to suit load requirements. The proposed building structures are not to encroach on the existing substations easements until the substation decommissioning works have been completed and arrangement have been made for the easement to be relinquished.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment.

The development must comply with both the Reference Levels and the precautionary requirements of the Draft Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields) 0 Hz - 3 kHz (ARPANSA, 2006)

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113. Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

Further details refer to Ausgrid's Network Standard 143.

(e) For Activities within or near to the Electricity Easement:

(i) Purpose of Easement

This easement was acquired for the 11,000 volt distribution assets currently owned and operated by Ausgrid. The purpose of the easement is to protect the distribution assets and to provide adequate working space along the route of the cables for construction and maintenance work. The easement also assists Ausgrid in controlling works or other activities under or near the distribution cables which could either by accident or otherwise create an unsafe situation for

workers on the public, or reduce the security and reliability of Ausgrid's network.

(ii) The Following Conditions Apply for any Activities Within the Electricity Easement:

1. Safework Australia - Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.
2. Ausgrid is not responsible for the reinstatement of any finished surface within the easement site.
3. Ausgrid requires 24 hour access along the easement for plant and personnel. For the purpose of exercising its rights under the easement, Ausgrid may cut fences and/or wall and install gates in them. Where the easements on a site do not provide practical access to all of Ausgrid's infrastructure, a suitable right of access at least 5m wide must be provided to each asset.
4. Driveways and other vehicle access must be capable of supporting the heaviest vehicle likely to traverse the driveway without damaging Ausgrid's assets.
5. No buildings/structures or parts thereof constructed may encroach the easement.
6. No machine excavation is permitted within the easement without Ausgrid's express permission.
7. During building construction, adequate controls must be put in place to prevent vehicles and machinery from damaging the Ausgrid assets.
8. Bulk solids (eg. sand and gravels) are not to be stored within the easement area.
9. Any change to ground levels must be submitted to Ausgrid for approval.
10. Trees, shrubs, or plants which have root systems likely to grow greater than 250mm below ground level are not permitted within the easement or close to the cable infrastructure. The planting of other vegetation is to ensure Ausgrid's access and maintenance requirements are maintained.
11. Ausgrid is to be indemnified from all actions, suits, claims and demands of whatsoever nature, which Ausgrid may incur as a result of the encroachment/s.
12. Ausgrid reserves the right, by written notice, to require the owner of the property, at the owner's expense, to implement further safety measures, removal or modification of any encroachments not specifically approved by Ausgrid should this be necessary in the future for the safe and continued operation or upgrade of the network asset.

16. NSW Water

The following Integrated Development Conditions issued by NSW Water by letter dated 6 February 2017 must be complied with:

(A) General

- (a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any

purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

- (b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation
  - (c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
    - (i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
    - (ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
    - (iii) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
  - (d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
  - (e) Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.
- (B) Prior to excavation
- (a) The following shall be included in the initial report:
    - (i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
    - (ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed



- building together with a discussion of the methodology and information on which this assessment is based.
- (iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
  - (iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]
- (b) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
  - (c) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
  - (d) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
  - (e) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).
  - (f) A copy of a valid consent for the development shall be provided in the initial report.
  - (g) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.

- (h) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.
- (C) During excavation
  - (a) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
  - (b) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
  - (c) Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
  - (d) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
  - (e) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
  - (f) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
  - (g) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.
- (D) Following excavation
  - (a) Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
    - (i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
    - (ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; an

- (iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
- (b) The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction.

17. Telstra Requirements

Prior to issue of the Construction Certificate and before commencement of any works, the Applicant must contact Telstra's Network Integrity Unit on 1800 810 443 regarding the development. Written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/ developer.

18. Compliance with Building Height Plane

Prior to issue of the relevant Construction Certificate a Registered Surveyor must certify that the height of the building shown in the plans submitted with the Construction Certificate do not exceed the height permitted by the 'building height plane' as defined in Clause 4.3A(4) of Rockdale Local Environmental Plan 2011, which reads as follows:

*"building height plane means a continuous plane commencing at a height of 1.5 metres above ground level (existing) and at a distance of 13.6 metres south of the southern boundary of Lot 22, DP 620329 (Point A), projecting to a position at a height of 11.7 metres above ground level (existing) and at a distance of 31.6 metres north of Point A, and continuing at that projection over the land to which this clause applies".*

19. Plans to include the following matters prior to issue of the Construction Certificate

The following matters must be complied with in the plans submitted with the Construction Certificate, and must be satisfied prior to issue of the Occupation Certificate and during ongoing use of the site where relevant:

- (a) Setback of Building D to be increased:
  - (i) The northern setback for the three (3) lower levels of Building D (i.e. Ground Floor, Level 1 and Level 2) must be amended to have a minimum 9m setback from the sites northern boundary to ensure that a 6m deep soil setback is provided to the north of Building D. This condition is required to ensure that adequate amenity is afforded to future occupants. The condition is imposed due to the loss of 3m of deep soil planting due to the 3m wide 'Licenced Area' defined in the Deed of licence between JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Keven Manson Pty Limited.
  - (ii) The affected units shall be converted to ~~one (1)~~ two (2) bedroom units.
- (b) Northern landscape setback to be 'Common Property'
  - (i) the northern landscape setback shall be shown as 'common property' on all relevant plans for the following areas:



- (1) 6m landscape deep soil zone located to the north of Building B, Building C, Building D & Units L0001 - L0005.
  - (2) 3m landscape deep soil zone to the north of Dwellings L0006, L0007, L0008, L0009, L0010, L0011 and L0012.
- (ii) Maintenance access must be provided to this space. This landscape area must be identified as 'Common Property' on any future Strata Subdivision of the site.
- (c) Western landscape Easement within B6 zone - A 6m wide deep soil landscape strip shall be provided within the B6 zoned land immediately adjacent to the R4 zone boundary for that section that is located between the internal access road and the northern site boundary. The 6m wide deep soil landscape strip must continue up to the proposed internal access road and must be shown on all plans submitted with the Construction Certificate. This must be reflected in any future Strata Subdivision of the site, and shall be covered by a Section 88B Instrument that must be signed by Council prior to issue of the Occupation Certificate. Council must be the only authority empowered to release, vary or modify the proposed easement.
- (d) Provision of a green roof above the driveway entrance which includes low lying landscaping with a 300mm soil depth as detailed in the amended landscape plans.
- (e) The proposed fence to the southern boundary of the "central park" must be deleted to allow unimpeded access to this principal area of communal open space. If access gates and fencing are proposed for Buildings B, C, D & E, they may be provided no further south than the southern edge of Buildings C and D (away from the access street).
- (f) Building G & F (Terraces) shall be amended as follows:
  - (i) Proposed screening to the southern end of the roof top level for all ~~(20)-21~~ townhouses shall be relocated 2m further north. The screening shall be 1.8m in height for the full width of the roof terrace, shall be constructed of high quality materials, and shall be horizontal louvres facing in an upward or downward direction that will prevent any overlooking toward the rear yards of Margate Street residences.
  - (ii) A maximum size pergola structure of 24m<sup>2</sup> shall be provided to the roof terraces. Solid walls / elements shall not be permitted to the side elevations.
  - (iii) The first floor rear balconies shall be deleted from all ~~(20)-21~~ townhouses.
- (g) Wind Report - Compliance with the recommendations in the Pedestrian Wind Environment Study report prepared by Windtech (dated 16 December 2016), including:
  - (i) Strategically placed densely foliating evergreen tree planting capable of growing to a height of 5m with a 5m wide canopy throughout the Central Park area, along Production Lane and along the western side of the residential component of the development.
  - (ii) 2m high densely foliating shrub planting in the planter beds currently proposed for the Level 7 and Level 8 communal terraces located on Buildings E and B respectively.
  - (iii) 1.5m to 2m high impermeable screening or hedge planting around the ground level southern corner private terraces of Buildings B, C, D and E.

- (iv) Densely foliating planting for the Level 9 and 11 southern private terraces located on Buildings E and B respectively, similar to the proposed planting on the Building B and E communal terraces.
  - (v) Impermeable balustrades for all private balconies and terraces located at the corners of the various buildings of the development, and also the townhouse roof terraces.
- (h) Shading and Glare Control to Western Facades - **Sliding and operable vertical Operable** louvre screens shall be provided to the western facades of all units within Building B and Building E to provide shading from summer sun to living areas of units but that will permit winter sun to penetrate living areas in accordance with the Apartment Design Guide Part 4A.
- (i) Any hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box with the lid/cover of the box designed to blend in with the building and all associated pipe work is to be concealed, as required by Control 19 of Part 4.7 of Rockdale DCP 2011.
- (j) Ceiling Heights
  - (i) Ceiling heights for all habitable areas shall be a minimum of 2.7 metres and ceiling heights as measured vertically from finished floor level to the underside of the ceiling.
  - (ii) Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.
- (k) Natural light to be provided to the basement car parking levels as shown in the approved landscape plans.
- (l) Elevator size and requirements -
  - (i) All passenger lift cars are to have minimal internal dimensions of 2.1m x 1.5m, must be capable of carrying stretchers and have lift door openings wide enough to enable bulky goods (white goods, furniture etc) to be easily transported.
  - (ii) Elevators in the building must be of a quality and speed that will be able to handle a peak 5-minute traffic volume of 20% of the population and provide an Interval of 80 seconds or less. The population of the building must be established using CIBSE (Chartered Institute of Building Services) population data.
- (m) Mechanical ventilation - Any mechanical ventilation system for the basement car park must comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2. The vents for this system are proposed within the roof top level landscape area and must be appropriately designed and screened by landscape planting.
- (n) Mechanical ventilation for commercial / retail tenancies - all ground floor level commercial tenancies shall be provided with mechanical ventilation which complies with the relevant Australian Standards to permit future uses for food and drink premises. The systems must vent above the roof top level.
- (o) Basement & Lift Access - Each unit shall be provided with a buzzer / button that will allow them to open the door(s) to the residential lobby and to the basement levels. The residential townhouses (Building G) must be provided with buzzer access to the main basement to allow visitors to access these spaces. Visitors must be provided with lift access from the basement to Ground Floor Level.

- (p) The air-conditioning units required under SEPP BASIX shall not be fixed to the external walls of the balcony or building and must be located in a position that is not easily visible from the public domain.
- (q) The proposal shall include the use of rainwater harvesting for all landscape planting at roof top level, podium level and for the green gateway planting in accordance with the requirements of Part 7.5 of RDCP 2011.
- (r) All plumbing, shall be concealed within the brickwork / facade of the building.
- (s) Garbage Rooms - Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
- (t) The stormwater detention tank(s), basement parking, and all other structures associated with the residential development must be located outside of the boundary of the New Road and any public domain areas.
- (u) The following modifications must be made to mitigate acoustic impacts resulting from the entrances to the southern lobbies to Buildings B & E:
  - (i) The bedrooms with windows facing the building entry foyers in each of the Units B0012, B0013, E0004, E0005, E0010 and E0011 shall be deleted. These units must be reconfigured into one (1) bedroom units with no windows facing in toward the building entrance area.
  - (ii) A roof shall be provided in front of the Entrance lobby for Building Block B2 and for both entrance lobbies for Building E2 to minimise acoustic impacts to upper level bedroom windows which face in toward the entrance areas. The roofs shall extend a minimum of 2.5m from the entrance lobby for the full width of the entrance area.
- (v) Provide more direct access between the loading bay and the lift lobbies for Building B & C to ensure ease of access between the loading bay and the lifts for furniture removal.

*[Amendment B - S4.55(1A) amended on 11 September 2018]*

*[Amendment D - S4.55(1A) amended on 8 October 2018]*

*[Amendment F - S4.55(1A) amended on 14 May 2019]*

20. Parking Provision & Allocation - Residential Units

A total of 704 706 residential car parking spaces, a minimum of 48 motorcycle parking spaces, a minimum of 53 bicycle parking spaces and 3 dedicated car wash bays, must be provided within the development. The parking must be allocated in accordance with the Rockdale Development Control Plan (RDCP) 2011 requirements in accordance with the minimum rates provided in the table below. This parking must be reflected in any subsequent strata subdivision of the development.

| <b>Dwelling Size<br/>(Proposed No. of units)</b>          | <b>Required</b>   |
|---|---|
| Studio / 1 / 2 bed dwellings<br>(475units)                | 1 space / dwelling = 475<br>spaces                                |
| 3 bedroom dwellings (58<br>units)                         | 2 spaces / dwelling = 116<br>spaces                               |
| <b>Total Car Parking Spaces<br/>for Residential Units</b> | <b>591 spaces (min.)<br/>(including 54 accessible<br/>spaces)</b> |



|                         |  |
|-------------------------|--|
| Visitor                 | 1 space / 5 dwellings = 107 spaces<br>(including 3 accessible space) |
| Bicycle (Res. + Com.)   | 1/10 units = 53 spaces (Min.)  |
| Motorcycle (Res + Com.) | Motorcycle (Res + Com.)<br>1/15 units = 48 spaces (Min.)             |

*Notes:*

- *All residential visitor spaces, car wash bays and loading bays shall be labelled as a common property on the final strata plan for the site.*
- *Tandem parking spaces must only be allocated to a single residential unit. The car-wash bays must be connected to the Sydney Water sewer system in accordance with Sydney Water requirements.*
- *This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

*[Amendment D - S4.55(1A) amended on 8 October 2018]*

21. Protection of Council Land & Retaining Wall along Southern Boundary  
Proposed works shall not result in any adverse impacts to the existing retaining wall(s) located within / adjacent to the small parcel of land with Lot 72 in DP 6120 which adjoins part of the sites southern boundary. This lot is owned by Council. The existing retaining walls be secured / under-pinned prior to excavation and removal of the adjoining concrete slab, and that the structure be certified by a qualified civil engineer prior to issue of the Occupation Certificate.
22. Minimise Impacts to Public Parking for the Sporting Fields
  - Prior to commencing any Public Domain Works, a Staging and Management Plan of the proposed public domain works must be submitted to, and approved by, Council to ensure the impacts to the Community are minimised specifically with regard to public parking for the sports fields along Production Lane and the Commercial Businesses along Production Avenue and Phillips Road.
  - No works zones will be permitted within Production Lane.
  - Truck parking, parking of machines and/or employees vehicles may not be parked within that section of Production Lane. Vehicles, machinery and equipment must be parked within the development site.
23. Construction Environment Management Plan  
Prior to issue of the Construction Certificate, a Construction Environmental Management Plan (CEMP) must be submitted to, and approved by, Council's Director of City Futures. The CEMP shall include an Unexpected Finds Procedure to identify any localised area of contamination, or suspected contamination, as recommended in the "Targeted Phase 2 Contamination Assessment" report prepared by Coffey, dated 2 June 2015 and submitted with this application.

**24. Safer by Design**

- a) To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:
- b)
  - (i) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
  - (ii) A lighting maintenance policy shall be established for the development, including the basement car park. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
  - (iii) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
  - (iv) Graffiti resistant materials shall be used to ground level external surfaces.
  - (v) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
  - (vi) Basement ceilings shall be painted white.
  - (vii) Visitors parking spaces shall be separated from residential parking spaces. Access to residential spaces must be restricted to residents only.
  - (viii) Storage areas within the basement must be of caged metal construction and be provided within lock and key.

**25. Use of Communal Terraces**

- (i) Design and use of the upper level communal terraces must comply with the following:
  - (a) Use of the outdoor terraces is restricted to between the hours of 6am and 11pm Mondays to Sundays.
  - (b) The use of amplified music, speakers, etc. is not permitted on the roof top terraces of the residential flat buildings.
  - (c) Balustrades for the communal terraces must be a minimum of 1.2m in height and be of solid construction, obscure glazing or other treatment to minimise overlooking toward adjoining properties.
- (ii) Prior to issue of the relevant Occupation Certificate, legible signs located in a prominent position at the main entrance and within the communal areas must be erected that clearly communicate the above restrictions;

**26. Street Numbering & Letterbox Provision**

- (a) The buildings / units shall be provided with the following street numbers:
  - (a) Building B
    - (i) Main (northern) Residential Lobby - No. 15 'New Road'
    - (ii) Secondary (southern) Residential Lobby - No. 17 'New Road'

- (iii) Ground Level Units - B0001 (G02/15), B0002 (G01/15), B0003 (G10/15), B0004 (G09/15), B0005 (G08/15), B0006 (G07/15), B0007 (G06/15), B0008 (G05/15), B0009 (G04/17), B0010 (G03/17), B0011 (G2/17), B0012 (G01/17), B0013 (G04/15), B0014 (G03/15).
    - (iv) Upper level units - to reflect numbering of relevant unit on ground level.
  - (b) Building C
    - (i) Residential Lobby - No. 11 'New Road'
    - (ii) Ground Level Units - C0001 (G09/11), C0002 (G10/11), C0003 (G01/11), C0004 (G02/11), C0005 (G03/11), C0006 (G04/11), C0007 (G05/11), C0008 (G06/11), C0009 (G07/11), C0010 (G08/11).
    - (iii) Upper level units - to reflect numbering of relevant unit on ground level.
  - (c) Building D
    - (i) Residential Lobby - No. 7 'New Road'
    - (ii) Ground Level Units - D0001 (G02/7), D0002 (G01/7), D0003 (G10/7), D0004 (G09/7), D0005 (G08/7), D0006 (G07/7), D0007 (G06/7), D0008 (G05/7), D0009 (G04/7), D0010 (G03/7).
  - (d) Building E
    - (i) Main (northern) Residential Lobby - No. 3 'New Road'
    - (ii) Secondary (southern) Residential Lobby - No. 1 'New Road'
    - (iii) Ground Level Units
      - (A) E0001 - E0007: Street Numbering to 'Production Lane' (Note Production Lane to be renamed): E0001 (No.14), E0002 (No.12), E0003 (No.10), E0004 (No.8), E0005 (No.6), E0006 (No.4), E0007 (No.2)
      - (B) E0008 - E0013: Street numbering to 'New Road' lobbies: E0008 (G03/1), E0009 (G02/1), E0010 (G01/1), E0011 (G03/3), E0012 (G02/3), E0013 (G01/3)
    - (iv) Upper level units - to reflect numbering of relevant unit on ground level.
  - (e) Building G (Townhouses fronting New Road) - No. ~~4-42~~ 4-44 'New Road'.
  - (f) L Units (located between RFB's)
    - (i) L0001 - L0004: No. 13A - 13D.
    - (ii) L0005 - L0008: No's 9A - 9D.
    - (iii) L0009 - L0012: No's 5A - 5D.
  - (g) Child Care Centre - No. 2 'New Road'.
- (b) Mail boxes must be installed in the position shown in the approved plans. The letterboxes must be lockable.
- (c) Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.



*[Amendment D - S4.55(1A) amended on 8 October 2018]*

27. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
28. The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system.

The Registered Proprietor will:

  - (i) permit stormwater to be temporarily detained and pumped by the system;
  - (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
29. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
30. The overland flow path shall not be obstructed, restricted or altered without the approval of Bayside Council.
31. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging

process disposed – solids to the waste disposal and de-sludged liquid to the sewer.

32. Proposed Drainage Pipe (along the New Road and the Production Lane, Kogarah)

A full Hydrologic+Hydraulic (H+H) assessment is required to be undertaken prior to issue of the Construction Certificate for the relevant stage to determine the required pipe size for the proposed pipe extension along the section of the New Road and Production Lane.

- Assumptions  
H+H analysis is to be carried out for all combinations of the following design components:
  1. Design Events (AEP): 10% and 20%
  2. Catchment Development: Existing and Ultimate (contributing catchment fully developed up to the level allowed by current zoning)
  3. Downstream Boundary Conditions: Downstream pipe is flowing full at a nominated pipe friction slope.

Following factors are to be taken into account as well:

- location of any services along and on the proposed/realignment route,
- upstream and downstream pipe sizes,
- location of existing ("to remain") entry pits and junctions,
- cover to ground,
- overland flow path,
- final route selection.

Pipes size is to be determined on the basis that the pipe full velocity is approximately:

- 2.5 m/s.

Lower pipe velocity is to be avoided to prevent sedimentation in the pipes. Higher pipe velocity is to be avoided to prevent large energy losses (at pits and/or junctions).

- Construction of twin/several smaller pipes rather than single large pipe is allowed subject to site/construction/services constraints.
- New pits and junctions are to be designed to minimise head loss and allow for maximum entry/inlet capacity.
- A pipe slope of greater than 0.5% is required to prevent siltation. If/where physical restraints prevented this requirement being met slope under 0.5% is acceptable.
- The existing pipe/pits ("to remove") are to be decommissioned/removed at a developer's expense.

33. Noise Impacts & Acoustic Attenuation

The plans and documentation prior to issue of the Construction Certificate and/or Occupation Certificate for the relevant stage of works compliance with the following requirements must be demonstrated:

- (i) Noise from Mechanical Plant / Ventilation  
An Acoustic Report, prepared by a suitably qualified and experienced Acoustic Consultant, shall be submitted to the Accredited Certifier (AC), detailing any necessary modifications to any proposed mechanical plant/s (or any other noise producing equipment) to reduce the intrusion of noise and/ or vibration into occupied rooms within the subject site and within the

surrounding residential properties (including Margate Street properties) to meet the relevant standards and guidelines identified in the submitted Acoustic DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017).

- (ii) Acoustic treatment of Units - The construction plans must demonstrate compliance with the following:
  - (a) The recommendations contained within Section 3 of the submitted Acoustic DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017). This includes sealing of windows (air tight) when closed with good acoustic seals around the top and bottom sliders (Mohair seals are not considered to be acoustic seals).
  - (b) An updated acoustic report that confirms that appropriate measures including glazing, wall construction, window seals and other measures, are included within the development to ensure that the internal noise environment of units comply with:
    - (i) the Project Specific Limit identified in Table 8 of the DA Assessment report prepared by Acouras Consultancy (Ref: SYD2016-1079-R0001F, dated 7 July 2017); and,
    - (ii) the LAeq levels in SEPP (Infrastructure) 2007, being:
      - (A) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
      - (B) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
- (iii) Noise Impacts between units:  
An acoustic report shall be prepared by a suitably qualified Acoustic Consultant prior to issue of the relevant Construction Certificate. The report must demonstrate that the plans submitted with the Construction Certificate will ensure compliance with the inter-tenancy flooring & wall construction requirements contained in RDCP 2011 which are as follows:
  - (a) Flooring within the development shall achieve the following minimum equivalent Association of Australian Acoustical Consultants (AAAC) Star Rating within the below specified areas of the development:
    - (i) 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
    - (ii) 4 Star for timber flooring in any area.
    - (iii) 5 Star for carpet in any area.
  - (b) Walls within the development shall be constructed to satisfy the requirements of the Building Code of Australia.
  - (c) A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the report required by (c) above satisfies the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of the relevant Construction Certificate.

34. Noise Impacts from Use / Occupation

The use of the any plant, equipment and/or residential occupation of the site shall

comply with the following:

- (a) The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act, 1997.
- (b) The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
- (c) Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
- (d) Residential air conditioners must be designed so as not to operate:
  - (i) during peak time—at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
  - (ii) during off peak time—at a noise level that is audible in habitable rooms of adjoining residences.
  - (iii) Note - peak time means:
    - A. the time between 8:00 am and 10:00 pm on any Saturday, Sunday or public holiday, or
    - B. the time between 7:00 am and 10:00 pm on any other day.

35. Parking, Loading & Vehicular Access

The design, construction and operation of the off-street car, motorcycle, bicycle and loading facilities (including waste collection) shall comply with the following requirements:

- (a) Three (3) loading bays shall be provided at Basement B1 to accommodate **Council** Garbage collection vehicle –~~RCV~~ and removalist trucks as shown in the approved plans. The ~~RCV Council Garbage collection vehicle~~ space shall be in accordance with Council DCP, Rockdale Technical specification – ~~Traffic, Parking and Access Waste Minimisation and Management~~ and AS 2890.2 and the swept path analysis for the RCV entering the loading bay shall be provided using a recognised computer software package such as Autoturn, complying with Section B3 of AS/NZS2890.1:2004.
- (b) **Basement clearance height shall be in accordance with the following:**
  - (i) Any vehicular path of travel to or from loading bay for RCV shall have a minimum headroom clearance of ~~4.5~~ **3.9m, clear from any services, ducts, vents, pipes, sprinkler systems, etc.**
  - (ii) **A hanging bar and associated signage shall be installed at the entrance of the basement clearly indicating the maximum 3.9m clearance height identified in (b)(i) above.**
- (c) One (1) van loading bay in close proximity to the lifts for Building B, and one (1) van loading bay in close proximity to the lifts for Building E shall be provided at Basement levels to accommodate Furniture removal vans. These space shall be in accordance with Council DCP, Rockdale Technical specification – Traffic, Parking and Access and AS 2890.2. The plans submitted with the relevant Construction Certificate shall comply with this



requirement.

- (d) Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
- (e) The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6\.
- (f) Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6\.
- (g) Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
- (h) All waste collection and deliveries to/from the site (including removalist trucks) must take place from within the approved loading bay.
- (i) A buzzer providing access to the basement car park must be provided to Council's Waste Education & Contract Supervisor prior to issue of the Occupation Certificate.
- (j) The loading bay must be allocated as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.
- (k) The car parking spaces shall not be enclosed at any time.
- (l) For parking with people with disabilities, the clearance above the parking bay shall be 2.5 minimum.
- (m) Allocate all off-street visitor parking, loading bays and car wash bays as 'common property' on any future strata plan of subdivision under the Strata (Freehold) Schemes Act.

***Note: As a minimum requirement for garbage collection vehicle access, Council will require indemnity against any claims for loss or damage to the pavement or other driving surface. Council may also require indemnity against liabilities, losses, damages and any other demands arising from any on-site collection service. In all cases, a hazard assessment will need to be conducted prior to Council agreeing to undertake the service.***

***This indemnity insurance condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.***

*[Amendment C - S4.55(1A) amended on 6 July 2018]*

- 36. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
- 37. Design Quality
  - (a) In order to ensure the design quality excellence of the development is retained:
    - i. A Registered Architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
    - ii. The design architect is to have full access to the site and is to be authorised by

the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;

iii. Evidence of the design architect's commission is to be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council.

38. All playground structures and soffall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996), and must be certified prior to initial use.

39. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.

40. Waste Management - On-going Use

On-going waste and recycling from the residential dwellings shall be managed in accordance with the submitted Waste Management Plan. Waste and recycling shall be collected from within the basement level for the Residential Flat Buildings. Council's Waste Management Officer / Team shall be provided with a buzzer to access the basement for waste collection purposes prior to issue of the Occupation Certificate for the first residential unit.

41. Storage

(a) The plans submitted with the Construction Certificate shall demonstrate that accessible storage has been provided to all apartments in accordance with the following requirements from the Apartment Design Guide (ADG):

- (i) The minimum storage area to be provided for each dwelling shall be:
  - Studio / 1 bed unit = 6m<sup>3</sup>
  - 2 bed unit = 8m<sup>3</sup>
  - 3 bed unit = 10m<sup>3</sup>

(ii) A minimum 50% of the storage space required by (b) above shall be provided in each apartment.

(iii) The storage areas located within the basement levels shall be of metal construction (mesh and/or solid metal) and must be provided with lock and key.

(b) The storage areas required by (a) above must be provided in accordance with the above requirements prior to issue of the relevant Occupation Certificate.

42. External Cladding

The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate and Occupation Certificate the Certifying Authority and Principal Certifying Authority must:

- a. Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
- b. Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as

proposed and as built.

43. Plan of Management for Pedestrian & Bicycle access within the development

Pedestrian and bicycle access within the development must be legible and separated from vehicular access wherever possible.

A Plan of Management is required to address the following:

- Provide safe and convenient pedestrian access from car parking and other public areas, with well co-ordinated signage, lighting, security, direct paths of travel with stairs and disabled access ramps.
- Provide legible bicycle access between the cycle network and bicycle parking areas, which does not create conflict with pedestrian traffic.
- All bicycle parking is to be secure and in the form of individual bicycle lockers or within a caged or gated secure areas;
- Design of bicycle parking is to cater to the various users of the development and their differing modes of bicycle parking required, such as:

44. Permeable Paving

The plans submitted with the Construction Certificate for the relevant stage of works shall show that all public car parking spaces and pedestrian pathways within the New Road and within Production Lane carriageway utilise permeable paving. The permeable paving for pedestrian pathways shall have a minimum thickness of 50mm and the permeable paving for the public car parking spaces shall have a minimum thickness of 80mm to satisfy WSUD measures. Paving shall comply with the following:

- Permeable Paving in accordance with AS 4456.9:2003
- Unsealed slip resistance compliant with AS/NZS 4586: App.A
- Breaking Load compliant with AS/NZS 4456.5: 2003
- Height of 50mm for Pedestrian pathways
- Height of 80mm for Car Park/bay areas
- Finish: Natural
- SubBase: 25mm washed river sand over 150mm DGB20 over consolidated sub base material
- Supplier: approved equivalent by Council
- Location: As identified on Landscape Plans

45. Landscape Plans / Planting

The following must be complied with:

- (a) Prior to issue of any Construction Certificate for above ground works, amended Landscape Plans must be submitted to, and approved by, Council's Director of City Futures. The amended plans must comply with the following:
  - (i) The amended plans must correspond with the approved architectural drawings listed in Condition 2 and comply with all other relevant conditions of this consent.  
Key amendments include:
    - (A) Deletion of all planting within the 3m wide area located along the rear southern wall of the existing building erected on Lots 20-26 in DP 29275 that is affected by the Signed Deed of Licence between parties JQZ Nine Pty Ltd as trustee for the JQZ Nine Unit Trust and Kevin Manson Pty Limited.

- (B) Modifications to comply with the amended 20.1m road width for all Plans and Sections (except adjacent to the child care centre where the road width is 18.2m);
  - (C) Modifications to the width of the bicycle path and planting within Production Lane. (Note: the plans must show existing and proposed planting within Production Lane. No trees are to be removed from within the planter bed located on the eastern side of Production Lane opposite Building E).
  - (D) Deletion of the palisade fencing to the southern perimeter of the main communal open space area. Fencing and access gates may be located in positions recommended by the Design Review Panel.
- (ii) Plant selection to comply with the following:
- (A) The plant selection to be adjusted on updated landscape plan, with *Raphiolepis* (to be changed to *Leionema* 'Green Screen' and *Westringia*'s changed on west side to be a screen planting which is staggered to form a thicker hedge, using *Syzigium* 'Cascade' or equivalent.
  - (B) The Western boundary plantings should be a staggering planting of *Syzigium paniculatum* and *Acmena smithii*.
  - (C) The planting density needs to be increased to produce an effective buffer from future development.
  - (D) The Northern Boundary requires further tree planting, which should be at approximately 10m centres. The use of *Lophostemon confertus* should be replaced with *Eucalyptus botryoides* interplanted with *Eucalyptus scoparia*.
  - (E) Northern and Western boundaries can accommodate greater plant densities and especially medium and large trees to achieve a buffer with the adjoining industrial & commercial zones. *Leptospermum petersonii* can tolerate the strong heat, which should be supplemented with *Elaeocarpus reticulatus* plantings.
  - (F) Planting should be provided within the B6 zone to accommodate an additional buffer with screen tree species to provide a wind break.
  - (G) *Russelia equisetiformis*, *Trachelospermum jasminoides* and especially *Syngonium podophyllum* should be replaced with native groundcovers such as; *Grevillea* 'Royal mantle', *Banksia* 'Roller Coaster', *Bauera rubioides*, *Brachycome multifida* and *Zieria* 'Carpet Star'. There is a large planting of *Stretlitzia nicolai*, which should be minimized and interspersed amongst other tropical plants including *Helmholtzia glaberrima*, *Cordyline petiolaris*, *Thelionema grande* and *Dietes robinsoniana*.
  - (H) *Syzigium* cascades to the north, west and south boundary are suitable broken up with larger trees such as *Celtis paniculata*, but the west boundary cannot be broken up with smaller plantings such as *Philodendron* 'Xanadu' it will be better to maintain a 3m height to provide the necessary privacy to the townhouses considering their position to the road. Ideally a double planting would work better, especially staggered



plantings to help reduce noise. *Doryanthes palmeri* will be better used on the north boundary and *Strelitzia Nicolai* can look untidy and requires a lot of maintenance and should be reconsidered.

- (I) *Magnolia* 'Little Gem' can also be interplanted with small trees such as *Glochidion ferdinandi*, *Melaleuca quinquenervia*, *Casuarina glauca*, *Acronychia imperforata* or *Xanthostemon crisanthus* 'Fairhill Gold'. There should be a larger variety and amount of trees on site and updated on Plant Schedule.
- (J) Ferns and cycads should be increased in selection to include *Doodia aspera*, *Livistona australis* and *macrozamia communis*, fern areas should be underplanted with *zieria* 'Carpet Star' and *Lobelia alata*.
- (K) *Alpinia zerumbet* can be replaced with *Dicksonia Antarctica* or *Alocasia brisbanensis*, *Strelitzia nicolai* with *Doryanthes excelsa*.
- (L) *Pandanus tectorius* may not work well on this site and should be replaced with *Livistona australis*.
- (M) *Lomandra hystrix* should not be used and should be replaced with *Hardenbergia violacea*, *Lomandra* 'Little Con', 'Lime Tuff', 'Savanna Blue', *Dianella caerulea* and varieties.
- (N) Other grasses/reeds should also be used to break up *Pennisetum alopecuroides*, including *Baloskion tetraphyllum*, *Juncus kraussii*, *Baumea juncea* and *Phragmites australis*.
- (O) The central courtyard turf area requires further development with additional plantings of native shrubs and groundcovers. Taller tree species should also be included to provide privacy, including *Banksia* 'Giant Candles', and *Sterculia quadrifida*.
- (P) 7982 of 10735 plants (74%) are native which complies with the Council guidelines (DCP), however it is recommended that proposed *Syzigium* 'Winter Lights' and *Callistemon* 'Great Balls of Fire' be interplanted with other native species (e.g. *Lomandra* 'Lime Tuff').
- (Q) More centre plantings within other mounds and varying seating with planters near building B and E.
- (iii) Kickabout development
  - (A) This consolidated area has been provided in the on grade communal zone (referred to as the central park), along the northern boundary and along the site access road (providing opportunity for significant avenue planting). However the design is not cohesive and does not provide the opportunity to produce an optimal landscape with amenity.
  - (B) It is recommended that Deep soil area with mature trees should be accompanied by further range of trees, shrub and groundcover underplantings.
  - (C) All raised/mounded areas to have steel edging to eliminate potential of mulch washing on pedestrian walkways.
  - (D) Increase plantings should be included along play areas in the 'kickabout' central park, where at least a further 400 small trees

and shrubs, along with a further 1000 groundcovers should be included, especially in the deep soil zone. The BBQ area should be provided with vegetable beds. Raised terraces should also be landscaped further. Ideally better amenities including sporting fitness zone areas and review of both mounded zones and BBQ area i.e. bubblers and seating and shade options should be incorporated into the design.

- (E) Turfing under trees is not recommended for long term tree health and vigour. Planting areas can extend to or additional planting near both landscape mound next to playground and seating sections.
  - (F) Within the mounded areas there may be enough room to provide a basketball shooting rink with three point line, and free throw lane markings to provide further amenity for the residents.
  - (G) Remove/amend the sandstone wall so that it allows access points to the 'kickabout space'.
- (iv) Townhouse area  
The Deep Soil zone in front of the proposed Town Houses should accommodate as many native species to maximise this zone. Proposed planting must be amended to reflect the widened 20.1m road reserve and WSUD measures required within the road reserve.
- (v) Fence, Irrigation and Lighting Details  
All fence heights and materials should be provided on the plan, along with irrigation and Lighting details, especially to the 'kickabout space'.
- (vi) Landscape planting to Production Lane frontage
- (A) The Production Lane setback must be deep soil for a minimum width of 3m as measured perpendicular from the sites eastern side boundary as shown in the plans. The planting, fence locations and built form within these front setback areas must be reviewed and must include a greater density and height of plantings. Preference should be given to locally indigenous and Australian native plant species whenever possible (TS Landscape). Proposed front fences for Building E may need to be setback further than proposed in the approved plans to ensure adequate scale landscape / tree and screen planting can be provided to this eastern boundary.
  - (B) There is a significant potential for avenue planting within the site or within the streetscape verge should be amended with further range and increased density of trees, shrubs and groundcovers that is developing the avenue planting, with plantings both in front and behind the sandstone wall.
  - (C) Townhouse treatment it is recommended to remove some car spots and incorporate the cyclepath access to the townhouse development. A Pedestrian crossing should be provided in at least two positions to integrate the townhouses with the public park areas.
- (vii) Garden beds edges  
Install steel edging material that stops mulch movement onto paved walkways (from garden beds only and not on Council strips) edging range should be considered, especially on mounded areas and beds

on slopes.

(viii) Other Matters to be included in amended Landscape Plans

- (A) All setbacks, and other areas of the property shall be landscaped to a greater level with a larger variety of plants and species noted in 'Planting plan to be reviewed prior to determination'. Amended road design & public parking to be updated on Landscape Plan. Landscaping shall be installed in accordance with the approved landscape plan only stamped by Council's Landscape Architect and dated, prior to the issue of an Occupation Certificate. (This amended plan supercedes the original landscape plan issue Q). Amendments include The landscaped areas on the property shall be installed and maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.
- (B) The private domain landscape areas shown on the plan by Arcadia (Issue Q, dated July 2017) shall comprise detailed landscape construction documentation (plans and specifications) to be submitted to and approved by the Bayside Council Landscape Architect prior to issue of the onstruction certificate for above ground works. The landscape documentation is to be prepared by Arcadia Landscape Architects and shall include, but not be limited to:
- (C) Canopy trees are to be used extensively within the North, South and West boundaries. Planters are required to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with DCP Part 4 Part 4.4.
- (D) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees. Planting within the communal areas is to have a minimum depth 1500mm of soil, particularly where tree planting is proposed. Construction detailing is required.
- (E) Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
- (F) A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab. This also applies to proposed green roof above the driveway entrance which includes low lying landscaping with a 300mm soil depth which must be amended prior to determination.
- (G) A minimum soil depth of 300mm is required for turfed areas on podiums or roof-tops or any other concrete slab, including the soil above stormwater drainage tanks.
- (H) Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).

- (I) All deep soil areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
- (J) Indicate the location of all basement structures relative to the landscape areas.
- (K) A planting plan at 1:100
- (L) Barbeque facilities to be incorporated within the Roof Terraces and pergola details to be provided along with turf selection, sky lights and pavement details.
- (M) Roof terraces to provide further deciduous trees such as Brachychiton discolour and planters around seating areas.
- (N) Within the New Road, areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
- (O) The car park vent, which protrudes at the podium level, to be adequately screened from the view of surrounding apartments.
- (P) Public Domain Landscape Works - A detailed public domain landscape plan shall be submitted to and approved by the Bayside Council Landscape Architect prior to the issue of any the Construction Certificate for above ground works. The applicant shall meet with Council prior to any submission to discuss Council's requirements. Following this, detailed landscape construction documentation (plans and specifications) must be submitted to and approved by the Bayside Council Landscape Architect. The landscape documentation is to be prepared by Arcadia Landscape Architects and shall include, but not be limited to:
  - a. The clear delineation of all public domain areas as follows:
  - b. New Road footpath areas and streetscape design for Production Lane of the eastern side of the site.
  - c. A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
  - d. Street trees are required along New Road, and Production Lane to Council standards.
  - e. All street trees are to be in tree pits that are at grade with the footpath, finished mulch levels should be a minimum of 50mm below edge.
  - f. All deep soil areas are to include evergreen canopy trees noted in Planting plan to be reviewed prior to determination where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration comparable to the scale of the buildings.
  - g. Canopy trees are to be used extensively within the north of the North and South boundaries. Planters are required



- to be of adequate depth and soil volume to accommodate both large and medium size canopy trees in accordance with Councils DCP (Part 4 Part 4.4).
- h. A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking. Canopy trees are to be a minimum litreage of 100 litres and street trees 200 litre.
  - i. Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictors, tree pits, tree grates, tree guards, tree pit treatments and so on in accordance with Council's Draft Public Domain specifications.
  - j. New pavement treatment to connect townhouse area to 'Kickabout space'. Full detailing is required.
  - k. Areas of paving, schedule of materials, edge treatments, tactiles and sectional construction details. Paving to Council Draft Public Domain schedule/specification. This includes areas within the 'kickabout space.' Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
  - l. Details of all fencing, privacy screening, arborists and the like – elevations and materials, impacting or visible to public domain areas.
  - m. Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, playground and recreational equipment, water features and water stations, bins, bollards, signage suite. Locations to be clearly identified on plan. Provide sectional construction details and elevations.
  - n. Rigid polyethylene sheet type tree root barriers are to be specified as required to protect structural elements.
  - o. A detailed irrigation and materials/finish schedule.
  - p. Bicycle parking -
  - q. Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP (Part 4 Part 4.4) and capable of supporting medium and large canopy trees.
  - r. Trees are to be used extensively throughout the site and shall be of an appropriate scale to complement and ameliorate buildings and for appropriate scaling within pedestrian areas – footpaths and open spaces. Deep soil zones must include larger trees. Trees are to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration.
  - s. Indicate the location of all basement structures relative to the landscape areas.
  - t. Existing retained trees shall be shown on all plans.

- (b) **Conditions which must be satisfied prior to the issue of the relevant Occupation Certificate**
- (a) Prior to issue of the relevant Occupation Certificate, Landscaping within the property and within the public domain shall be installed in accordance with the approved landscape plans as amended in accordance with (a) above and as approved by Council's Landscape Architect. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
  - (b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
  - (c) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

46. **Tree Protection, Installation & Maintenance**

- (A) Prior to issue of any Construction Certificate, the following must be satisfied to ensure that trees on site and adjoining properties proposed to be retained are protected:
- (i) The existing trees located within properties adjoining the southern boundary of the site shall not be removed or damaged.
  - (ii) Prior to issue of any Construction Certificate, the construction plans must be submitted to, and approved by, Council's Director of City Futures, showing the following:
    - (1) All trees identified in the submitted Arborists Report to be retained shall be clearly shown and marked on the plans being retained. The Vegetation Management Plan prepared by Arcadia must also be updated in order to ensure that the trees to be retained within the site boundaries are retained and protected during excavation, and construction, and that their health and structural stability is ensured.

Note: The following 22 trees are high quality trees that must not be impacted by construction works:

- (a) Syzigium paniculatum (Brush Cherry) noted on Arborist report but on the adjoining property to the south boundary 22A Margate Street
- (b) Araucaria columnaris (Cook's Pine) (30) south boundary 2 Margate
- (c) Fraxinus griffithii (Evergreen Ash) (31)

- (d) 8 x *Livistona australis* (palms) on Rocky Point Road to remain (T3 – T10)
  - (e) T63- T65 - *Melaleuca quinquenervia*, T50 - *Eucalyptus scoparia*,
  - (f) T32 - *Fraxinus griffithii*, T72 –T75 *Fraxinus griffithii*, T76 - *Acmena smithii* (Lilly Pilly), T77 – T-79 *Waterhousea floribunda*, T27 - *Glochidion ferdinandi*
  - (g) All trees within No. 206 Rocky Point Rd (north of Margate Street). No trees have been approved to be removed within No. 206 Rocky Point Road.
- (2) Trees to be removed and retained within Production Lane;
- (iii) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
  - (iv) All tree works and tree management shall be undertaken in accordance with the Arborist report by Landscape Matrix (dated 16th July 2017). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
  - (v) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
  - (vi) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
  - (vii) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
  - (viii) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
  - (ix) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
  - (x) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.

- (xi) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- (xii) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- (xiii) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- (xiv) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
- (xv) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- (xvi) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
- (xvii) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.
- (xviii) If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
- (xix) Tree numbers T62 to T69 have been retained within the site and the trees T3 – T19 within 206 Rocky Point Road have been retained. Trees 30 and 31 are to be retained near Margate Street.
- (xx) Arborist Report letter dated 16 July 2017 from Landscape Matrix noted 15 trees located in the adjoining properties to the south of the site (within the rear gardens of properties in Margate Street) to be protected during construction.
- (xxi) The applicant is to submit payment of a Street Tree Maintenance Bond of \$44,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
- (xxii) Playground Indicated on the master plan by Arcadia Landscape Architects, requires detail design including material and finish specifications along with spot levels and manufacturing specifications.



(B) **Certificate of Compliance - Tree Protection**

Prior to issue of the final Occupation Certificate, the Applicant is required to obtain a Certificate of Compliance from the Arborist to certify that the trees proposed to be retained as detailed in the approved Arborists Report prepared by Matrix Landscape have been retained. The report must confirm that all trees within adjoining properties have been retained and are in good health.

**Prior to issue of the construction certificate**

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

47. **Voluntary Planning Agreement matters**

- (i) Contribution towards Masterplanning for Shared Footpaths and Cycleways – Item D in the Voluntary Planning Agreement  
Prior to issue of any Construction Certificate on the Land a monetary contribution of \$70,000.00\* must be provided to Council for Masterplanning with the purposes of resolving the location, concept design and scope of infrastructure for shared footpaths and cycleways in accordance with Item D of the Table in clause 1.1, Schedule 3 of the VPA.

\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- (ii) Contribution towards a Local Area Traffic Management Study – Item A of the Voluntary Planning Agreement  
Prior to issue of any Construction Certificate in relation to the first residential accommodation on the Development Site, a monetary contribution of \$100,000.00\* must be provided to Council for the purposes of Local Area Traffic Management study on local roads in accordance with Item A of the Table in clause 1.1, Schedule 3 of the VPA.

\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- 48. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

- i. A Footpath Reserve Restoration Deposit of \$150,000.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.

- ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$18.00.
49. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
50. An application for Frontage Works shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All public domain, boundary works, egress paths, driveways and fences shall comply with the requirements. A fee is payable to Council in accordance with Council's adopted fees and charges.
51. A Section 94 contribution of \$4,682,643.67 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

|  |                |
|--|----------------|
| Open Space                             | \$3,842,742.83 |
| Community Services & Facilities        | \$276,471.54   |
| Town Centre & Streetscape Improvements | \$126,177.06   |
| Pollution Control                      | \$409,996.27   |
| Plan Administration & Management       | \$27,255.97    |

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

*[Amendment A - S4.55(1A) amended on 20 April 2018]*

52. Engineering Modifications - New Road  
Prior to the issue of the relevant Construction Certificate, engineering plans must be submitted to, and approved by, Council's Director City Futures, that comply with the following:
- (a) Provide a 20.1m road reserve width, in accordance with Council's 'Road Widths' Policy, for the internal access road except for that portion of the road to the immediate north of the approved Child Care Centre lot, which is required to have a road reserve width of 18.2 metres, consistent with the approved engineering sketch titled SKC25 listed in Condition 2.
  - (b) All parking spaces along the New Road must be constructed of porous paving.
  - (c) The design of the relocated stormwater pipe within the New Road must include a gutter flow analysis in both Rocky Point Road and the New Road to ensure that the flows are fully contained within the gutter and that there will be no overflows into the development site.
  - (d) Include Street lighting in accordance with Council's standards (Note: all footings to be provided within the future road reserve - i.e. within proposed Lot

**3 and that portion of the road within Lot 1 as identified in the Stage 1 approved subdivision plan, and Lots 3 and 12 within the Stage 2 subdivision plan.**

- (e) All landscaping along the New Road to incorporate WSUD treatment of stormwater from the road and parking area pavements.
- (f) With the design of the New Road all footpaths to be a minimum 1.5m wide and the shared cycleway / footpath must be a minimum of 3m wide.
- (g) Underground power supply and servicing.

**[Amendment E - S4.55(1A) amended on \*\*\*\*\*]**

53. Basement Certification

An engineering design certificate is required to be submitted for the design of the Basement system including shoring wall.

54. Adaptable Unit Provision

Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within 54 residential unit, and between these units and their allocated carparking spaces. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit(s) are to be those identified in the *DA Access Review Report prepared by Morris Goding Accessibility Consulting (dated 12 December 2016)*.

Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

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

This condition must be satisfied in the plans submitted with the relevant construction certificate.

55. Consultation / Approval from Utility Providers

- (a) Prior to the issue of the construction certificate approval from all relevant utility providers is required to be obtained for the works with the road reserve fronting your property boundary. You are required to consult with and/or obtain approval from your utility providers (i.e. Ausgrid, Telstra etc) in order to fully understand their requirements before commencement of any work.
- (b) Telstra  
Prior to issue of the relevant Construction Certificate, Telstra has advised that the developer must contact their Network Integrity on 1800 810 443 regarding the development.
- (c) Sydney Water
  - (a) 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 in™ online service is available at:  
<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

- (b) Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council prior to issuing a Construction Certificate.
56. Prior to issue of the Construction Certificate for any works above the ground floor level, details shall be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993 in relation to the works detailed in the Roads Act section of this consent.
57. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
58. Any sub-surface structure within the highest known groundwater table / rock + 0.5m shall be designed with a waterproof retention system (ie Structural tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate for the relevant stage of works.  
 A design certificate is required to be submitted for the design of the Basement system including shoring wall. The certificate shall be issued by a Chartered Professional Engineer competent in Structural engineering.

The design of the basement and any other underground structure or excavation shall take into consideration of geotechnical recommendations.

*Note:*

- a. All structures that are fully or significantly below ground shall be fully tanked to finished ground level.*
- b. After construction is completed no seepage water is to discharge to the kerb. Permanent dewatering will not be permitted.*
- c. Continuous monitoring of ground water levels may be required.*

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

Prior to the issue of the relevant Construction Certificate, a Construction Traffic



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

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

Note: The swept path of the longest vehicle entering and existing the subject site, as well as manoeuvrability through the site, shall be in accordance with Austroads. A swept path plan shall be submitted to Certifying Authority for approval illustrating compliance with this requirement, prior to release of the Construction Certificate.

Any proposed landscaping, fencing or signage is not to impede the desired sight lines of all road users including pedestrians and cyclists.

All road works / regulatory signposting associated with the proposed development shall be at no cost to the Council or RMS.

Copies of the CMP and TMP shall be submitted to Council.

60. Adjoining buildings founded on loose foundation materials

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

- (a) Implement all recommendations contained in the report prepared by Coffey Service Australia Pty Ltd. Ref: STDGE203337-AC\_Rev1, dated 17 May 2017.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective, and

- (c) Confirm the proposed construction methodology

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

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

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

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

61. Vibration monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a professional engineer with expertise and experience in geotechnical engineering, between any potential source of vibration and any building identified by the professional engineer as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity an audible alarm must activate such that the principal contractor and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the professional engineer and any further work recommencing the event must be recorded and the cause of the event identified and documented by the professional engineer.

Where the event requires, in the opinion of the professional engineer, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the professional engineer as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the professional engineer to the principal contractor and any sub-contractor clearly setting out required work practice.

The principal contractor and any sub-contractor must comply with all work directions, verbal or written, given by the professional engineer.

A copy of any written direction required by this condition must be provided to the Principal Certifying Authority within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining building or such that there is any removal of support to supported land the professional engineer, principal contractor and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that supported land and take immediate action under the direction of the professional engineer to prevent any further damage and restore support to the supported land.

*Note: Professional engineer has the same mean as in Clause A1.1 of the BCA.*

*Note: Building has the same meaning as in section 4 of the Act i.e. "building includes part of a building and any structure or part of a structure".*

*Note: Supported land has the same meaning as in section 88K of the Conveyancing Act 1919.*

62. Traffic Signs / Boom Gate - On-site Carparking

- (a) The design of parking areas shall be in accordance with DCP Part 4 Sec 4.6 and Rockdale Technical Specification – Traffic, Parking and Access. Where additional design criteria are required the design shall be in accordance with AS/NZS2890.1:2004.
- (b) A traffic signs and boom gates are to be designed and installed to manage vehicular movement in all basement carparks that provides safe vehicle access to the basements. The arrangement shall control traffic to ensure safe movement of vehicles within basement car park at all times.
- (c) Prior to issue of the relevant Construction Certificate, a suitably qualified and experienced engineer shall design traffic management facilities within the site to the requirements of AS2890.1:2004 and relevant Austroads Guidelines. The facilities designed by the engineer shall include signs (including vehicular guide signs, regulatory signs and warning signs), line marking and pavement markers, and other controls such as passing bays, traffic islands, median or separator and convex mirror to ensure safe movement of vehicles within the site at all times

63. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.

64. Any part of the proposed building located in the vicinity of the existing pipeline shall be constructed on a pier and beam type foundation, piers shall be located outside the boundary of the drainage easement and to extend to a depth of no less than 300mm below the pipeline invert. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

65. Any part of the proposed building within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.

66. Car Wash Bays

A minimum of three (3) dedicated car wash bays are required. They must be shown in the Construction Plans and may not be shared with visitors spaces. A tap and power point shall be provided adjacent to the spaces. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.

67. All basement surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the relevant construction certificate.

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

68. Prior to the issue of the relevant Construction Certificate, excavation shall be undertaken to confirm the location of the Council pipeline that traverses the property.

69. Stormwater Drainage Plans

Prior to the issue of the Construction Certificate for the relevant stage of works, amended detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval.

The amended plans must correspond with the approved architectural drawings listed in Condition 2 and comply with all other relevant conditions of this consent (including this condition).

Key amendments required include:

- a. DCP requires the provision of onsite detention. Detailed drainage design plans, supporting calculations and design certification will be required to be submitted in accordance with the design, documentation and certification requirements of DCP and Rockdale Technical Specification – Stormwater Management
- b. The basement pump storage shall be sized to contain the total volume of runoff generated by the two hour 1 in 50 year storm assuming the pumps are not operating. This is equivalent to 10.6 m<sup>3</sup> per 100 m<sup>2</sup> of area being drained anticipated groundwater seepage capacity. All the pump storage volume is to be underground and to have minimum dual pumps.
- c. The proposed basement ramps to have a crest level to prevent inundation from 1% Annual Exceedance Probability flood level.
- d. The openings (grated covers) to the proposed OSD tank shall be kept away from overland flow paths to prevent inundation from flooding.
- e. The detailed plans are required to incorporate an oil interceptor for the driveway and carpark stormwater runoff in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4
- f. The detailed plans are required to show the basement levels as tanked system. The design shall take into consideration of geotechnical recommendations. To implement any required drainage measures on the base of geotechnical Engineer's advice on the drainage under the floor slab and basement walls.

The drainage plans must show how groundwater is managed within basement including shoring walls, temporary and permanent.

Subsoil drainage shall be provided and designed to allow the free movement of groundwater around any proposed structure, but is not to be connected to the internal drainage system.

The design shall identify, and discuss generally WSUD measures put in place to reuse water, maintain groundwater quality, minimise at source generation of water pollutants, and convey stormwater flows through the site.



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

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

70. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$20 million.
71. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.
72. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
73. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
74. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
75. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
76. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work.

Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

77. (a) A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
- (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - (ii) building involves the enclosure of a public place,
- (b) Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
- (c) Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.
- The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -
- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
  - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa. The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids. Any such hoarding, fence or awning is to be removed when the work has been completed.
- (d) The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.
78. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

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

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

79. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.

80. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
81. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
- Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
82. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.
- Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.
83. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
84. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
85. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
- i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.
86. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards

and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

87. When soil conditions require it:

- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
- ii. adequate provision shall be made for drainage.

88. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.

89. Work Activities on Council Sites - Application Requirements

All contractors shall obtain permits for, and comply with permit conditions during all stages of demolition and construction. Refer to Council "Work Activities on Council Sites Application Form" to obtain permits for the following activities listed below. Contractors must have a valid permit prior to undertaking any work or activity within the public domain. Fines apply if an activity commences without a valid permit being issued.

- (a) Road, Footpath and Road Related Area Closure (EP05)  
This permit will allow the applicant to close a road or part of, footpath or car park to vehicle or pedestrian traffic.
- (b) Stand and Operate Registered Vehicle or Plant (EP03)  
This permit is used when construction activities involve working from a vehicle parked on the street including mobile crane, concrete truck, concrete pump or other similar vehicles.
- (c) Occupy Road with Unregistered Item (EP02)  
This permit will allow the applicant to place unregistered items within the roadway including waste containers and skip bins.
- (d) Works Zone (EP01)  
This permit is used when a statutory work zone is required to conduct



construction activities adjacent to the work site. These applications are assessed by Council officers and are referred to the Traffic Committee for approval.

- (e) Scaffolding, Hoarding and Fencing (EP04)  
This permit applies to all temporary structures to enclose a work area within the public domain. These include site fencing, types A & B hoarding, type A & B hoarding with scaffolding and type B hoarding plus site sheds.
  - (f) Temporary Shoring/Support (EP09)  
This permit will allow the applicant to install temporary support system in or under a public road to support excavation below the existing road surface level. The support systems include ground anchors and shoring.
  - (g) Tower Crane (EP06)  
This permit is used when tower crane(s) are used inside the work site and will swing, slew or hoist over Council property or asset.
  - (h) Public Land Access (EP08)  
This permit is used by applicants to access or occupy Council land including access over plus access over and occupy any part of Council land.
  - (i) Temporary Dewatering (EP07)  
This permit is used when temporary dewatering is required to pump out water from the construction site into Council stormwater drainage system including gutter, pits and pipes. Dewatering management plan and water quality plan are required for this application.
90. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.
91. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
  - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
  - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  - iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  - v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
  - vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:

- a) spraying water in dry windy weather
  - b) cover stockpiles
  - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways, unless otherwise agreed to in writing by Council. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
92. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
  93. Protection of Existing Trees  
Existing site and/or street trees proposed to be retained as detailed in the submitted Arborists Reports, and all trees within adjoining sites, shall be adequately protected from damage during demolition, excavation and construction operations.
  94. Acid Sulfate Soils Management Plan  
All works shall be carried out in accordance with the Acid Sulfate Soils Management Plan prepared by Coffey (dated 26 May 2015) and submitted with the application.

#### **Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

95. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of any of the buildings.
96. Voluntary Planning Agreement matters

- (i) Contribution towards Sporting Facilities – Item B in the Voluntary Planning Agreement  
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00\* must be provided to Council to be used towards improvement or enhancement of sporting facilities for the Arncliffe Scots Baseball Club in accordance with Item B of the Table in clause 1.1, Schedule 3 of the VPA.  
  
\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.
- (ii) Contribution towards Sporting Facilities – Item C in the Voluntary Planning Agreement  
Prior to issue of any Occupation Certificate in relation to the first residential accommodation constructed on the site, a monetary contribution of \$50,000.00\* must be provided to Council to be used towards the improvement or enhancement of sporting facilities for the Brighton Seagulls Junior Rugby League Football Club in accordance with Item C of the Table in clause 1.1, Schedule 3 of the VPA.  
  
\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.
- (iii) Contribution towards Playground Construction – Item E of the Voluntary Planning Agreement  
Prior to issue of any Occupation Certificate *in relation to the 150th residential dwelling on the Development Site for the Child Care Centre* a monetary contribution of \$415,000.00\* must be provided to Council for construction of a new playground in the northwest section of Tonbridge Reserve, or as otherwise agreed between the parties, in accordance with Item E of the Table in clause 1.1, Schedule 3 of the VPA *and the Deed of Variation dated 1 March 2019*.  
  
\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.
- (iv) Shared footpaths and cycleway Construction – Item D of the Voluntary Planning Agreement  
Prior to issue of any Occupation Certificate *in relation to the 300th residential dwelling on the Development Site for the Child Care Centre* a monetary contribution of \$1,595,000.00\* must be provided to Council to be used for carrying out works to create shared footpaths and cycleways in accordance with Item D of the Table in clause 1.1, Schedule 3 of the VPA *and the Deed of Variation dated 1 March 2019*.  
  
\* The contribution is subject to annual indexation in accordance with the VPA and at the commencement of each financial year to reflect any increase in the CPI, from the date the VPA is registered on the title of the Land until the contribution is paid.

- (v) Child Care Centre – Item G of the Voluntary Planning Agreement

~~(a) Construction of the child care centre required under Item G of the VPA (Note: Item G is the subject of a future Stage 2 DA) must be commenced prior to issue of an Occupation Certificate for the 250th residential dwelling on the site.~~

(b) ~~Construction of the child care centre and d~~ Dedication to Council of the 1,000m<sup>2</sup> parcel of land for child care centre purposes in accordance with the approved plans and Item G and Item H in the Table in clause 1.1, Schedule 3 of the VPA **and the Deed of Variation dated 1 March 2019.**

(c) Council requires proof of lodgement of the signed Subdivision Certificate ~~relating to Stage 2 of the subdivision~~ and 88B Instrument **relating to the parcel of land for child care centre purposes (Lot 4)** with the Land Titles Office, prior to the issue of any Occupation Certificate in relation to the 350th dwelling of the Development boundary (as defined in **Column 4, Part C, Item H in the Table in Clause 1.1 of Schedule 3 of the VPA**).

**Note: Construction of land associated with the proposed child care centre is no longer linked with the issue of any Occupation Certificate. Item (a) above has therefore been moved to Condition 3 in the General Section of this consent.**

- (vi) Production Lane Embellishment / Upgrade Works – Item F of the Voluntary Planning Agreement (VPA)  
Prior to issue of the last Occupation Certificate for residential accommodation on the Development Site, but no earlier than issue of the Occupation Certificate for the 300th residential dwelling on the Development Site (unless otherwise agreed in writing to an earlier date in accordance with the VPA), the Development must construct road embellishment and remodelling works to upgrade Production Lane in accordance with Item F of the Table in clause 1.1, Schedule 3 of the VPA.

Alternatively, in accordance with the VPA **and the Deed of Variation dated 1 March 2019**, Council may direct the Developer in writing to provide a monetary contribution equivalent to the Contribution Value. **~~Any Production Lane Direction must be issued within 30 days of the issue of an Occupation Certificate for the 300th residential unit on the Development Site (as per the VPA) for the purposes of Council carrying out, at the Council's absolute discretion:~~**

- (a) **The Production Lane Works; or**
- (b) **The Works in Part A, Item D [Scarborough Park South (and environs) Contribution), Column 2 being works to create shared footpaths and cycleways in Scarborough Park South, Leo Smith Reserve, Hawthron St Reserve and Tonbridge Reserve with priority being given to works on Scarborough Park South. (Production Lane Direction)**

This contribution is to be subject to annual indexation at the commencement of each financial year to reflect any increase in the CPI, from the date the VPAs registered on the title of the Land until the contribution is paid.

**[Amendment E - S4.55(1A) amended on \*\*\*\*\*]**



97. Prior to issue of the relevant Occupation Certificate:
  - Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
  - Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
98. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
99. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.
100. Landscape Completion / Certification
  - (a) Prior to issue of the relevant Occupation Certificate, Landscaping within the property and within the public domain shall be installed in accordance with the approved landscape plans as amended in accordance with Condition 46 above and as approved by Council's Landscape Architect. The landscaped areas on the property shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of development consent and Council's DCP all times.
  - (b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
  - (c) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then

weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

101. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council prior to issue of the Occupation Certificate issued for the 350th dwelling and/or prior to issue of the Final Occupation Certificate (whichever is the relevant Occupation Certificate).
102. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
103. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
104. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
105. Landscape Easement - B6 Zone  
Prior to issue of any Occupation Certificate for Building B:
  - (a) A landscape easement shall be created on the title of the land. The landscape easement shall have a minimum width of 6m, shall be deep soil and shall extend into the B6 zoned land immediately adjacent to the R4 zone boundary for that section that is located between the New Road and the sites northern boundary (refer to Figure 2 in the Applicant's Response to Council's RFI Letter prepared by JBA, dated 21 July 2017).
  - (b) The landscape easement required by (a) is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council.
  - (c) Council requires proof of lodgement of the signed Subdivision Certificate **relating to both Stage 1 and Stage 2 of the subdivision** and 88B Instrument with the Land & Property Information.

***[Amendment E - S4.55(1A) amended on \*\*\*\*\*]***

106. Dedication to Council/RMS for Road Widening/ New Road Access

Prior to issue of ~~the any~~ Occupation Certificate for the ~~350th dwelling residential dwellings located within the R4 zoned land, or prior to~~ dedication of the child care centre to Council (~~whichever is first~~), the following shall be dedicated to Council ~~or the RMS for road widening and/or for~~ public road access purposes to ensure that access is available to the child care centre **and the basement parking for the residential tenancies, and the following easements / positive covenants / restrictions created:**

(a) ~~The dedication to RMS of the proposed intersection at Rocky Point Road and the New Road identified as Lot 3 in the approved Subdivision Plan listed in Condition 2.~~

(b) The dedication to Council of the **portion of the** proposed new access road identified as ~~Lot 2~~ Lot 3 on the approved Subdivision Plans listed in Condition 2.

(c) **The applicant shall provide an instrument under the relevant sections of the Conveyancing Act 1919, to the satisfaction of Council, showing:**

(i) **All rights of way and / or easements as necessary to allow for full public access over the component of the approved internal access road shown on Lot 1 in the approved Stage 1 Subdivision Plan, and full access to the RMS for maintenance purposes, until such time as that land is dedicated to Council and the RMS.**

(ii) **Easements for all services over the internal access road as required.**

(d) **The applicant shall create a restriction on the title of proposed Lot 1 requiring that the section of road located within that parcel of land be dedicated to Council and the RMS prior to issue of any Construction Certificate for any development located within that parcel of land. The restriction is to expire once the road has been dedicated to Council and the RMS.**

(e) **A positive covenant for the management of the road infrastructure shall be placed on the Certificate of Title of the Lot 1 containing the infrastructure. The positive covenant shall instruct that the section of road (and associated infrastructure) located within Lot 1 must be kept in good condition at all times and that all management undertaken in the road reserve (including but not limited to maintenance and cleaning) shall be conducted in accordance with the approved Road Reserve Maintenance Specification. The covenant shall confirm that, where the road maintenance is not carried out, that Council may enter the land to carry out required maintenance work to ensure the safe and efficient operation of the road (and associated infrastructure), and recover the costs from the land owner. The public infrastructure in the road reservation includes, but is not limited to, all:**

- (i) **Road carriageway and footpath pavements;**
- (ii) **Road carriageway and footpath furniture;**
- (iii) **Road carriageway and footpath pavement markings and signs;**
- (iv) **Road drainage pipelines, inlet pits, and subsoil drainage; and**
- (v) **Street trees and landscaping.**

**This covenant is to expire once the road has been dedicated to Council in accordance with (d) above.**

Council requires proof of lodgement of the signed Subdivision Certificate **relating to Stage 1 of the subdivision** and 88B Instrument with the Land Titles Office **prior to issue of any Occupation Certificate.**

**[Amendment E - s4.55(1A) Application amended on \*\*\*\*\*]**

107. Suitable vehicular bollards shall be provided within all adaptable shared areas prior to issue of the relevant Occupation Certificate.
108. Car Parking & Loading Provision
- (a) Prior to issue of the final Occupation Certificate, the following parking spaces and loading bays shall be provided:
- (i) Residential Parking
    - (i) ~~704~~ 706 residential off-street parking spaces (including 664 parking spaces within the main basement and ~~40~~ 42 spaces within the basement for the townhouse development, and 54 accessible residential spaces), in accordance with the approved plans listed in Condition 2 except where modified by Condition 20.
    - (ii) A minimum of 48 motorcycle parking spaces;
    - (iii) A minimum of 53 bicycle parking spaces;
  - (ii) Residential Loading Bays
    - (i) 3 loading bays for RCV trucks and 2 loading bays for vans in proximity to the lifts for Building B & E within the main basement in accordance with Development Specific Condition 35.
  - (iii) On-street parking
    - (i) 22 on-street parking spaces within the new access road, including one (1) accessible parking space that complies with the relevant Australian Standards / BCA, in accordance with the approved plans listed in Condition 2.
    - (ii) A minimum of 40 on-street parking spaces within that part of Production Lane between the access driveway to the main basement and the southern termination of Production Lane (note: Production Lane is that section of road to the eastern side of the development site), including one (1) accessible parking space (refer to Roads Act conditions).
- (b) All parking spaces shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with the relevant Australian Standard AS3727 – Guide to Residential Pavements and/or other relevant conditions of this consent (i.e. the on-street parking spaces shall be constructed of porous paving in accordance with previous conditions).

*[Amendment D - S4.55(1A) amended on 8 October 2018]*

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

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

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

110. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the



- completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
111. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
112. Noise Requirements - Compliance
- (a) Prior to issue of the Occupation Certificate, a Certificate of Compliance prepared by a suitably qualified and experienced acoustic consultant must be submitted to the Principal Certifying Authority (PCA) validating that:
- (i) Noise emissions from all mechanical services plant including fans, compressors, condensers, air conditioners etc. to the nearest residential receiver do not exceed the noise emission criteria provided within the DA Acoustic Assessment reports submitted with the application, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33.
- (ii) The internal noise environment within all units complies with all relevant legislation and all other requirements contained in Conditions 34 of this consent, including any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33.
- (iii) The noise reduction measures specified in the noise report prepared by Acouras Consultancy dated 19 December 2016 Ref No. SYD2016-1079-R001F (and all addendum reports accompanying this including the report dated 7 July 2017), and any updated and/or supplementary acoustic reports prepared to satisfy the requirements of Condition 33, shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of the relevant Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
- (b) If Council is not the PCA, a copy of the Certificate of Compliance required by (a) above must be submitted to Council prior to issue of the Occupation Certificate.
113. Prior to use of any mechanical ventilation and / or air-conditioning systems, and prior to issue of any relevant Occupation Certificate, a qualified mechanical engineer shall certify that the mechanical ventilation and air conditioning systems comply in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
114. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
115. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification

Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

116. The following flood related requirements shall be satisfied prior to issue of the Occupation Certificate:
  - a. The underground garage shall be floodproofed to a minimum of 300mm above the 1% Annual Exceedance Probability flood level and up to PMF level to Townhouses and Main basement entry respectively. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
  - b. The minimum distance between the outside finished surface level and the underside of the adjacent floor shall be 300mm in all cases where overland flow produced by the 1% AEP rainfall exceeds a depth of 100mm.
  - c. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Flood Planning Considerations and Development Controls listed in the Overland Flows and Flooding assessment prepared by AT & L Consultant, report no: 16-380-01, Rev:02 dated 14 July 2017.
117. Prior to issue of the relevant Occupation Certificate, positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain:
  - (a) The stormwater OSD facility and WSUD measures to provide for the maintenance of the system;
  - (b) Visitors parking arrangement for Townhouses; and
  - (c) The boom gates and traffic signs.
118. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
119. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

Water quality chambers with filter cartridges similar to SW360 in onsite private drainage and a Gross Pollutant Trap similar to CDS Unit in the main drainage pipeline shall be provided in accordance with Rockdale Technical Specification Stormwater Management.

120. Access Road Inspection  
Prior to issue of the final Occupation Certificate, the access road must be inspected by Council's Director of City Futures and all defects must be rectified by the developer at the developer's cost.

The defects liability period will commence from the date of completion of the defects repair work, and not from the date when the Access Road was dedicated to Council.

121. Signage / Way Finding Plans

A signage / way finding plan must be prepared and implemented prior to issue of each Occupation Certificate for the residential dwellings. The plan must include consideration of all parts of the development, including the basement car park, communal open space areas, building numbers / street addresses, directions to residential lobbies. The signage provided must be clear and of suitable size and number.

122. Road Naming

Prior to issue of the Construction Certificate for any works above the ground floor level, an application to name all roads within the development as well as the rear lane (commonly referred to as Production Lane) must be submitted to Council in accordance with Section 5.3 of the NSW Address Policy and requirements of the NSW Geographical Names Board of NSW. The naming of the road must be completed prior to Occupation Certificate for the 350th residential dwelling or prior to dedication to Council of the New Road (whichever occurs first).

123. Prior to issue of the relevant Occupation Certificate, all relevant conditions of this consent must be complied with. This includes the requirements of Conditions 19 and 42 amongst other matters.

**Prior to issue of subdivision certificate**

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

124. ~~**Dedication to Council for Road Widening—Rocky Point to RMS & New access road to Council as follows:**~~

~~**(a) The dedication to RMS for road widening purposes that parcel of land identified as Lot 3 in the approved subdivision plan; and**~~

~~**(b) The dedication to Council for new public road that parcel of land identified as Lot 2 in the approved subdivision plan.**~~

~~**These provisions are to be put into effect prior to release of the Subdivision Certificate.**~~

~~**[Amendment E - S4.55(1A) amended on \*\*\*\*\*]**~~

125. The **Stage 1 and Stage 2** subdivision is to occur in accordance with all relevant conditions of this consent. **This includes, but is not limited to, the landscape easement required by condition 105.**

~~**[Amendment E - S4.55(1A) amended on \*\*\*\*\*]**~~

126. A Subdivision Certificate **for both stages of subdivision**, and four (4) copies of the plans for the endorsement of the General Manager, shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.

**Note: The Stage 1 Subdivision Certificate Application must be submitted prior to issue of any Occupation Certificate for DA-2017/224 (as modified). The**

**Stage 2 Subdivision Certificate Application is required to be lodged with Council and finalised prior to issue of any Construction Certificate on proposed Lot 1 in Stage 1 to permit dedication of the section of road within that part of the site.**

**[Amendment E - S4.55(1A) amended on \*\*\*\*\*]**

127. **Prior to issue of the Subdivision Certificate for the Stage 2 subdivision, A** Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

**[Amendment E – s4.55(1A) deleted on \*\*\*\*\*]**

128. Visitor Parking - Townhouse Access

**A For the Stage 1 subdivision, a** positive covenant shall be created over the visitor parking spaces within the main basement to ensure that visitors to the Townhouses are provided with vehicular and pedestrian access to/from the visitors parking spaces within the main basement at all times.

A suggested wording for the covenant is indicated below:

*"The Registered Proprietors covenant as follows with Council in respect to the area of common property identified as 'Visitor Parking' spaces on the Strata Plan (herein called 'The Burdened Land').*

*The Registered Proprietor will:*

- i) permit the registered proprietors and/or invitees of the registered proprietors of the Townhouse lots # inclusive to enter upon The Burdened Land with a vehicle or vehicles whether motorized or not and to park, leave or place such a vehicle upon The Burdened Land at all times that the registered proprietor or invitee enters upon The Burdened Land.*
- ii) not obstruct or inhibit in any manner whatsoever access to or exclusive use of The Burdened Land in accordance with the prior cause.*
- iii) comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time stated in the notice.*

**[Amendment E - S4.55(1A) amended on \*\*\*\*\*]**

## Roads Act



129. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- (i) All parking spaces along Production Lane to be linemarked including a center line, directional arrows and signage as approved by Council's Traffic Committee.
  - (ii) All parking spaces along the New Road and Production Lane to be constructed of porous paving.
  - (iii) Production Lane to be designed to maintain a minimum 6m wide 2 way traffic lanes between the Northern Driveway of the Development and the southern termination end of Production Lane. To facilitate this requirement introduce rear to kerb parking bays with overhangs into the landscape areas.
  - (iv) The main northern driveway into the development off Production Lane to be merged into the existing driveway of 24 – 26 Production Avenue to form a combined driveway to facilitate trucks turning left towards Production Avenue.
  - (v) The design of the public on-street parking layout along the section of Production Lane as shown in Plan No. SKC25 (issue B), Project No. 16-380, Titled "Access Road Layout Option 2" to maintain a minimum of 40 parking spaces as shown in that plan. The proposal must not result in the loss of more than the first three (3) perpendicular on-street parking spaces located immediately to the north of the driveway entrance. The remaining perpendicular parking spaces within Production Lane to the north of the driveway entrance for the main basement car park must not be retained. Linemarking of these spaces should be carried out in accordance with the VPA.
  - (vi) The design of the relocated stormwater drainage system from Rocky Point Road along the New Road to Production Lane must include a gutter flow analysis in Rocky Point Road and the New Road that will ensure that the flows are fully contained within the gutter and that there are no overflows into the development site.
  - (vii) The New Access Road to Council's required specifications and in accordance with Condition 53;
  - (viii) With the design of the public domain and the New Road all footpaths to be a minimum 1.5m wide and the shared cycleway/footpath is to be a minimum 3m wide.
  - (ix) With the new traffic signals on Rocky Point Road include a Bike Lantern on the northern side pedestrian crossing to facilitate a proposed east / west cycleway into the Georges River Council Area.
  - (x) Removal of the redundant hardstand / paved surfaces. This includes areas that were previously fenced and utilised by the former Darrell Lea operations. The key area referred to is located within the public domain (including RE1 zoned land) immediately to the east of the proposed Child Care Centre allotment.
  - (xi) Stormwater drainage including a Gross Pollutant Trap (GPT) similar to CDS Unit on the main drainage pipeline.
  - (xii) Street lighting;
  - (xiii) Line marking and signs in accordance with Bayside Traffic Committee requirements;
  - (xiv) Removal of existing speed hump and replacement with a new raised threshold in Production Lane;

- (xv) Construction of new fully constructed concrete vehicular entrance/s;
  - (xvi) Construction of the reinforced concrete turning area at the southern termination of Production Lane shared with the access to the sporting fields. This area must be suitably line-marked to prevent use of the area for on-street parking.
  - (xvii) Removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - (xviii) Reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - (xix) Construction of paving between the boundary and the kerb, where required; and,
  - (xx) Construction of kerb and gutter.
130. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
131. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
132. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).
133. All works associated with the proposed development shall be at no cost to the Council or RMS.

### Development consent advice

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

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code

Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- d. In order for the final Subdivision/Strata Certificate to be signed and released by Council, the following must occur:
  - i) all of the above conditions of consent must be complied with;
  - ii) ~~a Section 73 certificate from Sydney Water must be supplied. If it is for a Torrens Title subdivision, the certificate must clearly state subdivision into the relevant number of lots;~~
  - iii) a Section 88B Instrument which contains a positive covenant written in accordance with Council's standard wording for on site detention systems must be submitted. The 88B Instrument should also provide a space for Council's authorized person to sign on each page;
  - iv) If Council is the PCA, Council's Building Surveyor, Engineer and Landscape Officer must conduct satisfactory final inspections of the development, or if a Private Certifier is the PCA, Council must receive a copy of the final Occupation Certificate including a note that the landscaping and drainage works have been completed in accordance with the approved plans.
- e. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- f. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
  - choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- g. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.

- h. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.







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**Bayside Local Planning Panel**

**23/07/2019**

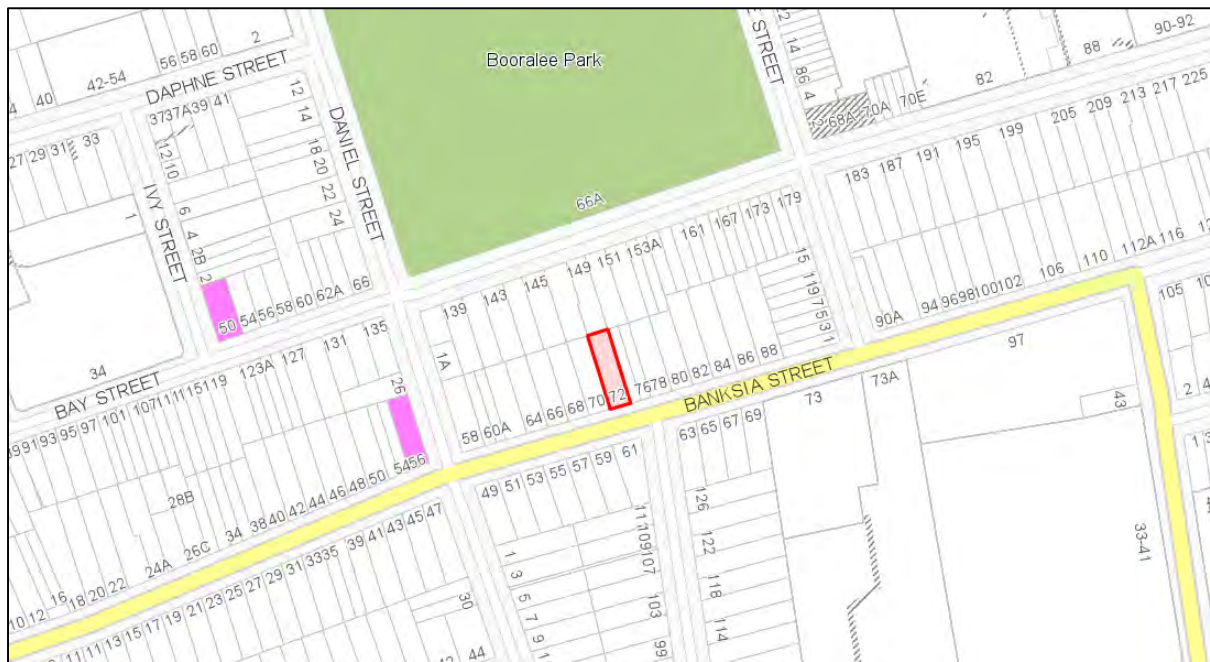
|                     |   |
|---------------------|---|
| Item No             | 6.2   |
| Application Type    | Development Application   |
| Application No      | DA-2018/318   |
| Lodgement Date      | 22/11/2018  |
| Property            | <b>72 Banksia Street, Botany NSW 2019</b>   |
| Ward                | Ward 2  |
| Owner               | John Hassarati  |
| Applicant           | David Carey Town Planning and Development   |
| Proposal            | Demolition of existing structures, Torrens Title subdivision lot into two (2) lots and construction of two (2) x two (2) storey semidetached dwellings. |
| No. of Submissions  | One (1) to the original proposal<br>Nil to the amended scheme   |
| Cost of Development | \$1,144,028   |
| Report by           | Michael McCabe, Director City Futures   |

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**Officer Recommendation**

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, approves a variation to the floor space ratio prescribed by Clause 4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives of development within the zone.
  - 2 That development application, DA-2018/319 for the demolition of existing structures, Torrens Title subdivision lot into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings at 72 Banksia Street, be **APPROVED** pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
  - 3 That the submitter be notified of the Bayside Local Planning Panel's decision.
-

## Location Plan



## Attachments

- 1 Supplementary Report [↓](#)
- 2 Draft Notice of Determination [↓](#)
- 3 Amended Statement of Environmental Effects & Clause 4.6 [↓](#)
- 4 Original Planning Assessment Report [↓](#)
- 5 Amended Architectural Plans [↓](#)



# BAYSIDE COUNCIL

## Supplementary Planning Assessment Report

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### Application Details

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|                            |  |
|----------------------------|--|
| <b>Application Number:</b> | 2018/318   |
| <b>Date of Receipt:</b>    | 22 November 2018   |
| <b>Property:</b>           | 72 Banksia Street, Botany NSW 2019<br>Lot 19 Sec G DP 1787   |
| <b>Owners:</b>             | John Hassarati   |
| <b>Applicant:</b>          | David Carey Town Planning and Development  |
| <b>Proposal:</b>           | Demolition of existing structures, Torrens Title subdivision lot into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings. |
| <b>Recommendation:</b>     | Approved, subject to conditions  |
| <b>Value:</b>              | \$1,144,028  |
| <b>No. of submissions:</b> | One (1) submission (from original submission)  |
| <b>Author:</b>             | Helen Lai, Development Assessment Planner  |
| <b>Date of Report:</b>     | 20 June 2019   |

### Key Issues

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On 14 May 2019, the subject Development Application, DA-2018/318, was referred to the Bayside Planning Panel for determination with a recommendation for approval.

At the meeting the Bayside Planning Panel resolved:

1. *That the Development Application No. DA-2018/319, for the proposed demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of a two (2) x two (2) storey semi-detached dwellings, at 72 Banksia Street, Botany, be **DEFERRED** to enable the preparation of amended plans that:*
  - *Replace the double driveway with a single driveway;*
  - *Improve the design of the front façade to add more articulation;*
  - *Create an improved landscape setting at the front of the development with canopy trees and more planting in keeping with the existing streetscape.*
2. *That a revised Clause 4.6 request to vary the Floor Space Ratio (FSR) standard contained in Clause 4.4A of the BBLEP2013 is also required.*
3. *That the objector be advised of the Bayside Planning Panel's decision.*

The Panel's reason for determination was as follows:

- *The Panel considers that the presentation of the proposed development to the street is unsatisfactory. This is because of the double driveway and lack of modulation to the front facade.*
- *The Panel has also considered the applicable desired future character statement in the Botany DCP and does not consider that the proposal is consistent with the desired future character as it relates to:*
  - *enhancing the public domain and streetscape;*
  - *promoting neighbourhood amenity and enhancing pedestrian comfort;*
  - *encouraging site layout and building designs that promote commonality and a visual relationship with the surrounding built form and dwelling styles;*
  - *encouraging a strong landscape and vegetation theme within both the private and public domain;*
  - *promoting site access and parking facilities that do not dominate the streetscape; and*
  - *maintaining roof forms to reflect the characteristics of the prevailing designs within the street.*

On 14 June 2019, the applicant submitted to Council the following:

- Amended Architectural Plans
- Schedule of Modifications

An amended Statement of Environmental Effects and Clause 4.6 was received on 26 June 2019. The applicant was requested to revise the Statement of Environmental and Clause 4.6 to adequately address the desired future character of Botany and Part 8.4 – Botany Character Precinct. The final revised Statement of Environmental Effects and Clause 4.6 was received on 26 June 2019.

On 1 July 2017, an amended External Materials and Finishes Schedule was received showing the ground floor façade rendered with Dulux Dune selected. Final amended Landscape Plans were also received by Council on 5 July 2019.

The amended architectural plans result in minor changes to the internal layout of both dwellings and the front façade (refer to 'Modifications made to the proposed development' of this Supplementary Report).

This Supplementary Report is accompanied by draft conditions of consent including conditions by Council's Development Engineer related to the single driveway.

## Recommendation

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1. That the Bayside Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, approve a variation to the floor space ratio prescribed by Clause 4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives of development within the zone.
2. That development application, DA-2018/319 for the demolition of existing structures, Torrens Title subdivision lot into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings at 72 Banksia Street, be **APPROVED** pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the submitter(s) be notified of the Bayside Local Planning Panel's decision.

## Background

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Council's records show the following application was recently lodged for the site.

- DA-2019/166 – Demolition of existing dwelling, approved on 13 June 2019.

Development Application No. DA-2019/166 was lodged to allow demolition of existing structures on site to commence while pending determination for DA-2018/318, which is the subject development application for this report. Although approval has already been granted for demolition of the existing dwelling to be carried out, conditions related to demolition have been retained in the conditions of consent for this development application (DA-2018/318) in the event that demolition has not yet commenced on site.

## Modifications made to the proposed development

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There are no proposed changes to the description of the proposed development as provided in the Planning Assessment Report submitted to the Panel on 14 May 2019.

However, the submitted amended plans received by Council on 14 June 2019 show the following amendments made to both dwellings:

### Ground Floor Plan

- Driveways and garages relocated more centrally within the site to permit construction of a single driveway entrance from Banksia Street;
- Front entrances relocated to the side elevations;
- Increased depth to the ground floor by 1.8m to accommodate the increased front setback and relocation of the entrances to the sides.
- Laundry and Bathroom reduced in size;
- Walk-in-pantry added adjacent to Kitchen;
- Garage size increased from 18m<sup>2</sup> to 26.4m<sup>2</sup>, including storage areas;
- Cabanas originally proposed at the rear removed;

- Internal voids removed.

#### First Floor Plan

- Courtyards on First Floor level increased in depth from 2.7m to 3.67m (measured to the boundary).
- Front balconies added (accessed via Master Bedrooms).

#### Landscape/Streetscape

- A single driveway at a width of 5.5m for shared entry into both dwellings.
- Landscaping within the front setback increased to improve streetscape presentation of the proposed development to Banksia Street. A 1.1m wide landscape strip is provided between the two (2) internal driveways.
- Increased front setback.
- Roof form modified to a gable roof.
- Rear cabanas removed.
- Planters are also added to the first floor Juliet balconies to the front Master Bedrooms on first floor level.

### **Assessment of the Panel's deferment**

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At the Bayside Planning Panel meeting of 14 May 2019, the Panel resolved:

1. *That the Development Application No. DA-2018/319, for the proposed demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of a two (2) x two (2) storey semi-detached dwellings, at 72 Banksia Street, Botany, be **DEFERRED** to enable the preparation of amended plans that:*
  - *Replace the double driveway with a single driveway;*
  - *Improve the design of the front façade to add more articulation;*
  - *Create an improved landscape setting at the front of the development with canopy trees and more planting in keeping with the existing streetscape.*
2. *That a revised Clause 4.6 request to vary the Floor Space Ratio (FSR) standard contained in Clause 4.4A of the BBLEP2013 is also required.*
3. *That the objector be advised of the Bayside Planning Panel's decision.*

Compliance with the Panel's resolution is discussed below:

- **Item 1 of the Panel's resolution is discussed in three (3) parts:**

**(i) Replace the double driveway with a single driveway.**

Concerns were raised by the Panel regarding the proposed two (2) separate driveways and their impact on streetscape presentation. It was suggested that the applicant increase landscaping within the front setback and reduce the number of driveways by having a



combined single driveway to access both dwellings instead of two (2) driveways as originally proposed.

Amended plans received by Council on 14 June 2019 show a single driveway proposed to access both dwellings and two (2) separate driveways retained internally within the front setback. The front entrance of both dwellings have been relocated to the western side for Lot 1 and eastern side for Lot 2. An additional 1.1m landscape strip has been provided between the two (2) internal driveways. Landscaping to the front setback has increased from 71% to 85% for Lot 1 and from 69% to 86% for Lot 2. Council's calculations indicate that the total landscaped area for the whole site has reduced from 33% to 32% for both lots, however, still complies with BBDCP2013.

The applicant also proposes to include two (2) street trees to be planted. Additionally, one (1) tree adjoining each driveway on the eastern and western side of the front setback in accordance with the submitted landscape plan.

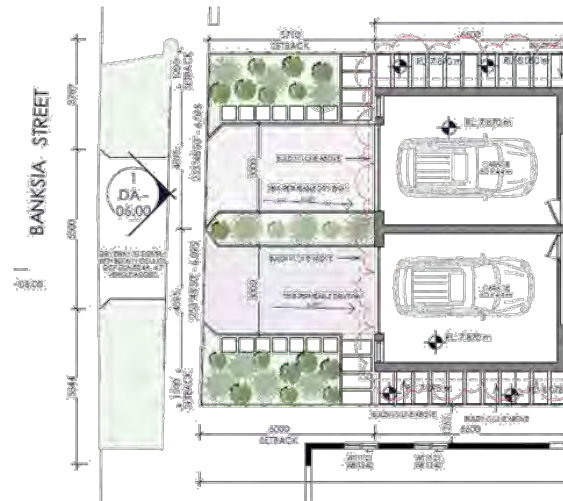


Figure 1 – Proposed combined driveway

Council's Development Engineer has reviewed the amended architectural plans submitted and requested that the layback width be increased to 6.3m and that the landscape strip between the two (2) driveways be reduced to 600mm to ensure that vehicles can access the garages and permit a single parking space within the front setback area. This would result in a variation to the maximum 5.5m driveway width permitted under BBDCP2013 Part 4A, Clause 4.7, Control C2. This is found to be acceptable as it would permit additional landscaping within the street, minimise the number of driveway cross-overs to enhance the public domain and streetscape.

The application is accompanied by draft conditions that would permit approval of the proposed development with a single driveway.

(ii) *Improve the design of the front façade to add more articulation*

Concerns were raised by the Panel regarding the proposed flat roof and that the design of the front façade was inconsistent with the existing and desired streetscape character of Botany. The Panel considered that the existing streetscape character and roof types of developments along Banksia Street are still predominantly of traditional pitched and gable roofs. Furthermore, there was minimal articulation to the front façade, including an activation of the street.

Amended architectural plans received by Council on 14 June 2019 show the original flat roof removed and a gable roof proposed to the front of the development. A parapet roof is proposed behind the gable roof, however, will be less visible from Banksia Street.

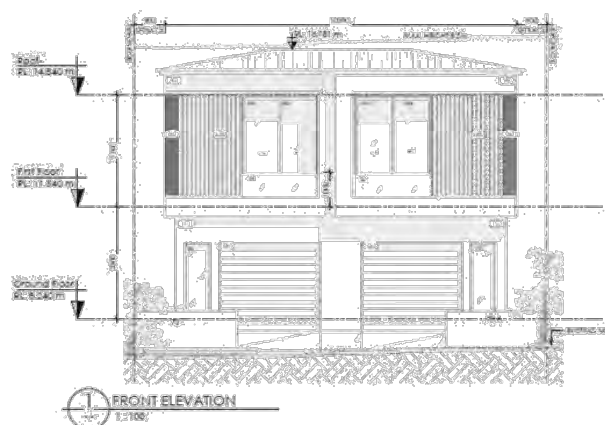


Figure 2 – Amended Front Elevation

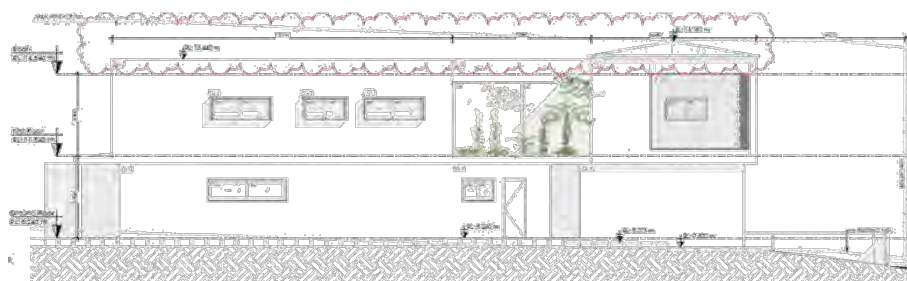


Figure 3 – Amended Western Elevation

Juliet balconies have been added to the front façade for the First Floor. The juliet balconies increase opportunities for passive surveillance and overlooking of Banksia Street and provide greater articulation to the front building design. The juliet balconies also provide as a consistent feature to the building design of adjoining properties that similarly have balconies on the front façade for the First Floor. For example, No. 68 and 74 Banksia Street. In addition to the juliet balconies, the garage on ground floor has increased side setbacks to 1.2m and planter boxes provided on the front elevation.

It is satisfied that the proposed development with the gable roof, juliet balconies and planter boxes added address the Panel's request for an articulated front façade. Further, the proposed development as amended is more compatible to the streetscape character and existing developments along Banksia Street.

**(iii) Create an improved landscape setting at the front of the development with canopy trees and more planting in keeping with the existing streetscape.**

An Amended Landscape Plan received by Council on 5 July 2019 show an improved landscape front setback with canopy trees to be planted within the front setback and two (2) street trees to be planted.

Landscaping to the front setback has increased from 71% to 85% for Lot 1 and from 69% to 86% for Lot 2.

Council's Landscape Architect has imposed additional conditions in the draft consent for two (2) *Cormbia eximia* (Yellow Bloodwood) street trees to be planted at a minimum container size of 75 litres.

- **That a revised Clause 4.6 request to vary the Floor Space Ratio (FSR) standard contained in Clause 4.4A of the BBLEP2013 is also required.**

The submitted Clause 4.6 was found to be inadequate by the Panel having not properly addressed the desired future character of the Botany Character Precinct. The Panel made reference to Part 8.4 – Botany Character Precinct of BBDCP 2013.

The revised Statement of Environmental Effects now addresses Part 8.4 – Botany Character Precinct of the DCP and the applicant submitted to Council an amended Clause 4.6 on 27 June 2019. It is noted that the amended Clause 4.6 is substantially the same as originally submitted. The additional below response has been provided by the applicant to address the Panel's concerns in relation to how the development is consistent with the desired future character of the Botany Character Precinct.

*"The area is undergoing transition, with older single storey cottages being replaced with larger two storey developments in line with the planning controls. The proposed development is consistent with the desired future character of the area as the bulk and scale of the development is identical to that which would be permitted for a two storey detached dwelling house. The external appearance is consistent with other newer developments recently constructed, including within Banksia street outlined in this report (refer to Statement of Environmental Effects). This represents the desired future character, as these developments have been approved by Bayside Council."*

The revised Clause 4.6 is considered acceptable given that the applicant has amended the design to better reflect the desired future character of the area and addressed the Panel's concerns. In addition, an assessment of the desired future character of the Botany Character Precinct is provided below which demonstrates that the proposal generally achieves the desired future character of the area.

**Part 8.4 – Botany Character Precinct**

An assessment of the proposed development has also been undertaken in regard to Part 8.4 – Botany Character Precinct.

**Function and Diversity**

Specifically relevant to the proposed development in Function and Diversity, *development should:*

- *promote neighbourhood amenity and enhance pedestrian comfort;*
- *encourage site layout and building styles and designs that promote commonality and a visual relationship with the surrounding built form and dwelling styles;*
- *encourage dwelling styles that maintain and complement existing development patterns;*
- *encourage a strong landscape and vegetation theme within both the public and private domain.*

The proposed development as amended provides a site layout and improved building design that is consistent with other developments along Banksia Street. The visual relationship of the development to Banksia Street has improved with the addition of juliet balconies and planter boxes on the first floor and a gable roof instead of a flat roof.

The amended proposed development provides a stronger landscape and vegetation theme with increased landscaped area to the front. Council's Landscape Officer has imposed conditions in the draft Notice of Determination for two (2) *Corymbia eximia* (Yellow Bloodwood) street trees to be planted and two (2) native or ornamental trees to be planted in the front yard (one tree for each dwelling). It is considered that additional trees to be planted by way of condition would further improve the visual and landscape presentation of the proposed development to Banksia Street.

The proposed subdivision is consistent with the existing and desired future subdivision pattern which is currently occurring in the immediate area. The proposed subdivision of the existing lot into two (2) smaller lots to accommodate the construction of two (2) semi-detached dwellings is not inconsistent with the existing or expected future subdivision pattern in the immediate area. The area is undergoing a gradual change, as a number of lots originally containing single detached dwellings are being subdivided into lots to contain two semi-detached dwellings. No. 60 Banksia Street was recently approved, as well as, No. 153 and Bay Street. Directly adjoining the subject site at No. 74 and 76 Banksia is an existing semi-detached dwelling. (Refer to Part 3E – Subdivision & Amalgamation – 3E.2.2 Residential Torrens Title from original report for discussion).

The proposed development as amended is considered acceptable with regard to function and diversity.

**Form, Massing, Scale and Streetscape**

The proposed development follows the topography of the land. The proposed semi-detached dwelling maintains the existing low density character established along Banksia Street and is proposed to a maximum height of two (2) storeys.

The dominant roof form of Banksia Street is maintained following amendments to the front façade to a gable roof as discussed in this Supplementary Report.

Having considered the proposed development to form, massing, scale and streetscape as outlined the proposal is acceptable in its amended form.



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

Objectors were notified of the amended plans, and will be notified of the Panel meeting.

### **Assessment against relevant Controls**

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#### **Statutory Considerations**

##### *Environmental Planning and Assessment Act, 1979*

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

#### **S. 4.15(1) – Matters for Consideration – General**

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

The following Environmental Planning Instruments are relevant to this application:

#### **Botany Bay Local Environmental Plan 2013**

The amended application is considered under Botany Bay Local Environmental Plan 2013, where it differs from the original application:

##### **Clause 4.3 – Height of Buildings**

The maximum building height shown on the Height of Buildings Map is 8.5m.

The proposed building height has increased from 7.5m to 8.4m. Notwithstanding, continues to comply with the maximum building height permissible for the site.

##### **Clause 4.4 – Floor Space Ratio**

There are no proposed changes to the floor space ratio as originally proposed. The proposed gross floor area has been calculated as follows:

###### Lot 1

Ground Floor = 85.5m<sup>2</sup>  
First Floor = 87.5m<sup>2</sup>  
Total GFA = 173m<sup>2</sup>  
Site Area = 264.7m<sup>2</sup>  
Proposed FSR = 0.65:1 (15% variation)

###### Lot 2

Ground Floor = 84.6m<sup>2</sup>  
First Floor = 89m<sup>2</sup>  
Total GFA = 173.6m<sup>2</sup>  
Site Area = 265.6m<sup>2</sup>  
Proposed FSR = 0.65:1 (15% variation)

Combined GFA = 346.6m<sup>2</sup>  
Combined Site Area = 530.3m<sup>2</sup>

Proposed FSR = 0.65:1 (15% variation)

The proposal was accompanied by a revised Clause 4.6 variation to FSR. The Clause 4.6 is acceptable and the variations supported in this case. Refer to Clause 4.6 in the original report and 'Assessment of the Panel's deferment' of this Supplementary Report for discussion.

## Botany Bay Development Control Plan 2013

### Part 4A – Dwelling House

| 4A.2.8 Building Setbacks  |   |  |           |
|---|---|--|-----------|
| BBDCP2013   | ORIGINAL  | AMENDED  | COMPLIES? |
| C1 Minimum front setback – comply with the prevailing street setback or 6 metres (min). | <u>Lot 1</u><br>Ground Floor = 5.5m<br>First Floor = 5.1m   | <u>Lot 1</u><br>Ground Floor = 5.7m<br>First Floor = 6m  | Yes.      |
|   | <u>Lot 2</u><br>Ground Floor = 5.5m<br>First Floor = 4.5m   | <u>Lot 2</u><br>Ground Floor = 6m<br>First Floor = 5.5m  |           |
| Minimum side setback - Assessed on merit  | <u>Ground Floor</u><br>Eastern side setback = 0.9m<br><br>Western side setback = 0.9m<br><br><u>First Floor</u><br>Eastern side setback = 1.5m<br><br>Western side setback = 1.5m | <u>Ground Floor</u><br>Eastern side setback = 0.9m<br><br>Western side setback = 0.9m<br><br>The garage at the front is proposed with a 1.2m side setback from the eastern and western boundary.<br><br><u>First Floor</u><br>Eastern side setback (to the front) = 0.9m<br><br>Eastern side setback (to the rear) = 1.5m<br><br>Western side setback (to the front) = 0.9m<br><br>Western side setback (to the rear) = 1.5m | Yes.      |

|                                 |                     |                     |      |
|---------------------------------|---------------------|---------------------|------|
| Minimum rear setback – 4 metres | <u>Ground Floor</u> | <u>Ground Floor</u> | Yes. |
|                                 | Lot 1 = 14.27m      | Lot 1 = 12.44m      |      |
|                                 | Lot 2 = 14.27m      | Lot 2 = 12.47m      |      |
|                                 | <u>First Floor</u>  | <u>First Floor</u>  |      |
|                                 | Lot 1 = 13m         | Lot 1 = 12.44m      |      |
|                                 | Lot 2 = 13m         | Lot 2 = 12.47m      |      |

| 4A.2.9 Landscaped Area  |  |  |           |
|---|--|--|-----------|
| BBDCP2013   | ORIGINAL   | AMENDED  | COMPLIES? |
| <p><b>C2</b> Development should comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b>.</p> <p>Table 2 requires the following minimum landscaped area:</p> <ul style="list-style-type: none"> <li>250m<sup>2</sup>-350m<sup>2</sup> = 20%</li> </ul> <p>Landscaped area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes.</p> | <p>Lot 1 = 89m<sup>2</sup> (33%)</p> <p>Lot 2 = 89m<sup>2</sup> (33%)</p>  | <p>Lot 1 = 86.55m<sup>2</sup> (32%)</p> <p>Lot 2 = 87.55m<sup>2</sup> (32%)</p> <p>Landscaped areas will be fully permeable deep soil zones with the exception of the proposed driveways which will be semi-permeable.</p> | Yes.      |
| <p><b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.</p>  | <p>The front setback is fully landscaped (71% for 1 and 69% for Lot 2). The driveway is proposed to be semi-permeable.</p> | <p>The front setback is fully landscaped (85% for 1 and 86% for Lot 2). The driveway is proposed to be semi-permeable.</p>   | Yes.      |

| 4A.4.3 Solar Access  |  |   |   |
|--|--|---|---|
| DCP2013  | ORIGINAL   | AMENDED   | COMPLIES?   |
| <p><b>C1</b> 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</p> | <p>Refer to original Planning Assessment Report.</p> | <p>The amended building design involves minimal increase to overshadowing. There is a minor increase in overshadowing to the first ground floor window on the</p> | <p>No, however acceptable. Refer to original report for further discussion.</p> |

|  |  |  |  |
|--|--|--|--|
| in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pool, patios and terraces, and drying areas of both the subject site and adjoining properties. |  | western elevation of No. 74 Banksia Street. However, No. 74 Banksia Street will continue to receive half an hour of solar access to the ground floor windows between 2pm-2:30pm and an hour to the first floor windows between 2pm-3pm as originally assessed with respect to the Land and Environment Court planning principles (Parsonage v Ku-ring-gai (2004) NSWLEC 347) and as amended by the Benevolent Society v Waverly Council. |  |
|--|--|--|--|

**4A.4.3 Solar Access**

| <b>BBDP2013</b>  | <b>ORIGINAL</b>  | <b>AMENDED</b>   | <b>COMPLIES?</b> |
|--|--|--|------------------|
| <b>C1</b> Each dwelling is to have a private open space that:<br><br>(i) Has at least one area with a minimum area of 36m <sup>2</sup> | Lot 1 = 70.5m <sup>2</sup><br>Lot 2 = 70.5m <sup>2</sup> | Lot 1 = 72.2m <sup>2</sup><br>Lot 2 = 72.2m <sup>2</sup><br><br>The site proposed a private open space area of 72.2m <sup>2</sup> for each dwelling which is well in excess of the minimum 36m <sup>2</sup> requirement. | Yes.             |

**4A.4.8 Car Parking**

| <b>BBDP2013</b>  | <b>ORIGINAL</b>  | <b>AMENDED</b>  | <b>COMPLIES?</b> |
|--|--|---|------------------|
| <b>C8</b> In new development the garage/carport is to be setback 5.5 metres from the front boundary. | Lot 1<br>Garage front setback = 5.5m<br><br>Lot 2<br>Garage front setback = 5.5m | Lot 1<br>Garage front setback = 5.71m<br><br>Lot 2<br>Garage front setback = 6m | Yes.             |

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 *Demolition of Structures* when demolition of a building is



involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

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

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

The proposed development will have minimal adverse environmental, social or economic impacts in the locality. Matters relating to streetscape and solar access 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 not affected by flooding.

The site is zoned R2 – Low Density Residential and currently accommodates an existing two-storey dwelling. The site is suitable to accommodate the proposed development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the amended architectural plans were notified to surrounding property owners for a ten (10) day period from 3 June 2019 to 12 June 2019. Nil submissions were received in relation to the amended plans.

#### **Conditions to be modified in response to amendments**

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- *Condition 2 has been modified* to reflect the submitted amended plans received by Council on 14 June 2019.
- *Delete Condition 11* as cabanas are no longer proposed and have been removed from proposed development.
- *Condition 23 has been modified* by Council's Development to reflect conditions for a combined single driveway:

*"23. Prior to 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 E01, E04, E07 and E16.*

*As part of this development, a new concrete driveway shall be constructed. A new 6.3m driveway layback shall be constructed as part of the new driveway crossing, aligned with the internal driveway design. The proposed landscape strip between the two (2) driveways shall be reduced to 600mm to ensure that*

vehicles can access the garages. 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. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted."

- Delete condition 26 as an Amended Landscape Plan has been provided. The amended Landscape Plan accurately reflects the proposed Ground Floor Plan as amended.
- Insert new Condition 29 to be satisfied Prior to issue of any Construction Certificate in the draft consent:

"29. Prior to issue of the 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/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application.  
[http://www.gnb.nsw.gov.au/data/assets/pdf\\_file/0007/199411/NSW\\_AUM\\_July2018\\_Final.pdf](http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Final.pdf)

- Amend condition 42 to include two (2) street trees as recommended by Council's Landscape Officer:

"42. Prior to issue of any Occupation Certificate The applicant is to plant two (2) x 75 *Corymbia eximia* (Yellow Bloodwood) as the replacement tree in the Council nature strip on Banksia Street as per Botany Bay Street Tree Master Plan 2014. The street tree replacement shall be supplied and planted by the applicant at a minimum container size of 75 litres and planted as per Council specifications. New street trees shall be planted at one (1) metre distance at each side of the proposed driveway and 1.5m metres from the kerb.

- Amend condition 52 to reflect the amended date on the submitted Waste Management received by Council on 13 June 2019.

"52. The submitted Waste Management Plan, prepared by Pinnacle Plus, dated 13 June 2019 and the Model Site Waste Minimisation and Management Plan, prepared by David Town Planning & Development and dated 19 November 2018, shall be complied with at all times during construction and on-going use of the site."

- Insert additional section 'Conditions which must be satisfied Prior to the issue of a Subdivision Certificate' and associated conditions after Condition 61 in the draft Consent:

**"CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

62. For compliance with the conditions of consent, a separate application must be made for a subdivision certificate. The application is to be accompanied by documentary evidence demonstrating compliance with all conditions of consent. Submission of a subdivision certificate application accompanied by a linen plan with six (6) copies and appropriate fees.
63. Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.
- (a) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design.
- (b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan or occupation of the development.
64. 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."
- Insert new condition No. 65 in the "Prior to issue of an Occupation Certificate" section of the draft Consent, as follows:
 

"65. 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."
  - Insert new conditions 74 and 75 in the "Prior to issue of an Occupation Certificate" section of the draft Consent, as follows:
 

"74. Prior to the issue of any Occupation Certificate, the following shall be provided:

    - i. The frontage setback shall include two (2) native or ornamental trees to be able to reach a minimum mature height of seven (7) metres in local conditions, to be supplied and planted at a minimum pot size of 75 litres. Each dwelling shall have one (1) tree planted within the front yard.
    - ii. The rear garden shall include minimum two (2) trees, to reach a minimum mature height of five (5) metres in local conditions, to be supplied and planted at a minimum pot size of 45 litres. Each dwelling shall include one (1) tree in the rear garden.
    - iii. All trees shall be located within mulched landscaped beds except where this may interfere with the performance of an on-site detention system.
    - iv. A fully automated irrigation system, approved by Sydney Water, shall be installed and maintained to ensure adequate water is provided to the podium/roofing landscaping.

- v. *Capture of rainwater for irrigation purposes as a sustainability measure shall be provided. Irrigation system shall be connected to rainwater tank as a WSUD principle.*
- vi. *Trees located in neighbouring properties are to be retained and protected.*
- vii. *One (1) Banksia integrifolia (Coast Banksia) located in the Public Domain shall be removed at the applicants expense for the proposed driveways.*

*"75. Prior to the issue of any Occupation Certificate, planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:*

- a) *Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.*
- b) *A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.*
- c) *Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.*
- d) *d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.*
- e) *Finish externally with a suitable paint, render or tile to coordinate with the colour schemes and finishes of the building.*

## Conclusion

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Amended plans requested by the Local Planning Panel for Development Application No. 2018/318 at 72 Banksia Street, have been considered and have addressed the key concerns that were raised at the Bayside Local Planning Panel meeting of 14 May 2019. Therefore, the development proposal is recommended for approval.

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## Schedule 1 – Conditions of Consent

Premises: 72 Banksia Street, Botany

DA No: 2018/318

### SCHEDULE OF CONSENT CONDITIONS

#### GENERAL CONDITIONS

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

| Drawing  | Author        | Dated   |
|--|---------------|---|
| Demolition Plan / DA-02.00 – Rev 10                | Pinnacle Plus | Dated: 13 June 2019<br>Received: 14 June 2019 |
| Site Analysis Plan / DA-03.00 – Rev 10             |               |   |
| Site Plan / DA-03.05 – Rev 10                      |               |   |
| Subdivision Plan / DA-03.10 – Rev 10               |               |   |
| Ground Floor Plan – DA-04.10 – Rev 10              |               |   |
| First Floor Plan – DA-04.20 – Rev 10               |               |   |
| Roof Plan – DA-04.30 – Rev 10                      |               |   |
| Section A & B – DA-05.00 – Rev 10                  |               |   |
| Front & Rear Elevation – DA-06.00 – Rev 10         |               |   |
| West & East Elevation – DA-06.10 – Rev 10          |               |   |
| Streetscape – DA-06.40 – Rev 10                    |               |   |
| External Material and Finishes – DA-08.10 – Rev 10 | Pinnacle Plus | Dated: 13 June 2019<br>Received: 1 July 2019  |

| Reference Documents   | Author                                    | Dated   |
|---|---|---|
| Statement of Environmental Effects (incorporating Clause 4.6 Variation request) | David Carey Town Planning and Development | Dated: June 2019<br>Received: 23 April 2019           |
| Construction Management & Sediment Control Plan                                 | Pinnacle Plus                             | Dated: 13 June 2019<br>Received: 10 April 2019        |
| Waste Management Plan   | Pinnacle Plus                             | Dated: 13 June 2019<br>Received: 10 April 2019        |
| Model Site Waste Minimisation and Management Plan                               | David Carey Town Planning and Development | Dated: 19 November 2018<br>Received: 23 November 2019 |
| Aircraft Noise Intrusion Assessment   | Acoustic Logic                            | Dated: 16 November 2018<br>Received: 23 November 2018 |

- This Consent relates to land in Lot 29 Sec G DP 1787 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.

3. The following shall be complied with:
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
    - i) smoke alarms must comply with AS3786 - 1993;
    - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
    - iii) be located in a position as required by Vol 2. BCA.
4. A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.
5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (No. 1007593S and No. 1007600S) for the development are fulfilled.

Note:

  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
6. The dwellings shall be used as a single occupancy and contain a single kitchen for each dwelling only.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under Condition 1 of this development consent and any other relevant condition of this consent shall not be altered or amended at the Construction Certificate stage without a prior S4.55 application and approval under the EP&A Act.
9. Capture of rainwater for irrigation purposes as a sustainability measure shall be provided. The irrigation system shall be connected to rainwater tank as a WSUD principle.
10. The consent given does not imply that works can commence until such time that:

- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
    - i) The consent authority; or,
    - ii) An accredited certifier; and
  - b) The person having the benefit of the development consent:-
    - i) Has appointed a Certifying Authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
11. The first floor staircase windows on the eastern and western elevations shall be fixed and obscured. Details shall be shown on the Construction Certificate Plans and retained for the lifetime of the development.

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

12. 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.
13. The applicant must prior to the issue of the construction certificate pay the following fees:-
- a) Footpath Crossing Deposit \$5,419.00 (Refer to Condition No.17)
  - b) Development Control \$3,081.00
  - c) Section 94 Contributions \$20,000 (Refer to Condition No.18)
14. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$5,419.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
15. 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:

- a) Community Facilities: \$1,637.16

|                           |                    |
|---------------------------|--------------------|
| b) Recreation Facilities: | \$16,890.83        |
| c) Administration:        | \$145.62           |
| d) Transport Management:  | \$1,326.38         |
| <b>Total in 2018/19:</b>  | <b>\$20,000.00</b> |

*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.

16. 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.

17. 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.

18. Prior to the issue of any Construction Certificate a dilapidation report of the adjoining dwellings (No. 70 and 74 Banksia Street, Botany), including a photographic survey prepared by a Practising Structural Engineer, must be prepared in relation to the proposed development at 72 Banksia Street, Botany.

A copy of the dilapidation report together with the accompanying photographs shall be provided to the above property owner/s of No. 70 and 74 Banksia Street, Botany.

Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey to the Accredited Certifier (AC) or Council prior to commencement of works. The insurance cover shall be a minimum of \$10 million.

19. Prior to the issue of any Construction Certificate, a geotechnical engineer shall determine the soil absorption rate (in litres / second / m<sup>2</sup>base area) and the depth of the water table for the site in accordance with the requirements of the Botany Bay DCP Stormwater Management Technical Guideline Section 5.2 prior to design of the drainage system. The geotechnical engineer shall provide a report to the Principal Certifier which includes the details required above. A copy of the report shall be forwarded to Bayside Council prior to the issue of the Construction Certificate.



20. 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 assessment and approval. 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 Development Control Plan 'Stormwater Management Technical Guidelines', AS/NZS 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate the following measures:

- a) The provisions made in the Stormwater Concept Drainage Plans by PAZ Engineering, ref 181120, 181121, 181122, 181123, amendment 1, dated 15/11/18,
- b) 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. The absorption system shall utilize the absorption rate determined through geotechnical testing,
- c) A rainwater tank system shall be provided for each proposed lot with a minimum capacity of 3000L capacity. The rainwater tanks shall service all toilets, clothes washers and any external taps in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. First flush device shall also be incorporated into the tank systems. Overflow from the rainwater tank shall connect to the proposed site drainage system.

Design Certification, in the form specified in Botany DCP Part 10 Stormwater Management Technical Guidelines page 6 part (i), and drainage design calculations must be submitted with the detailed plans.

21. Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed absorption system 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.
22. 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, two new concrete driveways shall be constructed. Two new three (3) metre wide driveway laybacks shall be constructed as part of the new driveways. 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. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted.

23. 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.

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

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

25. Prior to the issue of the Construction Certificate, the submitted Landscape Plans, dated 24 April 2019 and prepared by melissa wilson landscape architects, shall be revised and show a consistent floor plan to the Ground Floor Plan listed under condition No. 1 of this development consent and submitted to the Accredited Certifier (AC) for approval. A copy of the approved Landscape Plans by the Accredited Certifier shall be forwarded to Bayside Council.

26. 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:

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

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

27. 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.

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

28. Prior to commencing demolition/any works on site, a Tree Protection Zone (TPZ) shall be erected to protect the root zone of the *Ligustrum vulgare* (English Privet) on the adjoining rear property at No. 149 Bay Street. In order to ensure that the tree is protected during demolition and construction, and the health and structural stability ensured the Tree Protection Zone shall be established as follows:
- a) The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts and shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.
29. Prior to issue of the 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/services/development-construction/building-or-altering-property/commonly-used-forms>
30. Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application.  
[http://www.gnb.nsw.gov.au/data/assets/pdf\\_file/0007/199411/NSW\\_AUM\\_July2018\\_Final.pdf](http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Final.pdf) "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.
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, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

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- e) If the soil conditions require 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.
- 32. The Certifying Authority must be satisfied that: -
  - a) In the case of work to be done by a licensee under the Home Building Act: -
    - i) Has been informed in writing of the licensee name and contractor licence number, and;
    - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
  - b) In the case of work to be done by any other person: -
    - i) Has been informed in writing of the persons name and owner-builder permit number, or;
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
  - 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.
- 33. Prior to the commencement of works, the applicant must inform Council, in writing, of:
  - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the owner-builder who intends to do the work;
  - c) The Council also must be informed if: -
    - i) A contract is entered into for the work to be done by a different licensee; or
    - ii) Arrangements for the doing of the work are otherwise changed.
- 34. 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.
- 35. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.



36. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
37. 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.
38. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The *Soil and Water Management Plan* if required under this consent;
  - b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organization of Councils, 2001; and
  - c) "*Managing Urban Stormwater – Soils and Construction*" published by the NSW Department of Housing 4<sup>th</sup> 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 recommended 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](http://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.

39. 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.)*

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit for roads and footways occupancy (long term/ short term),
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- f) Permit to place skip/waste bin on footpath and/or nature strip, 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)).

#### **DURING WORKS**

- 40. The Applicant has permission to remove one (1) street tree, *Banksia integrifolia* (Coast Banksia) located within the Council nature strip on Banksia Street in front of the property at the applicant's expense.

Note: Trees are not permitted to be removed until the Construction Certificate has been issued.

- 41. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
  - a) A Qualified Arborist, minimum level 2 (AQF 2) with their own public liability insurance must be engaged and undertaken all tree works as per *Australian Standard 4373-Pruning of amenity trees*.
  - b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access. If road and footpath closures are required a Council Road Occupancy Permit is required.
  - c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

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

- 42. Prior to issue of any Occupation Certificate, The applicant is to plant two (2) *Corymbia eximia* (Yellow Bloodwood) as the replacement tree in the Council nature strip on Banksia Street as per Botany Bay Street Tree Master Plan 2014. The street tree replacement shall

be supplied and planted by the applicant at a minimum container size of 75 litres and planted as per Council specifications. New street trees shall be planted at one (1) metre distance at each side of the proposed driveway and 1.5 metres from the kerb.

43. 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.
44. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
  - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation 2014;
  - d) DECC Waste Classification Guidelines 2008.
45. No demolition materials shall be burnt or buried on the site.
46. 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.
47. The proposed development shall comply with the following:
  - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Certifying Authority including an after hours contact the Local Environmental Plan phone number.
  - b) Any such sign is to be removed when the work has been completed.
48. 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.
49.
  - a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
    - 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.
- 50. 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 Council's road reserve must also have prior approval of Council.
- 51. 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.
- 52. The submitted Waste Management Plan, prepared by Pinnacle Plus, dated 13 June 2019 and the Model Site Waste Minimisation and Management Plan, prepared by David Town Planning & Development and dated 19 November 2018, shall be complied with at all times during construction and on-going use of the site.
- 53. 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.
- 54. The following shall be complied with during construction and demolition:
  - a) Construction Noise
 

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:
 

The  $L_{10}$  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  $L_{10}$  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.
55. 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.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
56. 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.
57. 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.
- 58.
- 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.
59. 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 made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
60. 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.
61. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - c) Formwork inspection of Council's footpath prior to laying of concrete,
  - d) Final inspection of driveway layback and adjacent kerb and gutter,
  - e) Final inspection of Council's kerb and gutter,
  - f) Final inspection of Council's footpath.

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

62. For compliance with the conditions of consent, a separate application must be made for a subdivision certificate. The application is to be accompanied by documentary evidence

demonstrating compliance with all conditions of consent. Submission of a subdivision certificate application accompanied by a linen plan with six (6) copies and appropriate fees.

63. Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.
- i) 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.
  - ii) 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.
64. 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**

65. 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.
66. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall confirm that a street tree replacement as per Condition No. 44 have been suitably carried out.
67. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
- a) On Banksia Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
  - b) On Banksia Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
68. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Positive covenant and restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
69. 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 submitted Acoustic Report, prepared by Acoustic Logic and dated 16 November 2018 have been

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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).

70. 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 Principal Certifying Authority attesting that this condition has been appropriately satisfied.
71. The installation of the absorption systems 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.
72. 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.
73. Prior to the issue of any Occupation Certificate(s), documentation from a suitably qualified 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.
74. Prior to the issue of any Occupation Certificate, the following shall be provided:
  - i) The frontage setback shall include two (2) native or ornamental trees to be able to reach a minimum mature height of seven (7) metres in local conditions, to be supplied and planted at a minimum pot size of 75 litres. Each dwelling shall have one (1) tree planted within the front yard.
  - ii) The rear garden shall include a minimum two (2) trees, to reach a minimum mature height of five (5) metres in local conditions, to be supplied and planted at a minimum pot size of 45 litres. Each dwelling shall include one (1) tree in the rear garden.
  - iii) All trees shall be located within mulched landscaped beds except where this may interfere with the performance of an on-site detention system.
  - iv) A fully automated irrigation system, approved by Sydney Water, shall be installed and maintained to ensure adequate water is provided to the podium/roofing landscaping.



- v) Capture of rainwater for irrigation purposes as a sustainability measure shall be provided. Irrigation system shall be connected to rainwater tank as a WSUD principle.
  - vi) Trees located in neighbouring properties are to be retained and protected.
  - vii) One (1) *Banksia integrifolia* (*Coast Banksia*) located in the Public Domain shall be removed at the applicants expense for the proposed driveway.
75. Prior to issue of any Occupation Certificate, planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
  - d) Drainage cell must be supplied to the base and sides of the planter to minimise damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
  - e) Finish externally with a suitable paint, render or tile to coordinate with the colours schemes and finishes of the building.
76. Prior to the issue of any Occupation Certificate(s), all landscape works shall be carried out in accordance with the approved Landscape Plans. The landscaping shall be maintained to the approved standard at all times.
77. A qualified Landscape Architect shall provide a report to the Certifying Authority (with a copy provided to Bayside 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.
78. A report prepared by a qualified air quality/mechanical engineer certifying that any mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997. If mechanical ventilation is required, details shall be submitted to Council within 21 days of the installation of the system and prior to the issue of any occupation certificate.
79. 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.

80. 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.
81. 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**

82. 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.
83. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
84. 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.
85. 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.
86. 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.
87. Any intruder alarms must be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2017, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
88. 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.
89. The Protection of the Environment Operations (Noise Control) Regulation 2017, 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.

**David Carey**  
Town Planning and Development

Statement of Environmental Effects (incorporating  
clause 4.6 variation request)

Accompanying a development application for

Demolition of existing structures, removal of trees and  
construction of two semi-detached dwellings,  
subdivision into two lots

At

Lot 29 Section G DP 1787  
72 Banksia Street Botany

June 2019

[www.dcaplanning.com.au](http://www.dcaplanning.com.au)

Email: [david@dcaplanning.com.au](mailto:david@dcaplanning.com.au)



Statement of Environmental Effects  
72 Banksia Street Botany

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Statement of Environmental Effects  
72 Banksia Street Botany

**1. Introduction**

This statement of environmental effects has been prepared by David Carey Town Planning & Development to accompany a development application for the demolition of existing structures, removal of trees and the construction of two semi-detached dwellings with subdivision into two lots at 72 Banksia Street Botany. The application is being lodged by David Carey Town Planning & Development on behalf of Pinnacle Plus, pursuant to Clause 4.12 of the Environmental Planning and Assessment Act 1979.

The proposal has been designed to achieve the relevant provisions and objectives of Botany Bay Local Environmental Plan 2013 and Clause 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

The works address the site and its context and will provide modern, well designed housing. The proposed development replaces an existing dwelling reaching the end of its economic life in the Bayside local government area.

In terms of design, careful consideration has been given to the floor layout, design, appearance and amenity for residents and neighbours. The works will ensure that the needs of the future residents will be met and that the development is in a scale and character which is compatible and consistent with the existing and adjoining developments.

This statement has been prepared having regard to the following documentation:

- Architectural plans prepared by Pinnacle Plus

Statement of Environmental Effects  
72 Banksia Street Botany

## 2. Site description and analysis

### 2.1 Location and property description

The site consists of one torrens title lot with a legal property description of Lot 29 Section G, Deposited Plan 1787. The street address of the site is 72 Banksia Street Botany.



Figure 1 – Aerial view of site

### 2.2 Site characteristics

The subject site consists of one lot with a regular shape that has an area of 530.3m<sup>2</sup>, a frontage to Banksia Street of 12.19m and a depth of 43.67m.

The lot currently contains a single storey detached dwelling house and associated structures. The lot has a frontage to Banksia Street only.

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Figure 2 – View of site from Banksia Street

The subject site slopes gently to the street. Vehicular access to the subject site is available from Banksia Street. The site is fully serviced with telephone, electricity, water and sewerage services. There are a number of other semi-detached dwelling developments in the street shown below:

Immediately to the east of the site are two semi-detached dwellings.



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Figure 3 – Semi-detached dwellings immediately east of the site

A semi-detached dwelling development exists at 60/60A Banksia Street.



Figure 4 – Semi-detached dwellings at 60/60A Banksia Street Botany

A semi-detached dwelling development is also under construction at 124 Banksia Street Botany. This was approved by Council subject to a clause 4.6 variation to the FSR control (discussed in section 4 of this report).

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Figure 5 – Semi-detached dwellings at 124 Banksia Street Botany under construction

### 2.3 Surrounding development

The subject site is located within an established residential area characterised mostly by detached dwelling houses, semi-detached dwellings and multi-dwelling housing. The site is approximately 2.5km from Eastgardens Shopping Centre.

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**3. Details of proposal**

**3.1 Proposed works**

The proposed works are as follows:

- Demolition of existing structures, removal of trees and the construction of two semi-detached dwellings, subdivision of the site into two lots

Overall, the site will be enhanced as an ageing dwelling will be replaced with two modern, well-designed dwellings, with better solar access, useability and orientation, with the development having no adverse impact on the surrounding area.

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**4 Clause 4.15 -Matters for consideration**

The following provides an assessment of the proposal against the provisions of Clause 4.15 of the Environmental Planning and Assessment Act (as amended).

***(a) the provisions of:***

***(b) (i) any environmental planning instrument***

**Botany Bay Local Environmental Plan 2013**

The subject site is zoned R2 Low Density Residential under the Botany Bay LEP 2013. The objectives of the zone are as follows:

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

The proposed semi-detached dwellings are permissible under the zoning. The proposed housing will protect the amenity of residents and provide for the housing needs of the community within a low density residential environment.

**Clause 4.3 Height of buildings**

The maximum height of buildings is 8.5m in this location. The proposed semi-detached dwellings are less than 8.3m in height and comply with this clause.

**Clause 4.4 Floor space ratio**

The maximum floor space ratio is as described on the LEP map is 1:1 in this location. Clause 4.4A of the LEP further provides that the maximum FSR for all development for the purposes of residential accommodation (other than multi-dwelling housing and residential flat buildings) is 0.5:1. The proposed floor space ratio will be 0.64:1. Justification for this proposed variation is provided below.

**Clause 4.6 Exceptions to Development Standards**

This clause of the LEP provides that development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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



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

As outlined above, the proposed FSR for this development is 0.64:1 against a maximum of 0.5:1 in the LEP. The development complies with all other standards in the LEP. Below is written request demonstrating that compliance with the FSR standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify contravening the development standard.

This Clause 4.6 Variation Request relates to the proposed torrens title subdivision and construction of 2 x semi-detached dwellings at No. 72 Banksia Street, Botany, whereby an exceedance of the maximum permissible FSR is proposed.

Specifically, Clause 4.4(2) identifies the site as having an FSR of 1:1, however, Clause 4.4A contains FSR requirements relative to types of residential accommodation (ranging in density between 1:1 and 0.5:1). The proposed development is defined as a "semi-detached dwelling" and as such falls under the category of "all other development for the purpose of residential accommodation". Therefore, the maximum permitted Floor Space Ratio (FSR) is 0.5:1 pursuant to Clause 4.4A(d).

The proposal seeks to provide an FSR of 0.64:1 for the entire site (or 0.64:1 for proposed lot A and 0.64:1 for proposed lot B) and therefore does not comply with Clause 4.4A(d) of the BLEP 2013. It is noted that a maximum FSR of 0.75:1 is permitted for dwelling houses "on lots between 251m<sup>2</sup> and 300m<sup>2</sup> under Clause 4.4A(3)(a) of the LEP, which is greater than what is proposed as part of this application.

The proposal results in a rectilinear subdivision pattern that is consistent with the desired future character of the area and provides a frontage width that is characteristic and acceptable in an otherwise varied subdivision pattern. It is therefore reasonable in this instance for the development to benefit from the FSR that applies to dwelling houses on lots between 251m<sup>2</sup> and 300m<sup>2</sup> as the only distinguishing feature between the proposal and a dwelling house is the provision of a party wall between the two dwellings.

The FSR proposed therefore results in a technical non-compliance arising from a land use definition, rather than the merits of the density proposed which would otherwise be acceptable for a detached dwelling.

The proposal will result in a better outcome for the prospective residents with increased floor area in a semi-detached building form that allows the density to be better distributed on each lot. In addition, the proposal will result in a better outcome from the development as the provision of a common wall between the dwellings allows the proposed massing (that is permitted for a dwelling house on each lot) to be pulled back from each side boundary and landscaped courtyards to be introduced to reduce shadow and privacy impacts on each adjoining property.

The proposal results in a rectilinear subdivision pattern that is consistent with the desired future character of the area and provides a frontage width that is characteristic and acceptable in an otherwise varied subdivision pattern.

Following the creation of the smaller lots as proposed, the LEP enables the construction of a dwelling house on each lot up to an FSR of 0.75:1. The reduced FSR that applies to the proposed semi-detached dwellings results from the clause that applies to the "catch all" definition of residential accommodation.

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The proposed semi-detached dwellings are a low density residential form and are most closely related to dwelling houses. The similarity between dwelling houses and semi-detached dwellings is evidenced by the application of identical DCP provisions that fall under the requirements relating to low density residential development.

The proposed FSR is suitable to the site as the building form across each lot will achieve a density that less than the maximum of a compliant dwelling house.

Furthermore, the proposed development typology has particular efficiencies when applied to each of the proposed lots as detailed below that will result in an improved outcome to the adjoining properties.

Notably, the proposal results in a better outcome than a compliant scheme as construction of a dwelling house on each proposed lot would have a contextually inferior presentation within the street despite complying with the FSR requirements. This is due to specific context of the site, whereby, there is a semi-detached dwelling immediately east of the site, as the street is undergoing transition, with semi-detached dwellings approved recently at 60 Banksia Street and 124 Banksia Street.

To provide detached dwellings on the proposed lots would result in a discordant form within the street and a more imposing presentation to the adjoining residential properties as well as the proposed dwellings. Detached dwellings on each lot with compliant side boundary setbacks would preclude any significant façade relief to the adjoining properties and the proposed adjacent dwellings. The semi-detached building form allows a more efficient allocation of density at the site in a form that incorporates well-proportioned courtyards adjacent to each side boundary. An FSR of 0.64:1 is proposed, against a maximum of 0.75:1 that would be permitted if a dwelling house was proposed.

As such, the proposal will result in a better outcome from the development as the provision of a common wall between the dwellings allows the proposed massing (that is permitted for a dwelling house on each lot) to be pulled back from each side boundary and landscaped courtyards to be introduced to reduce shadow and privacy impacts on each adjoining property.

In terms of improved outcomes for the development and the prospective residents, the increased floor area in a semi-detached building form allows increased FSR with resultant amenity improvements.

The development could reasonably be altered to comply with the 0.5:1 FSR at the site without and material changes to the building presentation within the street, however, the burden placed on the development (with a reduced FSR) is to be balanced with the material planning benefits of reducing the proposed FSR. In our view, there are no material amenity or environmental benefits to be gained from reducing the FSR to 0.5:1. In fact, this would place an unreasonable burden on the development resulting from the loss of floor area that is otherwise permitted for a dwelling house on the proposed lots. As demonstrated by shadow diagrams and other plans submitted with the application, the proposed development does not have an adverse impact on surrounding properties.

In our view, the proposal is a technical non-compliance achieves a better outcome than strict compliance with the FSR standard. Strict application of the FSR requirements in this instance would place an unreasonable burden on the development that seeks to provide additional residential accommodation within a suitable low density form.

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

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

The proposal will replace the existing dwelling house with 2 x semi-detached dwellings that are an accepted low density residential typology within the area. In doing so, the proposal will provide additional low density residential accommodation to meet the housing needs of the community. The development contains facilities for bike storage and is located in an area that enables walking and cycling to nearby services.

In light of the above, the proposed development complies with the zone objectives.

The objectives of Clause 4.4A of Botany LEP are as follows:

- (a) to ensure that the bulk and scale of development is compatible with the character of the locality,*
- (b) to promote good residential amenity.*

The proposal will result in a building form that is consistent with the desired future character of the area. This is evidenced by the semi-detached form, the setback to the street, compliant building height and contemporary design. The proposal could reasonably be amended to ensure strict compliance with the FSR requirement, however, this would place unreasonable burden on the development with no material planning benefit.

Furthermore, the removal of the party wall to each dwelling would result in a compliant building (dwelling house) with no material alterations to the external fabric of the building. As such, notwithstanding, the FSR exceedance, the proposal provides a building height, form and bulk that is compatible with the low density residential area and consistent with a compliant dwelling house.

As detailed in the submitted SEE, the proposal will ensure high levels of residential amenity for future residents of the development whilst ensuring that the privacy, overshadowing and view impacts of the adjoining properties are minor and entirely acceptable. In the absence of any amenity impacts and in light of the amenity provided by the development for future residents, the proposal is entirely consistent with objective (b) above.

There is precedent in Council approving a semi-detached dwelling development in the street at 124 Banksia Street Botany, with a variation to the FSR standard (DA/16/116). This application was approved with an FSR of 0.7:1, which is greater than that proposed as part of this application.

The area is currently undergoing transition, with older single storey cottages being replaced with larger two storey developments in line with the planning controls. The proposed development is consistent with the desired future character of the area as the bulk and scale of the development is identical to that which would be permitted for a two storey detached dwelling house. The external appearance of the development is consistent with other newer developments recently constructed, including within Banksia Street outlined in this report. This represents the desired future character, as these developments have been approved by Bayside Council.

In May 2008, the Planning Circular PS 08-003 advised councils that arrangements for the Director-General's concurrence can be assumed in respect of any environmental planning instrument that

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adopts clause 4.6 of the Standard Instrument or similar clause, which provide for exceptions to development standards.

In light of the above, the proposal exceeds the maximum FSR at the site and the justification provided demonstrates that the proposal satisfies the statutory tests set out by Clause 4.6 of the LEP. There is merit in approving the proposed variation in this instance.

In addition, the statutory tests of Clause 4.6 have been applied with reference to the applicable planning principles and decisions of the NSW LEC that assist with interpretation of the relevant aspects of Clause 4.6.

The proposal will result in a suitable low density residential development that results in a better outcome for prospective residents and from the development with reference to the streetscape presentation of the site and impacts on adjoining properties. Council should therefore have comfort in applying a reasonable degree of flexibility in this particular instance.

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

This clause provides that on land categorised as Class 4 acid sulphate soils, works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface requires development consent subject to an acid sulphate soils management plan. The proposed development does not propose works more than two metres below the natural ground surface and accordingly complies with this clause.

There is no minimum lot size for subdivision in the LEP and the proposed lot layout complies.

#### ***(iii) any development control plan***

#### **Botany Bay Development Control Plan 2013**

#### **Clause 3B.7 – Development in the Vicinity of Heritage Items**

This clause provides that new buildings or structures, including landscaping must be located to minimise adverse impacts on the Heritage Item and its setting. There is a heritage item adjoining part of the rear boundary of the site at 145 Bay Street Botany. The proposed development is well set back from the rear boundary and will not have any adverse impacts on this item. There are no significant views to this heritage item that will be impeded by the proposed development.

#### **Clause 3E.2.2 – Residential Torrens Title**

This clause provides that proposed subdivision should be consistent with the desired character of the area relevant in Part 8 of the DCP – Character Areas. The desired future subdivision character for the Botany area in the DCP is to retain and preserve the rectangular grid pattern within the street. The proposed subdivision provides for two rectangular lots with complies with this clause of the DCP.

#### **Part 4A Dwelling Houses**

| Clause                  | Required   | Proposed                                     | Complies |
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| <b>4A.2 Site Design</b> | C1 To achieve excellence in urban design, development should:<br>(i) Take into consideration the characteristics of the site and adjoining development by undertaking a thorough site analysis;<br>(ii) Utilise innovative design which positively responds to the | The proposed development provides innovative | Yes      |



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|  | <p>character and context of its locality; (iii) Provide a design which utilises Environmentally Sustainable Design strategies; (iv) Enhance the streetscape character of the locality; (v) Ensure development is consistent in height and scale with surrounding development; (vi) Maintain established setbacks; (vii) Design buildings to minimise impacts on neighbours by maintaining appropriate levels of solar access and privacy; (viii) Ensure any development utilises materials and finishes which complement the locality and provides visual impact; (ix) Incorporate architectural relief and modulation of façades to avoid a bulky appearance; (x) Incorporate entries, verandas and balconies to add visual interest to building forms and break up the bulkiness of a dwelling when viewed from the street. (xi) Design for acoustic and visual privacy; (xii) Ensure dwellings and open space areas achieve good solar access, and are energy efficient; (xiii) Ensure building entries address the street and are clearly visible from the street or footpaths; (xiv) Provide good quality landscaping; (xv) Consider the relationship of private open space to the layout of the dwelling; (xvi) Use design techniques which promote safety and discourage crime; and (xvii) Ensure garages and carports are not the dominant feature of the building façade. They must be subservient in scale to the dwelling and compatible with the overall design of the dwelling.</p> <p>A Development Application for a new dwelling house or major alteration to a dwelling must include a written statement to demonstrate how design excellence will be achieved in the proposed development and meet the requirements identified in C1 (above).</p> | <p>design that takes into account the character of the surrounding area and its desired future character through complying with planning controls relating to height and setbacks from site boundaries. The development provides relief and good articulation through the semi-detached dwellings providing an asymmetrical appearance from the street. Verandahs overlook the front boundary and front entries face the street which will improve security. The development and its open space will achieve good solar access. Garages are obscured and do not dominate the development (front rooms above) Private open space is easily accessible to the rear of the development</p> |  |
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|                               |   | from living areas. The design is environmentally sustainable and a BASIX certificate has been obtained. The development maintains privacy and will have minimal impacts on neighbours. High quality materials are used and the development will present an excellent standard of appearance. |     |
| <b>4A.2.2 Site Analysis</b>   | C1 A Site Analysis Plan shall be submitted with all Development Applications to Council. For information regarding what should be identified on a Site Analysis Plan, refer to Council's Development Application Guide which is available at the Customer Services Centre or online via Council's website.<br>C2 An effective site analysis will: a. Identify key opportunities and affectations of the site; b. Demonstrate reasoning behind key design decisions; c. Influence design decisions to minimise negative impacts on amenity; and d. Demonstrate and uncover neighbourhood characteristics which the design will respond to. | A site analysis plan has been provided as part of this Development Application. The site analysis examines details including solar access, winds, surrounding streets and buildings.   | Yes |
| <b>4A.2.3 Local Character</b> | C1 Development must be designed to respond to the opportunities and constraints identified in the Site Analysis.<br>C2 Development must comply with the relevant Desired Future Character Statements in Part 8 - Character Precincts.   | The site analysis plan has informed the overall design and the development is consistent with the opportunities and constraints outlined in the plan. The development is consistent with the desired low to  | Yes |

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|  |  | medium density character of Botany.  |     |
| <b>4A.2.4 Streetscape Preservation</b> | <p>C1 New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and Identity which contributes to its character. Applicants must address the design principles outlined in the statement.</p> <p>C2 Development must be designed to reinforce and maintain the existing character of the streetscape.</p> <p>C3 Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3). Note: Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in housing designs provided that development outcomes complement the existing character of the suburb.</p> <p>C4 Buildings must appropriately address the street. Buildings that are intrusive or inconsistent with the established development pattern will not be permitted.</p> <p>C6 The entrance to a dwelling must be readily apparent from the street.</p> <p>C7 Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.</p> <p>C8 Skylights are to be flush with the roof surface and located to the rear of a building.</p> <p>C9 A street number for the property is to be clearly identifiable from the street.</p> <p>C10 Development must retain characteristic design features prevalent in houses in the street including: verandas, front gables, window awnings, bay windows, face brickwork or stone details.</p> <p>C20 As Identified in Figure 5, the two dwellings that constitute the semi form must be as consistent as possible in scale and material. Note: There are a variety of different architectural designs that can be adopted for first floor additions to semi-detached dwellings, some more traditional and others of a contemporary nature. It is not necessary for the buildings to be identical; however colours and materials should be complementary in the street-front presentation.</p> <p>C21 Roof design must prevent the flow of stormwater onto the adjoining semi.</p> | <p>The development meets the desired future character of Botany and is consistent with existing character. Contemporary architectural design adopted which is consistent with street character in Banksia Street. Proposed building addresses the street. Dwelling entries visible from street. Both dwellings have windows facing the street. Consistent materials are adopted for each of the two dwellings.</p> | Yes |
| <b>4A.2.5 Height</b>                   | <p>C1 The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.</p> <p>C2 Where a building built to the permissible height would have unacceptable adverse impacts in regards to: (i) The overshadowing of a dwelling, private open space or public open space; (ii) An inappropriate transition in built form and land use intensity; (iii) The design excellence of a building; (iv) View loss; or (v) The Obstacle Limitation Surface; Council may not permit the permissible height to be achieved. Note: Refer to Sydney Airport Operations Areas subject to Building Height Control Map to determine whether an OLS height restriction applies to a site.</p> <p>C3 New buildings are to consider and respond to the</p>  | <p>The proposed height is less than the maximum 8.5m specified in the LEP. As demonstrated in the shadow diagrams submitted with the application, the</p>  | Yes |

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|                                 | predominant and characteristic height and storeys of buildings within the neighbourhood; and consider the topography and shape of the site. Note: Characteristic building height is defined as the average building height of the two adjoining buildings.   | development will not have an unacceptable overshadowing impact on adjoining properties. Development will not impact on any known significant views. Development consistent with Sydney Airport height control map.   |     |
| <b>4A.2.6 Floor space ratio</b> | <p>C1 The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the Botany Bay Local Environmental Plan 2013 (refer to Figure 12). Note: For the purpose of calculating FSR refer to the definitions in Clause 4.5 in Botany Bay LEP 2013.</p> <p>C2 Not all development may be able to achieve the maximum permissible FSR, due to particular site characteristics, such as: (i) The size, shape and topography of the land; (ii) The surrounding context and scale of adjacent development; (iii) The need to reduce adverse impacts on neighbouring sites; and (iv) Not being able to satisfy Council's traffic, parking and vehicular access requirements.</p> <p>C3 In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse impacts within the development or on adjoining dwellings or the streetscape in terms of: (i) Loss of Privacy; (ii) Overshadowing/loss of natural light; (iii) Loss of views; (iv) Visual Amenity (Bulk and Scale); and (v) Increased traffic generation.</p> | A variation to the LEP FSR control of 0.5:1 is sought. Refer to discussion under clause 4.6 of the LEP in this statement for further information. It is noted that the proposed FSR is less than the maximum 1:1 indicated on the map for this location. The development has been designed to minimise loss of privacy, overshadowing, loss of views, visual amenity and will have minimal impact on traffic generation. | Yes |
| <b>4A.2.7 Site coverage</b>     | <p>C2 For sites over 200m<sup>2</sup> the maximum site coverage is: 200 – 300m<sup>2</sup> 60% of the lot</p> <p>C3 For sites less than 200m<sup>2</sup> the maximum site coverage will be assessed on merit, which will include consideration of the</p>  | The site coverages of each lot are 42.2%   | Yes |



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|                                 | 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 (x) Site topography and allotment size.  |   |  |
| <b>4A.2.8 Building setbacks</b> | <p>Minimum front setback to comply with prevailing street setback or minimum 6m</p> <p>Side setbacks assessed on merit based – depending on visual impact to street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape</p> <p>Minimum rear setback 4m</p> <p>Zero lot lines on merit based on building type and open space provisions</p> <p>Eaves minimum 450mm from boundary</p>   | <p>5.71m front setback adopted which is consistent with existing street (greater than average of adjoining two dwellings)</p> <p>Minimum side setbacks of 900mm adopted which is consistent with BCA and privacy/solar access of adjoining dwellings</p> <p>Minimum setback of 12.445m adopted for rear boundary</p> <p>Zero lot line required for semi-detached dwelling</p> <p>No eaves closer than 450mm to boundary</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| <b>4A.2.9 Landscaped area</b>   | <p>C1 Landscaped areas are to be designed accordance with Part 3L - Landscaping.</p> <p>C3 Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).</p> <p>C5 A Landscape Plan identifying the proposed areas of open space and landscaped areas on a site shall be submitted with all Development Applications, in accordance with Part 3L - Landscaping. Landscaped areas must minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties. Trees are to be selected so that the height and width of the tree is in scale with</p> | <p>Landscape plan designed in accordance with DCP</p> <p>Deep soil zones provided</p> <p>Landscaped areas identified on landscape plan</p>  | <p>Yes</p>   |

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|  | <p>the size of the building (Figure 16). A list of suitable trees and plants for residential sites can be found in the Council's Part 10 - Landscape Technical Guidelines for Development Sites.</p> <p>Landscaping must contain trees.</p> <p>C6 Council may require monetary contribution toward planting of a street tree (where none currently exist) if there is a substantial re-development of the site.</p> <p>C7 Where a building, driveway or pool is sited at the location of an existing tree, Council may require plans to be modified.</p> <p>Minimum landscaped area for &lt;250m<sup>2</sup> lot</p> <p>C8 The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.</p> <p>C9 The front setback area must contain 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.</p> <p>C10 All trees are to be at least 45 litre pot size, except where stipulated otherwise by Council.</p>   | <p>Street tree currently exists</p> <p>Proposed street tree can be relocated</p> <p>Front setback landscaped to greatest extent possible while allowing pedestrian and vehicle access</p> <p>More than one tree provided in front setback area.</p> <p>Trees to be 45 litre pot size.</p>                          |     |
| <b>4A.3 Building design</b>            | <p>C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).</p> <p>C2 The Schedule of Finishes shall consist of samples of materials and corresponding manufacturer's details and product codes. Applicants are to use illustrated elevations to document the location and composition of materials.</p> <p>C3 Materials, colours, architectural details and finishes must be sympathetic to the surrounding locality.</p> <p>C4 The use of materials with different textures such as brickwork, glass, timber weatherboards and iron awnings are to be used to break up uniform buildings. Note: Completely rendered buildings may dominate the street and be out of character with existing development.</p> <p>C5 All materials and finishes must have low reflectivity.</p> <p>C6 The use of dark tinted or reflective glass is not suitable where visible from the street.</p> <p>C10 The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade. Colour Schemes</p> <p>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.</p> | <p>External finishes schedule provided</p> <p>Materials have been designed to be sympathetic to surrounding locality (predominantly render)</p> <p>More than one material is used on external walls</p> <p>External materials consistent with the street - there are a range of existing colours in the street</p> | Yes |
| <b>4A.3.2 Roofs and attics/dormers</b> | <p>C1 Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch. Roof pitches are to be between 22.5 degrees and 40 degrees.</p> <p>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</p>   | <p>Alternative roof form adopted in accordance with clause C3.</p>   | Yes |

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|                                       | not detract from the streetscape.<br>C3 A variety of roof forms will be considered, provided that they relate appropriately to the architectural style of the proposed house and respect the scale and character of adjoining dwellings.   | Roof form respects the modern design of the house and is consistent with character of adjoining dwellings where a variety of roof forms exist. Higher pitched roof would not be consistent with architectural style.   |   |
| <b>4A.3.3 Fences</b>                  | C19 The maximum height of side or rear fences is not to exceed 1.8 metres.   | Proposed fencing will not exceed 1.8m in height  | Yes   |
| <b>4A.4 Site and building amenity</b> | <p>C1 The privacy needs of residents should be considered in designing a new dwelling or alterations and additions to a dwelling. Windows are to be located so they do not provide direct or close views into the windows of other dwellings, particularly those of living areas.</p> <p>C2 Visual privacy for adjoining properties must be maximised. A combination of the following measures should be utilised: a. Using windows which are narrow, or glazing which is translucent or obscured; b. Ensuring that windows do not face directly on to the windows, balconies or courtyards of adjoining dwellings; c. Screening opposing windows, balconies and courtyards; d. Increasing sill heights to 1.5 metres above floor level; and/or e. Offset or splay windows to prevent direct overlooking into adjacent buildings (refer Figure 22).<br/>C3 First floor balconies are only permitted when adjacent to a bedroom.</p> <p>C6 Balconies are to be designed to minimise overlooking to other properties. Note: Where a proposed development increases the potential for overlooking of adjoining properties, the Council may require balconies to be limited in size and in some cases, fitted with privacy screens or fin walls. Partially</p> | <p>All upper storey windows have been designed to minimise overlooking through higher windowsills where near adjoining buildings. Recessed landscaped courtyards proposed.</p> <p>Careful placement of windows and high windowsills have been adopted</p> <p>Balconies adjoin bedroom</p> <p>First floor balconies face street</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |

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|  | recessed balconies are encouraged at the rear to ensure the privacy of surrounding properties is maintained.  |   |     |
| <b>4A.4.3<br/>Solar<br/>Access</b>           | <p>C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and to 50% of the primary private open space areas of both the subject site and adjoining properties.</p> <p>C7 Plan Shadow Diagrams (prepared by a suitably qualified person) should identify: (i) True north; (ii) Levels to AHD at the corners of buildings; (iii) Ridge and Ground levels; (iv) Location of adjacent buildings affected by shadow and location living areas and principal open space areas; and (v) The shadows cast by existing and proposed development at 9am, noon and 3pm on 21 June and a calculation comparing the extent of the additional overshadowing.</p>   | <p>As shown on shadow diagrams, living rooms and &gt;50% of private open space will achieve greater than 2 hours of solar access on June 21.</p> <p>Shadow diagrams provided show these details</p> | Yes |
| <b>4A.4.4<br/>Private<br/>open<br/>space</b> | <p>C1 Each dwelling is to have a private open space that: (i) Has at least one area with a minimum area of 36m<sup>2</sup>; (ii) Is located at ground level with direct access to the internal living areas of the dwelling; (iii) Maximises solar access; (iv) Is visible from a living room door or window of the subject development; (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.</p> <p>C2 Sites less than 250m<sup>2</sup> may have a minimum area of 25m<sup>2</sup>.</p> <p>C5 The primary private open space area is to be located at the rear of the property.</p> | Both dwellings have private open space greater than 36m <sup>2</sup> with access at ground level from living areas and at the rear of the properties  | Yes |
| <b>4A.4.5<br/>Safety and<br/>security</b>    | C1 Dwellings must be designed to encourage passive surveillance of the street and comply with Part 31 - Crime Prevention, Safety and Security.  | Passive surveillance is promoted through front entries and bedrooms overlooking the street.   | Yes |
| <b>4A.4.6<br/>Excavation</b>                 | <p>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.</p> <p>C2 Where steep or sloping sites exist, the building should not protrude from the landscape but should be staggered or stepped into the natural slope of the land.</p> <p>C3 Developments are to avoid the unnecessary use of cut and fill by designing and siting buildings within the natural slope of the land. If cut and fill is required for drainage or other purposes,</p>  | <p>The proposed development respects the site and avoids unnecessary cut and fill.</p> <p>The site is relatively flat, minimising the</p>   | Yes |



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|                              | Council will consider its effect on the streetscape and adjoining properties.   | need for cut and fill.  |                                  |
| <b>4A.4.7 Vehicle access</b> | <p>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).</p> <p>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.</p> <p>C3 Driveways must be designed to comply with AS2890.1 (also refer to Part 3A - Car Parking).</p> <p>C4 Vehicular crossings shall be sited so that existing street trees, bus stops, bus zones, power lines and other services are not affected.</p> <p>C5 Internal driveways characterised by large expanses of concrete are not permitted. Suitable driveway materials include paving and other textures or coloured surfaces to add visual interest.</p> <p>C6 The number of vehicle crossings is to be limited to one (1) per allotment.</p> <p>C7 Vehicular crossings shall be sited so as minimise any reduction in on-street kerb side parking.</p> <p>C8 The alignment of driveways should where possible, create visual interest and avoid the creation of a "gun barrel" effect.</p> <p>C9 Applications for new dwellings will be conditioned to require the construction or reconstruction of the kerb and gutter, footpath (including pram ramp) and the vehicular crossing along the full site frontage. Costs of such work will be the responsibility of the owner of the development site. For corner lots, if footpath and/or kerb and gutter on are in good condition it may be required that only one street frontage is constructed or reconstructed.</p> | <p>Minimum driveway width 3m with 5.5m crossover for two garages complies with AS2890.1</p> <p>Driveway does not affect any existing street trees which can't be replaced or relocated, bus stops or power lines</p> <p>Alternative paving provided for driveways and footpaths, adding to visual interest.</p> <p>One vehicle crossing proposed</p> <p>Driveways short in length and do not create "gun barrel" effect</p> | Yes                              |
| <b>4A.4.8 Car parking</b>    | <p>C1 Development must comply with Part 3A - Car Parking.</p> <p>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.</p> <p>C4 Car parking structures must be located and designed to: (i) Comply with AS2890.1 and (ii) Conveniently and safely serve all users; (iii) Enable efficient use of car spaces, including adequate manoeuvrability for vehicles between the site and the street; (iv) Not dominate or detract from the appearance of the existing dwelling or new development and the streetscape; (v) Be compatible in scale, form, materials and finishes with the associated dwelling; (vi) Not reduce availability of kerbside parking; (vii) Retain any significant trees; and (viii) Have minimal impact on existing fences and garden areas that contribute to the setting of the associated dwelling and the character of the streetscape.</p> <p>C8 In new development the garage/carport is to be setback 5.5</p>  | <p>One space per dwelling provided in accordance with DCP</p> <p>Parking arrangements comply with AS2890.1 and support landscaping within front setback area</p> <p>Garages are</p>   | <p>Yes</p> <p>Yes</p> <p>Yes</p> |

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|  | <p>metres from the front boundary. This may be difficult for small allotments with a frontage of 12.5 metres or less. In these cases Council will consider whether or not to require a setback of 5.5 metres on merit – this merit based assessment will include whether or not the proposed garage will have a dominant impact on the streetscape. Council will consider alternative design solutions where a double garage on a narrow allotment is proposed. The solution is to ensure that the garage does not dominate the views of the house and streetscape, and does not reduce the attractiveness of the street itself. For further detail on parking on narrow allotments refer to Part 4A.5.9 - Parking on Narrow Lots.</p> <p>C9 Garages, parking structures (i.e. carports &amp; car spaces) and driveways are not to dominate the street. Note: Existing situations where garages dominate the street may not be used as a precedent to justify approval of other similar proposals.</p> <p>C10 Garages and carports must be designed to be sympathetic to the existing character and design of the dwelling house in terms of roof pitch, materials and features.</p> <p>C11 Where parking cannot be provided at the side or rear of a dwelling house, a hardstand area forward of the building alignment which is integrated into the landscape character of the front yard, may be considered by Council.</p> <p>C13 For lots with a width of more than 12.5 metres, the face of the garage and bulkhead in the front elevation is not to exceed 50% of the front elevation of the dwelling. For lots of less than 12.5 metres in width refer to Part 4A.5.9 - Parking for Narrow Lots.</p> <p>C14 Garages and Carports must be no higher than 3 metres and has a roof form that is appropriate to surrounding developments.</p> <p>C15 Cladding must consist of masonry, painted zincalume or similar non reflective materials. These materials must be compatible with the dwelling house and consistent with the character of the immediate environment.</p> <p>C16 Roof cladding must consist of tiles, slates, colourbond sheet metal, painted zincalume, metal or other approved non-reflective roof material. These materials must be compatible with the dwelling house on the site and be consistent with the character of the immediate environment.</p> <p>C17 The colour of roof and wall cladding must generally be of neutral tones, compatible with the dwelling house on the site and environmentally sensitive so as to minimise visual impact on the area.</p> <p>C18 Garages are subject to a stormwater concept plan and stormwater must be collected, piped and drained to the kerb or inter-allotment drainage system and comply with Part 3G - Stormwater Management. Garages are to be used for car parking purposes only and are not to be adapted for residential use.</p> <p>C20 Reflective or smooth materials are not permitted for garage doors. Materials that complement the design and materials of the house are to be used.</p> <p>C21 Garage doors, gates, shutters or grilles shall be setback from the face of the surrounding wall or pier by at least 100mm so that they are not flush with the wall. The colour should be dark and/or complement the colour of the dwelling façade.</p> | <p>set back &gt;5.71m from the front boundary.</p> <p>Garages and driveways do not dominate the street (under front bedrooms). Substantial landscaping provided in front setback area.</p> <p>Garages less than 50% of lot width</p> <p>Garage height &lt;3m</p> <p>Grey/beige render and metal roofing proposed</p> <p>All stormwater drainage to be piped to the kerb/gutter</p> <p>Garage door material not reflective</p> <p>Garage doors set back from front of wall</p> | <p></p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
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| <b>4A.4.9<br/>Parking on<br/>narrow<br/>lots</b>             | C1 Double garages (flushed or stepped) will not generally be permitted for development on sites with less than a 12.5 metres frontage due to the impact on the streetscape. Single fronted garages or single carports or a tandem garage only, is to be provided. An example of a tandem garage on a small allotment is illustrated in Figure 25.   | One single garage is provided on each lot  | Yes   |
| <b>8.4.2<br/>Botany<br/>Desired<br/>Future<br/>Character</b> | <p>Function and Diversity</p> <p>Enhance the public domain and streetscapes within the Precinct. Encourage and enhance connections of public domain and open space areas with recreational facilities.</p> <p>Ensure densities in residential areas already affected by aircraft noise over 30 ANEF or adjacent to freight and major road corridors are not increased.</p> <p>Encourage the conversion of uses within sites affected by aircraft noise over 30 ANEF to nonresidential uses less affected by aircraft noise.</p> <p>Facilitate the expansion of commercial activity potential in a business park setting north of the Botany Local Centre (Lord Street Business Park Precinct).</p> <p>Limit retail development to within the Botany Local Centre and Banksmeadow Neighbourhood Centre (refer to Part 5.2.2.7 - Botany Local Centre and Part 5.2.3.3 - Banksmeadow Neighbourhood Centre).</p> <p>Enhance connections to the Botany Local Centre. Encourage active frontage along Botany Road in the Botany Local Centre. Encourage 'side street' retailing potential into Bay Street. Promote the extension of 'main street' retail north to Hickson Street at Botany Local Centre (eastern side of Botany Road). Facilitate the development of a supermarket use in the Banksmeadow Local Precinct and maintain a supermarket use with the Botany Local Precinct.</p> <p>Promote the extension of the Banksmeadow Local Centre west to Pemberton Street.</p> <p>Retain the Botany South Industrial Precinct for light industry activities and ensure a transition buffer to residential development.</p> <p>Ensure access and adaptability of dwellings (for seniors).</p> <p>Encourage increased residential densities in the form of shop top housing at Swinbourne Avenue to create small retail and mixed use centre.</p> <p>Encourage live/work opportunities along Botany Road and on</p> | <p>Development will enhance public domain and streetscape through high quality appearance and landscaping. Pedestrian connections with public open space.</p> <p>Site not affected by ANEF30.</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Level access at ground level provided</p> <p>Not applicable</p> | <p>Yes</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> |

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|  | <p>the perimeter of the Botany south Industrial Precinct. Retain Hale Street for Port related and other general industrial activities.</p> <p>Development should: promote neighbourhood amenity and enhance pedestrian comfort; encourage site layout and building styles and designs that promote commonality and a visual relationship with the surrounding built form and dwelling styles; encourage dwelling styles that maintain and complement existing development patterns; encourage a strong landscape and vegetation theme within both the public and private domain; and allow the adaptive reuse of industrial buildings for residential purposes; encourage new development on larger sites (eg over 2,000m<sup>2</sup>) to promote a parkland setting for residential development.</p> <p>Form, Massing, Scale and Streetscape</p> <p>Encourage development to follow the topography of the land. Promote medium residential development in areas adjacent/adjoining existing medium density housing development with an FSR of 0.85:1 and 2 storeys with attic (a maximum height of 10 metres) unless the site area is over 2000m<sup>2</sup> which then permits a FSR of 1.5:1 and 2 to 6 storeys (a maximum height of 22 metres).</p> <p>Maintain and enhance low density residential accommodation in the form of detached/attached dwellings with a maximum height of 2 storeys in the remainder of the Precinct. Promote site access and parking facilities that do not dominate the streetscape.</p> <p>Encourage new development or alterations and additions to existing development to complement the height and architectural style found in the immediate vicinity, particularly where there is an established character.</p> | <p>Not applicable</p> <p>Adaptive reuse of industrial buildings not applicable. Development has been designed to be compatible with local area and will promote high quality appearance from street. Similar scale and appearance to other semi-detached dwellings approved by Council in Banksia Street. Substantial front landscaping.</p> <p>Site relatively flat. Development respects topography through two level dwellings (limited scale). Other low/medium density development in street</p> <p>Two storey development proposed</p> <p>Garages integrated into design to reduce prominence</p> <p>Revised design has been intended to complement the height,</p> | <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
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|  |   | architectural style found in Banksia Street.  |     |
|  | Maintain roof forms to reflect the characteristics of the prevailing designs within the street.   | Relatively flat roof consistent with newer developments approved by Council in area and limits height/scale.  | Yes |
|  | Development of 4 storeys or more in height, adjacent to a school, are to consider the following: Mitigation of overshadowing impacts on the school and its grounds through setbacks and controlled bulking and scaling of buildings; Orientating internal spaces so that low occupancy rooms face school property; and Windows and balconies are to be designed to reduce opportunities for overlooking school grounds. | Not applicable  | N/A |
|  | Setbacks  |   |     |
|  | Retain front setbacks which are consistent within a street and promote landscaping to soften the built form.<br>Retain side setbacks, where they are consistent within a street.  | Front setback greater than average of neighbouring dwellings. Side setbacks in accordance with street/BCA   | Yes |
|  | Landscaping   |   |     |
|  | Encourage landscaping within the front and side setback to soften the built form particularly in high density terrace, unit and residential flat buildings.<br>Promote landscaping in rear private open space areas to provide privacy to adjoining properties.<br>Maintain street trees. Encourage landscaping and public domain to elevate Bay Street to a "grand avenue".  | Ample landscaping provided within front setback area and rear private open space. Street tree can be relocated  | Yes |
|  | Heritage  |   |     |
|  | Promote urban design and uses that enhance to the character of the area and protect and are sympathetic to the significance of Heritage Items.<br>Conserve and enhance Heritage Items within the Precinct.<br>Conserve and protect the Botany Township Heritage Conservation Area.  | There is a heritage item adjoining part of the rear boundary of the site at 145 Bay Street Botany. The proposed development is well set back from the rear boundary and | Yes |

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|  |  | will not have any adverse impacts on this item. There are no significant views to this heritage item that will be impeded by the proposed development. |     |
|  | Fencing  |  |     |
|  | Encourage and retain fencing character, styles and height for each street which in some circumstances may include no fences.   | Side fencing no higher than 1.8m will be provided consistent with other properties nearby.   | Yes |
|  | Noise  |  |     |
|  | Ensure development along Botany Road and within the vicinity of Foreshore Road is designed to minimise traffic noise transmission.   | Not applicable   | N/A |
|  | Ensure development adjacent to the Goods Railway Line is designed and incorporates measures so that noise levels specified in Clause 87 of SEPP (Infrastructure) 2007 are met. In any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am and anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time. Ensure development affected by aircraft noise is designed to minimise aircraft noise transmission in accordance with AS2021. | Not applicable   | N/A |
|  | Where the height of the proposed development is higher than the existing height of the localised building stock (and the proposed development has a direct line of sight to the seaport and/or the airport) an acoustical assessment by an accredited acoustical consultant is required which takes into account noise from the operations of Port Botany and Sydney Kingsford Smith Airport.  | Not applicable   | N/A |
|  | Subdivision  |  |     |
|  | Retain and preserve the rectilinear grid pattern within the Precinct   | Grid pattern subdivision pattern maintained  | Yes |
|  | Public Domain and Environment  |  |     |
|  | Encourage development in the vicinity of parkland and open space.  | Not applicable, existing site  | N/A |
|  | Encourage development in the vicinity of Sir Joseph Banks Park and Reserve, Booralee Park and Garnet Jackson Reserve and other significant features such as wetland areas and the golf course to be designed so that the site layout and the   |  |     |

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|  | development has a relationship with the open space or features through elements such as view corridors and pedestrian linkages.   |  |     |
|  | Facilitate increased public access to the Botany wetlands and the golf course system.   | Not applicable   | N/A |
|  | Encourage pedestrian links, linking the pocket park open space system and street system within the Precinct.  | Pedestrian access from front of site maintained  | Yes |
|  | Provide sufficient open space to meet a variety of recreational needs.  | Private open space provided at rear  | Yes |
|  | Encourage landscaping and vegetation planting within both the public and private domain of the precinct.  | New plantings proposed, refer to landscape plan.   | Yes |
|  | Facilitate landscaping and street plantings to complement the built form and create cohesiveness throughout the Precinct.   | Landscaping will soften built form and improve appearance of development                               | Yes |
|  | Encourage landscaping to be incorporated within the development and site layout to soften the built form, promote pedestrian comfort and enhance the aesthetics of the neighbourhood.                           |  |     |
|  | Encourage the impacts of non-residential uses, such as traffic and noise/air pollution on residential amenity to be minimised.  |  |     |
|  | Solar Access  |  |     |
|  | Encourage buildings to maximise solar access to surrounding residential properties and to public and private open spaces. Preserve solar access to adjoining properties.  | Solar access maintained in accordance with DCP, refer to shadow diagrams                               | Yes |
|  | Traffic and Access  |  |     |
|  | Encourage new development to have a minimal impact on traffic flow and demand for on street parking spaces.   | Development minimises impact on street through single driveway crossover maintaining on-street parking | Yes |
|  | Encourage development to provide adequate on-site parking to assist in reducing traffic congestion on local road networks. Discourage through traffic throughout the Precinct through traffic calming measures. |  |     |
|  | Views   |  |     |
|  | Retain existing views.  | Development two storey only with minimal impact on views   | Yes |
|  | Encourage new development to promote vistas, visual links and view corridors to significant areas, features, sky lines and open spaces areas of the LGA and surrounding areas.                                  |  |     |
|  | Facilitate development on larger sites to unlock vistas and view corridors to park land, Botany Bay and City skylines.  |  |     |

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|  | <p>Risk</p> <p>Part of the suburb is within the zone of influence of the High Pressure Gas Pipeline that follows the ARTC Rail Corridor to the Qenos Site at the Botany Industrial Park, Denison Street, Banksmeadow. Development Applications, planning proposals and rezoning of land received by Council for land within the Zone of Influence will be referred to the APA Group for consideration and comment.</p> <p>Recognise that development for 'residential Intensification', 'sensitive use intensification', and development that will result in increased traffic volumes or access points onto Stephen Road (being a designated Dangerous Goods Route) must:- consider a transport risk assessment report. The contents and outcomes of a transport risk assessment report are to be in general accordance with the principles outlined in the Hazardous Industry Advisory Paper N° 6: Guidelines for Hazard Analysis (Planning NSW, 1992), Hazardous Industry Advisory Paper N° 4: Risk Criteria for Land Use Safety Planning (Planning NSW, 1992), 'Hazardous Industry Planning Advisory Paper No. 10 Landuse Safety Planning' published by the NSW Department of Planning in January 2011 and 'Hazardous Industry Planning Advisory Paper No. 11 – Route Selection dated January 2011. receive development concurrence for the application from the Department of Planning &amp; Environment.</p> <p>Any other applications for development adjacent to / or within the vicinity of routes designated as 'Dangerous Goods Routes' will be assessed under the relevant Council planning instruments and controls.</p> <p>Where a site is considered by Council to be located adjacent to a dangerous goods route defined in this plan, any development on the site will be assessed and viewed as though it was located within the area with the more stringent risk-related development controls specified in this development control plan.</p> | <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> | <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> |
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***(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F***

Not applicable

***(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

None applicable

***(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,***

The subject site is not known to be affected by a coastal zone management plan within the meaning of the Coastal Protection Act 1979.

***(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,***



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The proposed development will not create significant environmental impacts on the natural and built environments. The proposed works will comprise modern, well designed semi-detached dwellings, on a site with a dwelling reaching the end of its life.

The social effect of the development on the wider community will be beneficial in providing new housing for those with a demonstrated housing need.

Economic benefits will occur as a result of the employment of local tradespeople in the construction of the development.

***(c) The suitability of the site for the development,***

The proposed development is permissible under relevant planning controls; it is compatible with surrounding land uses. The proposed use is consistent with Council's zoning for the property.

***(d) any submissions made in accordance with this Act or the regulations,***

Consideration will be given to any submissions made as a result of Council's consultation and notification processes.

***(e) the public interest.***

No adverse impacts relating to the public interest are expected to arise from the proposal. The proposed development aims to provide modern, well-designed housing to replace the existing dwelling on the site that has reached the end of its economic life.

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## **5.0 Other considerations**

### **5.1 Visual Impacts**

The development is considered to represent a high visual standard and will not create any visual impacts on surrounding residents. The view of the site from the street will improve as a result of the replacement of an ageing dwelling with two new, modern architecturally designed dwellings.

### **5.2 Open Space**

Useable open space for the development has been provided in accordance with the requirements of the DCP and, having regard to the constraints of the site. Future residents will have access to private open space adjoining the living area of both dwellings at ground level.

### **5.3 Overshadowing and Privacy**

The development will have minimal privacy and overshadowing impacts as the development replaces an existing dwelling and is only two storeys. As demonstrated in the shadow diagrams submitted with the application, adjoining dwellings will receive greater than two hours sunlight to their living rooms and greater than 50% of their private open space on June 21 in accordance with the provisions of the DCP. South is in the same direction as the street, meaning most overshadowing is towards the street.

### **5.4 Noise**

Usual noise levels associated with building work will be generated within normal working hours during construction of the project, which should have minimal adverse effects. No major plant or equipment is to be installed and noise generated upon completion will be similar to that as existing.

Acceptable noise levels between dwellings will be achieved in accordance with Building Code of Australia requirements for sound an impact transmission.

### **5.5 Erosion Control Measures**

Appropriate measures will be implemented during construction to mitigate against soil erosion and sedimentation. Such measures are set out in the Office of Environment and Heritage's "Managing Urban Stormwater, Soil and Construction" Manual (1998 Edition).

### **5.6 Economic and Social Impacts**

The proposed development is likely to contribute to a range of economic benefits in the Bayside local government and surrounding areas through:

- more efficient use of land resources, existing infrastructure and existing services
- local sourcing of construction materials
- the local sourcing of tradesmen and other construction-related professionals
- on-going consumption from new/additional residents
- the reduced maintenance costs of the newer housing
- savings associated with improved energy and water efficiency

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The social effect of the development on the wider community will be beneficial in replacing a currently ageing dwelling on the site and providing two new dwellings, allowing the site's continued use for residential purposes.

**5.7 Environmental Benefits**

The design meets BASIX requirements and the proposal will not increase peak stormwater flows or cause soil erosion or have an adverse impact on the number of trees at the site. There will be no adverse impact in terms of soil contamination or air pollution or on rare or endangered plant or animal species.

**5.8 Traffic/parking**

Parking capacity on the site will be enhanced through the provision two single garages, replacing the existing single garage. Additional parking would also be available for small cars on the driveway. The overall effect on traffic generation will be minimal and well within the capacity of the surrounding street system.

**5.9 Stormwater/flooding**

Stormwater from the proposed development will drain to the street as per existing arrangements.

**5.10 Subdivision pattern**

Figure 6 below shows the other lots in the immediate surroundings of the site. As can be seen in the image, almost all lots in the immediate area have a rectangular shape. With a similar size to that existing.

Despite this, it is reasonable to also note other groups of semi-detached dwellings within the subject block to the east and west on Banksia Street and also to the northeast on Bay Street. These are highlighted in yellow in the figure below.

Statement of Environmental Effects  
72 Banksia Street Botany

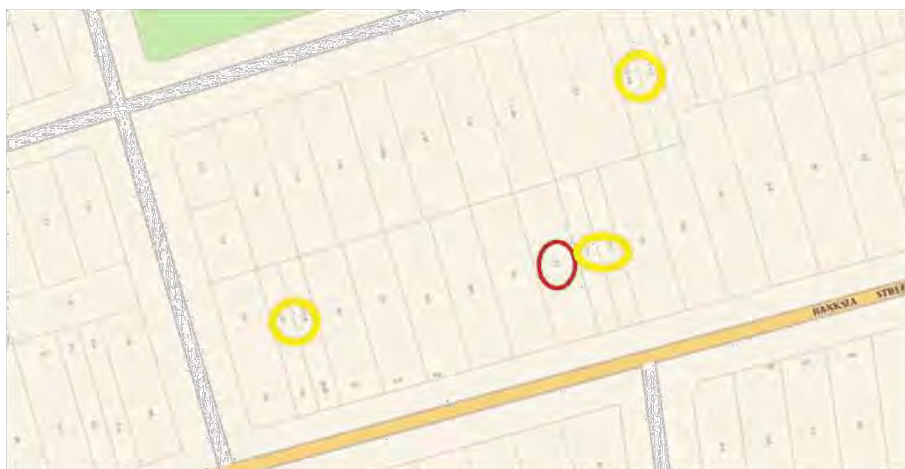


Figure 6 – Lot layout within immediate block



Figure 7 – Aerial view lot layout immediate block

As illustrated in the images above and in the table below, the relevant subdivision pattern in the vicinity of the site is rectilinear with an average lot size of approximately 500sqm. Some of these have been subdivided lengthways for the creation of semi-detached dwellings. There also exists small lots at the corner of Banksia and Jasmine Streets and along Bay Street to the north-east which are not semidetached dwellings but are single dwellings on small lots.

The proposed subdivision of the existing lot into two smaller lots to accommodate the construction of two semi-detached dwellings is not inconsistent with the existing or future subdivision pattern in the immediate area. The area is undergoing a slow transition, as a number lots containing detached dwelling houses are being subdivided into lots containing two semi-detached dwellings.



Statement of Environmental Effects  
72 Banksia Street Botany

The subdivision proposes two lots, with areas of 264.7m<sup>2</sup> (lot 1) and 265.5m<sup>2</sup> (lot 2,) with both lots having a frontage of 6.095m.

The table below, in conjunction with the above images, identifies that there are many lots smaller than proposed as part of this application within the immediate block. Below are lots already created as part of semi-detached dwelling developments.

| Address            | Lot size (m <sup>2</sup> ) | Variation from smallest lot proposed (m) | Frontage length (m) |
|--------------------|----------------------------|--|---------------------|
| 60 Banksia Street  | 252                        | -12.7                                    | 6.09                |
| 60A Banksia Street | 253                        | -11.7                                    | 6.09                |
| 74 Banksia Street  | 263                        | -1.7                                     | 5.89                |
| 76 Banksia Street  | 261                        | -3.7                                     | 6.30                |
| 54 Banksia Street  | 251                        | -13.7                                    | 6.1                 |
| 52 Banksia Street  | 263                        | -1.7                                     | 6.12                |
| 169 Bay Street     | 224                        | -40.7                                    | 6.07                |
| 171 Bay Street     | 220                        | -44.7                                    | 6.1                 |
| 173 Bay Street     | 220                        | -44.7                                    | 6.1                 |
| 175 Bay Street     | 226                        | 38.7                                     | 6.1                 |
| 177 Bay Street     | 240                        | 24.7                                     | 6.1                 |
| 179 Bay Street     | 239                        | 25.7                                     | 6.63                |

Overall, the proposed subdivision is consistent with the existing character of the area and the proposed subdivision is consistent with, or greater in size than other lots created as part of semi-detached dwellings.

Statement of Environmental Effects  
72 Banksia Street Botany

#### 6.0 Conclusion

The residential development proposed for the subject site, located at 72 Banksia Street Botany has been considered in terms of the matters for consideration that are contained within Clause 4.15(1) of the *Environmental Planning and Assessment Act 1979* ("the Act").

As indicated in Part 4 of this Statement, the proposed development is considered to be acceptable in terms of the relevant provisions of the *Botany Bay LEP 2013*, which is the principal environmental planning instrument applicable to the subject site. As such, it is considered to be acceptable in terms of Clauses 4.12(1)(a)(i) and 4.12(1)(a)(ii) of the Act.

As indicated in Part 4 of this Statement, the proposed development is considered to be acceptable in terms of all the relevant aims, objectives and standards contained within the relevant chapters of the Botany Bay Development Control Plan 2013 and is therefore consistent with Clause 4.12(1)(a)(iii) of the Act.

In addition, the proposed development would have a number of positive effects on both the natural and built environments, as well as a range of social and economic benefits. It is considered unlikely that the proposed development, given its nature, scale and location, would have any detrimental impacts on the built or natural environment or any detrimental social or economic impacts on the surrounding locality. Thus, it is considered to be acceptable in terms of Clause 4.12(1)(b) of the Act.

Further, the subject site, given its location, size and natural features, and given it is not subject to any significant hazards, is considered to be, pursuant to Clause 4.12(1)(c) of the Act, suitable for the proposed development.

The proposed development will provide modern, well-designed housing and replace an ageing dwelling with two modern, well-designed dwellings. The proposed development is clearly in the public interest, and acceptable in terms of Clause 4.12(1)(e) of the Act.

Given the above, the proposed development is worthy of approval, and it is requested that the development application to which this Statement of Environmental Effects relates be approved by Council as submitted.

## BAYSIDE COUNCIL

### Delegated Planning Assessment Report

#### Application Details

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|                     |  |
|---------------------|--|
| Application Number: | DA-2018/318  |
| Date of Receipt:    | 22 November 2018   |
| Property:           | 72 Banksia Street, Botany NSW 2019 (Lot 29 Sec G DP 1787)  |
| Owner:              | John Hassarati   |
| Applicant:          | David Carey Town Planning and Development  |
| Proposal:           | Demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings. |
| Recommendation:     | Approved   |
| No. of Submissions  | One (1)  |
| Author:             | Helen Lai – Development Assessment Planner   |
| Date of Report:     | 24 April 2019  |

#### Key Issues

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The key issues with this application are:

- Floor Space Ratio
- Overshadowing
- Streetscape
- Stormwater
- Passive surveillance / Relationship with the street
- Materials and Finishes
- Trees on rear property

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

#### Recommendation

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1. That the Panel considers the Clause 4.6 request to vary the floor space ratio (FSR) standard contained in Clause 4.4A(3)(d) of the BBLEP2013 and that it be satisfied that the variation will result in consistency with the objectives of the FSR standard contained in Clause 4.4A and the objectives of the R2 Low Density Residential zone and it is therefore in the public interest to vary the control.

2. That the Development Application No. DA-2018/318, for the proposed demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of a two (2) x two (2) storey semi-detached dwellings, at 72 Banksia Street, Botany, be **APPROVED**, pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the objector be advised of the Bayside Planning Panel's decision.

## Background

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### History

Council's records do not show any applications previously lodged for the subject site.

### Proposal

Council is in receipt of a development application, DA-2018/318, at 72 Banksia Street, Botany, which seeks consent to carry out demolition of existing structures on site, Torrens Title subdivision into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings.

Specifically, the proposal consists of:

- Torrens Title subdivision of the lot (Total Site Area: 530.3m<sup>2</sup>)
  - Lot 1 (North-western lot): 264.7m<sup>2</sup>
  - Lot 2 (South-eastern lot): 265.6m<sup>2</sup>

#### Lot 1 and 2

The works proposed on each of Lot 1 and 2 are identical and described below:

#### *Ground Floor:*

- Single garage with additional car space on driveway
- Bathroom
- Laundry
- Open kitchen, dining and living
- Rear deck with BBQ
- Cabana to the rear of the site
- Internal stairs leading to first floor

#### *First Floor:*

- Master bedroom with ensuite and walk-in-robe
- Bedrooms 1, 2 and 3 with robe
- Bathroom
- Internal stairs leading to ground floor
- Operable metal black louvres (75% transparent) on the front facade



*Colours and materials:*

- White render for ground floor
- Beige render for first floor
- Operable metal black louvres on the front elevation and part of the eastern and western elevation for the ensuite on first floor
- Aluminium windows
- Colorbond black panel lift garage door

It is noted that the applicant has provided several amendments to the proposed development. Amendments made to the original submitted plans include:

- Length of the first floor reduced from 25.71m<sup>2</sup> to 24.9m<sup>2</sup>
- Proposed colours and materials for the first floor façade changed from white render to beige render
- 1.5m side setback provided on the eastern and western side of the first floor at the rear
- Louvres on the front façade reduced in size and windows provided to improve passive surveillance to the street
- Windows added to the main entrance to provide for passive surveillance
- Semi-permeable paving for the driveway/garage entrance
- Living room on first floor removed
- Additional planter beds provided along the eastern and western boundary at the front
- Entrance moved forward
- Skylight added to the roof above void
- Internal courtyards removed

**Site location and context**

The subject site known as Lot 29 Sec G DP 1787, 72 Banksia Street, Botany. The site is rectangular in shape. The site is oriented north to south with north being the front. The eastern and western boundaries have lengths of 43.67m and 43.35 respectively and the northern and southern boundaries have lengths of 12.19m. The site area is approximately 530sq.m. The topography of the site is such that it slopes to the rear by 2m.

The site contains an existing single-storey dwelling, a brick garage and metal shed to the rear of the site. The site is located on the southern side of Robinson Street. Adjoining properties include a semi-detached to the east and a single storey to the west. A single storey is located on the rear property.

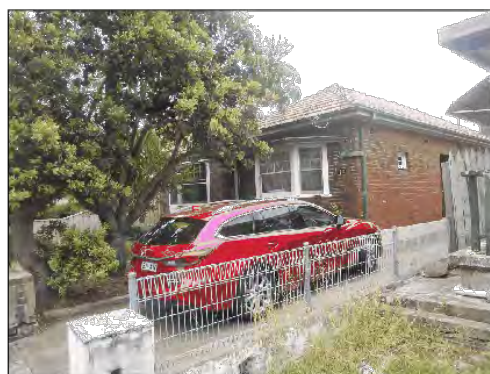
The existing streetscape consists predominantly of single and two storey dwellings as well as townhouses further east of the subject site. Existing developments along Banksia Street are characterised by a mix of roof forms including pitched and gable roofs and flat roofs, however, the surrounding area is undergoing change with semi-detached dwellings recently approved at No. 60 Banksia Street, No. 153 Bay Street and No. 127 Bay Street.



**Figure 1: Site Location**



**Figure 2: Subject site – existing single storey dwelling** **Figure 3: Adjoining semi-detached dwelling to the east**



**Figure 4: Adjoining single storey dwelling to the west**  
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**Figure 5:** Sites opposite subject site (No. 59 & 61 Banksia Street).

There are no significant trees on site, however, there is one (1) street tree at the front of the property.

The site is not a heritage item, however, is located in the vicinity of heritage items no. 19 and 20 (both dwelling houses) and No. 21 (dwelling house "The White House") which are all located on Bay Street (rear of the subject site).

The site is located in the R2 – Low Density Residential zone. The subject land is affected by Acid Sulfate Soils (ASS) Class 4 and ANEF Contour 20-25.

### **Referrals**

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The proposal has been referred to the following internal/external authorities:

#### **Internal Referrals**

##### ***Development Engineer***

The development was referred to Council's Development Engineer for comment. The proposed development is supported, subject to conditions imposed in the attached Schedule.

##### ***Landscape Officer***

Council's Landscape Officer supports the proposed development subject to conditions of consent.

##### ***Tree Management Officer***

Council's Tree Management Officer supports the proposed development subject to conditions of consent.

### **Statutory Considerations**

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#### ***Environmental Planning and Assessment Act, 1979***

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

**S.79C(1) - Matters for Consideration – General****S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

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

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* ("BASIX") applies to the proposed development. The development application was accompanied by two BASIX Certificates No. 1007593S and 1007600S.

The commitments made result in the following reductions in energy and water consumption for the secondary dwelling:

Reduction in Energy Consumption 52%  
Reduction in Water Consumption 40%  
Thermal Comfort Pass

A condition has been imposed in the attached Schedule to ensure requirements in the BASIX Certificates are adhered to.

**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.

**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.

The proposal involves the removal of one (1) street tree at the front of the property. Council's Tree Management Officer has recommended appropriate conditions to be imposed in the draft Notice of Determination for one (1) replacement 75 litre roof ball tree *Corymbia eximia* (Yellow Bloodwood) as the replacement tree in the Public Domain.



Subject to compliance with the conditions of consent, the proposed is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017.

### 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  | N/A                      | The site is located within the R2 Low Density Residential zone.  |
| Is the proposed use/works permitted with development consent?  | Yes.                     | The proposed development is defined as a semi-detached dwelling which constitutes a permissible development only with development consent.   |
| The relevant objectives of the R2 Low Density zone are:<br>- <i>To provide for the housing needs of the community within a low density residential environment.</i><br>- <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i><br>- <i>To encourage development that promotes walking and cycling.</i> | Yes.                     | The proposed development is consistent with all the relevant objectives of the R2 – Low Density Residential zone, namely the proposal provides additional housing needs within a low density residential environment. The site is also located nearby Botany Town Centre thus is in walking and cycling distance to local shops. |
| Does Clause 2.5 and Schedule 1 – Additional Permitted Uses apply to the site?<br><br>If so what additional uses are permitted on the site?   | N/A.                     | Schedule 1 does not apply to this site.  |
| What is the height of the building?<br><br>Does the height of the building exceed the maximum building height?   | Yes.                     | The maximum building height shown on the Height of Buildings Map is 8.5m.<br><br>The proposed building height of the development is 7.5m.<br><br>The proposal complies with the maximum height and accordingly, satisfies the objectives of this Clause.   |
| What is the proposed FSR?<br>Does the FSR of the building exceed the maximum FSR?  | No – refer to Clause 4.6 | The maximum FSR permissible as shown on the Floor Space Ratio Map is 1:1. However, the subject site is identified within “Area 3” on the FSR Map. Pursuant to Clause 4.4A(3)(d), the proposed  |

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| Principal Provisions of BBLEP 2013   | Compliance Yes/No | Comment  |
|--|-------------------|--|
|  |                   | <p>development is defined as "all other development for the purpose of residential accommodation, therefore, the maximum FSR permissible is 0.5:1.</p> <p>The proposed gross floor area has been calculated as follows:</p> <p><u>Lot 1</u><br/> Ground Floor = 87m<sup>2</sup><br/> First Floor = 86.5m<sup>2</sup><br/> Total GFA = 173.5m<sup>2</sup><br/> Site Area = 264.7m<sup>2</sup><br/> Proposed FSR = 0.65:1</p> <p>(If 15.68m<sup>2</sup> cabana included then<br/> GFA = 189.18m<sup>2</sup> and FSR = 0.71:1)</p> <p><u>Lot 2</u><br/> Ground Floor = 87m<sup>2</sup><br/> First Floor = 89.5m<sup>2</sup><br/> Total GFA = 176.5m<sup>2</sup><br/> Site Area = 265.6m<sup>2</sup><br/> Proposed FSR = 0.66:1</p> <p>(If 15.68m<sup>2</sup> cabana included then<br/> GFA = 192.18m<sup>2</sup> and FSR = 0.72:1)</p> <p>Combined GFA = 350m<sup>2</sup><br/> Combined Site Area = 530.3m<sup>2</sup><br/> Proposed FSR = 0.66:1 (16% variation)</p> <p>If cabana's included:<br/> Combined GFA = 381.33m<sup>2</sup><br/> Combined Site Area = 530.3m<sup>2</sup><br/> Proposed FSR = 0.72:1 (22% variation)</p> <p>The proposed FSR exceeds the maximum FSR permissible. A Clause 4.6 variation has been submitted by the applicant.</p> |
| <p>Is the site within land marked "Area 3" on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p> | Yes.              | <p>The subject site is identified within "Area 3" on the FSR Map. Pursuant to Clause 4.4A(3)(d), a maximum FSR of 0.5:1 applies as the development is defined as "all other development for the purpose of residential accommodation".</p> <p>Refer to Clause 4.6 for FSR discussion.</p>  |

| Principal Provisions of BBLEP 2013  | Compliance Yes/No | Comment   |
|---|-------------------|---|
| Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? | Yes               | The subject site is not listed as a heritage item or within a Heritage Conservation Area, however, is located in the vicinity of heritage items No. 19 and 20 (both dwelling houses) and No. 21 (dwelling house "The White House") which are all located along Bay Street to the rear of the site. This is further discussed in Part 3B – Heritage of this report under Botany Bay Development Control Plan 2013.   |
| 6.1 – Acid sulphate soils   | Yes.              | <p>The site is affected by ASS Class 4 that is defined as works more than 2 metres below the natural ground surface or works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.</p> <p>The proposed involves minimal excavation not more than 2m below the natural ground surface. As there is no significant excavation, an Acid Sulfate Soil Management Plan is not warranted.</p>   |
| 6.2 – Earthworks  | Yes               | The proposal involves minor excavations in the form of footings. The amount of excavation proposed is acceptable.   |
| 6.3 – Stormwater Management   | Yes.              | <p>The proposed development involves the installation of an infiltration tank. A 3000L rainwater tank has been proposed to ensure overflow is effectively managed.</p> <p>The Concept Stormwater Plan has been designed to the required standard as assessed by Council's Development Engineer, however, no geotechnical testing was undertaken to justify the proposed infiltration rate for the site which is a requirement for this type of development. Conditions are imposed in the draft Notice of Determination for a geotechnical engineer to determine the soil absorption rate and the depth of the water table for the site in accordance with requirements of BBDCP Stormwater Management Technical Guideline Section 5.2, the geotechnical engineer shall provide a report to the Principal Certifier</p> |

| Principal Provisions of BBLEP 2013                   | Compliance Yes/No | Comment   |
|--|-------------------|---|
|  |                   | that includes the details required above. A copy of the report shall be forwarded to Council prior to issue of Construction Certificate.<br>Subject to conditions of consent, Council's Development Engineer has supported the proposed development.  |
| 6.8 – Airspace Operations                            | Yes.              | The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51m to Australian Height Datum (AHD). The proposed building height is 7.5m (RL15.44m to AHD) which will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.   |
| 6.9 – Development in areas subject to aircraft noise | Yes.              | The subject site is located within the 20 and 25 ANEF contours and is therefore subject to aircraft noise. An Acoustic Report was submitted with the proposed development and a condition requiring compliance with AS2021-2015 is proposed. As such, the development is considered acceptable with regard to the provisions contained in Clause 6.9. |

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.

#### **Clause 4.6 Variation to Floor Space Ratio**

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 0.75:1.

The development (as amended) seeks an FSR of 0.65:1 for Lot 1 and an FSR of 0.66:1 for Lot 2 (excluding the cabanas), which results in a total GFA of 173.5m<sup>2</sup> for Lot 1 and a GFA of 176.5m<sup>2</sup> for Lot 2 (16% variation)(see **Table 1**).

If the cabanas are included as GFA then the proposal would have an FSR of 0.71:1 for Lot 1 and an FSR of 0.72:1 for Lot 2 (22% variation).



**Table 1:** Proposed FSR as calculated

| Lot   | Site Area           | Proposed GFA        | Proposed FSR | Exceedance                 |
|-------|---------------------|---------------------|--------------|----------------------------|
| Lot 1 | 264.7m <sup>2</sup> | 173.5m <sup>2</sup> | 0.65:1       | 41.15m <sup>2</sup> (16%)  |
| Lot 2 | 265.6m <sup>2</sup> | 176.5m <sup>2</sup> | 0.66:1       | 43.7m <sup>2</sup> (16.5%) |

The site is located within 'Area 3' on the FSR map and therefore is subject to Clause 4.4A of the BBLEP2013. The objectives of this Clause are as follows:

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

The applicant has provided a written request to justify the contravention of the development standard pursuant to Clause 4.6 of BBLEP2013, which is considered below.

#### **Objectives of 'FSR' Clause 4.4A**

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

#### **Applicant's Submission**

The applicant has submitted a Clause 4.6 variation to the floor space ratio development standard which provides justification for the exceedance. It is stated:

- The proposal results in a rectilinear subdivision pattern that is consistent with the desired future character of the area and provides a frontage width that is characteristic and acceptable in an otherwise varied subdivision pattern. It is therefore reasonable in this instance for the development to benefit from the FSR that applies to dwelling houses on lots between 251m<sup>2</sup> and 300m<sup>2</sup> as the only distinguishing feature between the proposal and a dwelling house is the provision of a party wall between the two dwellings. The FSR therefore results in a technical non-compliance arising from a land use definition, rather than the merits of the density proposed which would otherwise be acceptable for a detached dwelling.*
- The proposed FSR is suitable to the site as the building form across each lot will receive a density that is less than the maximum of a compliance dwelling house.*
- The proposal results in a better outcome than a compliant scheme as construction of a dwelling house on each proposed lot would have a contextually inferior presentation within the street despite complying with the FSR requirements. This is due to specific context of the site, whereby, there is a semi-detached dwelling immediately east of the site, as the street is undergoing transition, with semi-detached dwellings approved recently at 60 Banksia Street and 124 Banksia Street.*
- The proposal will result in a better outcome for the prospective residents with increased floor area in a semi-detached building form that allows the density to be better distributed on each lot. In addition, the proposal will result in a better outcome from the development as the provision of a common wall between the dwellings allows the proposed massing (that is permitted for a dwelling house on each lot) to be pulled back from each side boundary and landscaped courtyards to be introduced to reduce shadow and privacy impacts on each adjoining property.*
- To provide detached dwellings on the proposed lots would result in a discordant form within the street and a more imposing presentation to the adjoining residential properties as well as the*

proposed dwellings. Detached dwellings on each lot with compliant side boundary setbacks would preclude any significant façade relief to the adjoining properties and the proposed adjacent dwellings. The semi-detached building form allows a more efficient allocation of density at the site in a form that incorporates well-proportioned courtyards adjacent to each side boundary. An FSR of 0.65:1 is proposed, against a maximum of 0.75:1 that would be permitted if a dwelling house was proposed.

- The increased floor area in a semi-detached building form allows increased FSR with resultant amenity improvements. The development could reasonably be altered to comply with the 0.5:1 FSR at the site without and material changes to the building presentation within the street, however, the burden placed on the development (with a reduced FSR) is to be balanced with the material planning benefits of reducing the proposed FSR. In our view, there are no material amenity or environmental benefits to be gained from reducing the FSR to 0.5:1. In fact, this would place an unreasonable burden on the development resulting from the loss of floor area that is otherwise permitted for a dwelling house on the proposed lots. As demonstrated by shadow diagrams and other plans submitted with the application, the proposed development does not have an adverse impact on surrounding properties.
- The proposal provides a building height, form and bulk that is compatible with the low density residential area and consistent with a compliance dwelling house.
- There is precedent in Council approving semi-detached dwelling development in street at 124 Banksia Street, Botany with a variation to the FSR Standard (DA-16/116). This applicant was approved with an FSR of 0.7:1, which is greater than that proposed as part of this application.

#### Consideration of FSR Variation

The applicant's written submission adequately deals with the requirements of Clause 4.6 in accordance with the principles established in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. Particularly, the applicant's submission:

1. Demonstrates why compliance with the development standard is unnecessary or unreasonable, include use of the *Wehbe* test; and
2. Includes sufficient environmental planning grounds to justify contravening the development standard.

Consideration may therefore be given to the merits of the request.

#### Assessment Comments

##### **4.6(3)(a) compliance with the development standard is unreasonable or unnecessary**

Officer's comments:

The applicant requested a variation to floor space ratio and a Clause 4.6 was submitted based on a proposed FSR of 0.65:1 for Lot 1 and 0.66:1 for Lot 2 and an overall FSR of 0.66:1 (16% variation) which does not include the cabanas. The FSR as proposed by the applicant would be considered reasonable if the cabanas at the rear of the site were to be deleted from the proposed development given that they could easily be enclosed (as shown in the submitted floor plans) and may, in their current form, essentially represent GFA. This would ensure that the FSR achieves the applicant's calculated FSR of 0.65:1 for Lot 1 and 0.66:1 for Lot 2 and an overall FSR of 0.66:1 (16% variation). It is thus recommended that a condition be imposed in the draft Notice of Determination for the cabanas at the rear of both dwellings be removed.

Subject to deletion of the proposed cabanas, strict compliance with the development standard is considered unreasonable and unnecessary as the amenity of the site will be improved with additional soft landscaped area to be provided to the rear of the site in place of the cabanas. Impacts by the proposed development on the use and enjoyment of adjoining properties will also be minimised. The proposed size and scale of the development is compatible with the permitted bulk and scale in the area and consistent with other approved semi-detached dwellings in the surrounding area (i.e. No. 60 Banksia Street, No. 127 Bay Street and No. 153 Bay Street). The proposed subdivision is also consistent with the existing and future subdivision pattern occurring in the immediate area (refer to Part 3E – Subdivision & Amalgamation of this report for discussion). In this regard, the proposed development is considered consistent with the changing streetscape and desired future character of the locality.

Several amendments were submitted by the applicant to demonstrate a sensitive design is proposed to minimise impacts on adjoining properties and reduce overshadowing despite compliance with the maximum building height and setbacks.

The development provides an appropriate correlation between the size and the extent of any development on that size and has an FSR that is less than what would be permissible for a dwelling house (0.75:1) with a site area between 251m<sup>2</sup>-300m<sup>2</sup>.

Compliance with development standard related to FSR within this locality is unreasonable and unnecessary in this circumstance as the objectives of the standard are achieved notwithstanding non-compliance with the standard.

**4.6(3)(b) Are there environmental planning grounds to justify the contravention of the standard**

Officer's comments:

There are sufficient environmental planning grounds to support the variation. The numerical variation to the FSR will not materially change the streetscape from excessive bulk and scale. The proposal will maintain an appropriate visual relationship with the neighbouring properties and the existing and future character of the area. By way of condition to remove the cabanas this would achieve an FSR of 0.66:1 which is not dissimilar to other approved semi-detached developments within the vicinity (No. 153 Bay Street north-east of the subject site was approved with an FSR of 0.65:1). Consideration has been given to site coverage, private open space, landscaping, visual privacy and setbacks as a result of exceeding the maximum FSR which the proposal complies with. The proposal satisfies the objectives of Clause 4.4A.

**4.6(4)(a)(i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)**

Officer's comments:

The applicant's written submission adequately deals with the requirements of Clause 4.6 in accordance with the principles established in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*. Consideration may therefore be given to the merits of the request.

**4.6(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 in which the development is proposed to be carried out**

Officer's comments:

The proposed variation to the floor space ratio standard will be in the public interest as it is consistent with the objectives of the R2 – Low Density Residential zone to provide additional housing needs for the community within a low density residential environment without adverse impacts on the streetscape and the locality. Furthermore, the proposed development will be compatible with the existing scale of other semi-detached developments within the surroundings of the subject site. The development has been designed to achieve a high level of internal amenity, as well as retaining amenity to the adjoining properties in regard to privacy. In this regard, it is considered that the proposal achieves the objectives of the FSR standard, despite the numerical variation.

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

The proposed variation to the FSR development standard will not result in any matters of significance for State or regional environmental planning.

**(5)(b) the public benefit of maintaining the development standard**

The above justification demonstrates that the proposed FSR satisfies the objectives of the standard. It is considered that the variation does not raise any matters of public interest that has not already been addressed in Section 4.15(1)(e) - Public interest of this report.

Given that the proposal is consistent with the desired future character for the area and there will be minimal impact on views or streetscape outcomes associated with the FSR variation or adverse and unreasonable impacts to adjoining properties, it is considered that there are no public interest matters which would prevent a variation to the FSR control.

**(5)(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.**

The proposal exceeds the maximum 10% variation to the FSR standard and is therefore submitted to the Bayside Local Planning Panel for determination.

**Summary**

The request to vary the FSR control in Clause 4.4A of BBLEP 2013 pursuant to Clause 4.6 has been assessed in accordance with the provisions of Clause 4.6 and relevant principles established by the Chief Judge in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*.

Council's assessment of the proposal concludes that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. Subject to a condition of consent for the removal of the rear cabanas, the applicant's Clause 4.6 variation for an FSR of 0.65:1 for Lot 1 and 0.66:1 for Lot 2, is considered well-founded and the departure in the FSR provides a development that is consistent with the bulk and scale and FSR of other approved semi-detached



developments in the area. Further, the proposal is compatible with the desired future character of the area. The applicant's Clause 4.6 has demonstrated satisfaction of at least one of the five (5) different ways in which an objection to a development standard may be well-founded as set out in *Wehbe v Pittwater Council [2007] NSWLEC 827 (Wehbe)*. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4A of the *Botany Bay Local Environmental Plan 2013* be varied in the circumstances as discussed above.

#### **S.79C(1)(a)(ii) - Provisions of any Draft EPI's**

No relevant proposed instruments are applicable to this proposal.

#### **S79C(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application;

#### **Botany Bay Development Control Plan 2013**

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

##### **Part 3A – Parking & Access**

Control C2 of the Botany Bay Development Control Plan 2013 states that car parking provision shall be provided in accordance with Table 1. Table 1 identifies that semi-detached dwellings are to provide one (1) car parking space per dwelling.

The development proposes to provide two (2) car parking spaces in the form of tandem parking with a single garage on each lot and a 5.5m front setback to provide an additional parking space. The proposal complies with Part 3A – Parking & Access of the BBDCP 2013.

##### **Part 3B – Heritage**

The subject site is not a heritage item or located within a heritage conservation area. However, the site is in close proximity to a number of heritage items at No. 145 Bay Street (I19), No. 147 Bay Street (I20) and No. 151 Bay Street (I21) as identified within Schedule 5 of the Botany Bay Local Environmental Plan 2013. The heritage item closest to the proposal is at No. 147 Bay Street and No. 151 Bay Street which is directly adjoining the north-western and north-eastern rear corners of the subject site. No. 147 Bay Street currently contains a single storey brick dwelling house and at No. 151 Bay Street, 'The White House', a single storey wood clad dwelling.

The proposed development will have minimal impact on the integrity or character of these heritage items given the proposed development is located on Banksia Street not Bay Street and the site is only adjoining the sites by the rear corners. The proposed development provides a reasonable rear distance from the heritage items. Further, there are no significant views of this heritage item that will be impeded by the proposed development with a building height that is 7.5m only.

In an area that is undergoing change, the proposed development will integrate well with the existing and desired future character of the area. The qualities that make the heritage items and their setting significant will not be diminished.

Given the above, the proposed development is considered acceptable as there will be minimal impacts on the heritage items.

**Part 3E – Subdivision & Amalgamation – 3E.2.2 Residential Torrens Title**

| Control   | Proposed  | Complies              |
|---|---|-----------------------|
| <b>C1</b> Development applications shall demonstrate that the proposed subdivision is consistent with the Desired Future Character of the area.   | Two allotments are proposed which are both rectangular in pattern and will maintain the rectilinear grid pattern within the area.   | Yes – Refer to Note 1 |
| <b>C2</b> Proposed subdivision must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions, shape and orientation.   | The proposed lots will have a site area of 264.7m <sup>2</sup> for Lot 1 and 265.6m <sup>2</sup> for Lot 2. Both lots generally have a north-south orientation, rectilinear in shape and with frontage to Banksia Street. The area and dimensions of the proposed allotments are similar to the adjoining at No. 74 and 76 Banksia Street, as well as, No. 60 and 60A Banksia Street. | Yes – Refer to Note 1 |
| <b>C5</b> Proposed lots must be of a size and have dimensions to enable the siting and construction of a dwelling and ancillary structures that: <ul style="list-style-type: none"> <li>i) Acknowledge site constraints</li> <li>ii) Address the street</li> <li>iii) Minimise the impacts on adjoining properties including access to sunlight, daylight, privacy and views</li> <li>iv) Provide usable private open space</li> <li>v) Protect existing vegetation</li> <li>vi) Mitigate potential flood affectation and stormwater management requirements</li> <li>vii) Acknowledge contamination of the land</li> </ul> | The proposed allotments can accommodate dwelling houses that comply with all requirements as listed.  | Yes.                  |
| <b>C7</b> All lots created shall have at least one (1) frontage to the street.  | Both lots will have frontage to Banksia Street.   | Yes.                  |

**Note 1 – Prevailing Subdivision Pattern**

The site currently contains one lot with a total site area of 530.3m<sup>2</sup>. The proposal involves Torrens Title subdivision of this lot into two (2) allotments:

- Lot 1 (western lot) = 264.7m<sup>2</sup>
- Lot 2 (eastern lot) = 265.6m<sup>2</sup>

Objective 1 of Part 3E.3 – Torrens Title subdivision of the BBDCP2013 is to ensure that the proposed subdivision is consistent with the Desired Future Character of the area. To assess Torrens Title subdivision requires consideration of the prevailing subdivision pattern to be the typical characteristic of up to ten (10) allotments on either side of the subject site and ten (10) allotments directly opposite the subject site.

The figure below outlines the ten (10) allotments surrounding the subject site to the east and west as highlighted in blue. It is also reasonable to note other groups of semi-detached dwellings within the subject block to the east and west along Bay Street. These are highlighted in yellow in the figure below.



**Figure 6:** Cadastre of existing subdivision pattern

As illustrated in the figure above, the relevant subdivision pattern in the vicinity of the site is rectilinear with an average lot size of approximately 500m<sup>2</sup>. The subject site as existing is on the border between the larger site and smaller sites, however, is generally consistent with the allotment size and frontage width of the majority of the ten (10) allotments either side of the subject site. There exists smaller lots along Jasmine Street which are not semi-detached dwellings but single detached dwellings on small lots.

The proposed subdivision of the existing lot into two (2) smaller lots to accommodate the construction of two (2) semi-detached dwellings is not inconsistent with the existing or expected future subdivision pattern in the immediate area. The area is undergoing a gradual change, as a number of lots originally containing single detached dwellings are being subdivided into lots to contain two semi-detached dwellings. No. 60 Banksia Street was recently approved, as well as, No. 153 and Bay Street. Directly adjoining the subject site at No. 74 and 76 Banksia is an existing semi-detached dwelling.

The table below demonstrates that the proposed subdivision is not inconsistent with regard to allotment size and frontage width to the existing semi-detached dwellings within the ten (10) allotment area, as well as, those in the immediate vicinity.

**Table 2:** Prevailing lot size and frontage length

| Address   | Lot Size (in m <sup>2</sup> ) | Variation from small lot proposed | Frontage Length |
|---|-------------------------------|-----------------------------------|-----------------|
| <b>Allotments to the west</b>                                 |                               |                                   |                 |
| 54 Banksia Street   | 251                           | -13.7                             | 6.1             |
| 56 Banksia Street   | 505                           | 240.3                             | 12.19           |
| 58 Banksia Street   | 552                           | 287.3                             | 13.28           |
| 62 Banksia Street   | 518                           | 253.3                             | 12.19           |
| 64 Banksia Street   | 519                           | 254.3                             | 12.19           |
| 66 Banksia Street   | 527                           | 262.3                             | 12.19           |
| 68 Banksia Street   | 516                           | 241.3                             | 12.19           |
| 70 Banksia Street   | 534                           | 269.3                             | 12.19           |
| <b>Allotments to the east</b>                                 |                               |                                   |                 |
| 78 Banksia Street   | 543                           | 278.3                             | 12.19           |
| 80 Banksia Street   | 535                           | 270.3                             | 12.19           |
| 82 Banksia Street   | 649                           | 384.3                             | 12.3            |
| 84 Banksia Street   | 734                           | 469.3                             | 13.8            |
| 86 Banksia Street   | 728                           | 463.3                             | 13.6            |
| 88 Banksia Street   | 752                           | 487.3                             | 13.8            |
| 1 Jasmine Street  | 227                           | -37.7                             | 6.9             |
| 3 Jasmine Street  | 233                           | -31.7                             | 7.1             |
| <b>Semi-detached dwelling to the west on Banksia Street</b>   |                               |                                   |                 |
| 60 Banksia Street   | 254                           | -10.7                             | 6.09            |
| 60A Banksia Street  | 255                           | -9.7                              | 6.09            |
| <b>Semi-detached dwelling to the east on Banksia Street</b>   |                               |                                   |                 |
| 74 Banksia Street   | 263                           | -1.7                              | 5.9             |
| 76 Banksia Street   | 261                           | -3.7                              | 6.3             |
| <b>Semi-detached dwelling to the north-west on Bay Street</b> |                               |                                   |                 |
| 123 Bay Street  | 265                           | 0.3                               | 6.16            |
| 123A Bay Street   | 267                           | 2.3                               | 6.16            |
| 125 Bay Street  | 267                           | 2.3                               | 6.11            |
| 125A Bay Street   | 268                           | 3.3                               | 6.11            |
| <b>Semi-detached dwelling to the north-east on Bay Street</b> |                               |                                   |                 |
| 153 Bay Street  | 268                           | 3.3                               | 6.1             |
| 153A Bay Street   | 270                           | 5.3                               | 5.9             |
| 169 Bay Street  | 224                           | -40.7                             | 6.07            |
| 171 Bay Street  | 220                           | -44.7                             | 6.1             |
| 173 Bay Street  | 220                           | -44.7                             | 6.1             |
| 175 Bay Street  | 226                           | -38.7                             | 6.1             |
| 177 Bay Street  | 240                           | -24.7                             | 6.59            |
| 179 Bay Street  | 239                           | -25.7                             | 6.63            |

As demonstrated in the table above, the subdivision pattern exhibits a varied pattern in allotment sizes ranging from 772m<sup>2</sup> to 227m<sup>2</sup>. The pattern directly to the east of the site are slightly larger compared to those to the west. These lots contain single and two storey dwelling houses, however, are likely to be redeveloped in the future. The subdivision pattern for lots already created as part of semi-detached



dwellings are fairly similar to each other (ranging from 268m<sup>2</sup> to 220m<sup>2</sup>) which the proposed development is not greatly discrepant from (264.7 for the smallest proposed lot). Therefore, the proposed development will not be out of context in the area, particularly with a semi-detached already adjoining to the east (No. 74 and 76 Banksia Street).

The proposed street frontage is 6.095m for each lot and as demonstrated in the table above, is closely consistent with other semi-detached dwellings in the area.

In addition to consistency with the subdivision pattern, it is also important to consider other subdivision objectives including demonstration that the future development for the site can comply with the BBDCP 2013.

The assessment of the proposed development within this report demonstrates the proposal complies with landscaped area, site coverage, car parking, setbacks and private open space as specified within the BBDCP 2013.

Given the above and that the proposed subdivision is consistent with the existing and future subdivision pattern in the immediate vicinity of the subject site, the proposed subdivision is supported.

### **Part 3L- Landscaping and Tree Management**

| <b>Control</b>   | <b>Proposed</b>   | <b>Complies</b> |
|--|---|-----------------|
| <b>3L.1.1 Tree Preservation Bonds</b>  |   |                 |
| Tree Preservation Bonds required for significant or heritage trees, or trees with a high potential to be impacted during construction. | There are no Tree Preservation Bonds required for this proposal.  | N/A             |
| <b>3L.1.2 Submission Requirements</b>  |   |                 |
| <b>C1</b> Landscape Plan required  | Provided.<br><br>Council's Landscape Architects supports the proposed development subject to conditions of consent.   | Yes.            |
| <b>3L.2 General Requirements</b>   |   |                 |
| <b>C1</b> Existing trees including street trees must be preserved  | The proposed development requires the removal of one (1) street tree at the front of the property.<br><br>Council's Tree Management Officer has imposed a condition in the draft Notice of Determination for a replacement street tree to be planted. It is noted that a street tree is also shown on the proposed Landscape Plan – Front Garden. | Yes.            |
| <b>3L.3 Planting Design and Species</b>  |   |                 |
| <b>C7</b> Canopy trees are to be planted in setbacks, particularly the front and rear setbacks of a property, to                       | The proposed Landscape Plan indicates the planting of   | Yes.            |

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| Control  | Proposed  | Complies |
|--|---|----------|
| ameliorate built elements, subduing their appearance in the landscape and to encourage the continuity of landscape patterns.   | several trees along the western and eastern boundaries for each lot. Refer to submitted Landscape Plan. |          |
| <b>3L.4.2 Tree Works Requiring Council Approval</b>  |   |          |
| <p><b>C12</b> If consent is granted for the removal or pruning of a tree, suitable replacement tree/s will be required to be planted on the subject property by the property owner or applicant.</p> <p>Council will stipulate the minimum acceptable replacement tree/s pot size and number of trees and may recommend suitable species.</p>  | Replacement tree required by condition by Council's Tree Management Officer.                            | Yes.     |
| <b>3L.5 Stormwater</b>   |   |          |
| <p><b>C1</b> Impervious surfacing is to be minimised. Permeable pavements are to be used where possible eg. Decks, pebbles, spaced pavers, specialised permeable pavers.<br/>Note: Run-off from paved areas can be minimised by directing runoff to garden beds.</p> <p><b>C2</b> Underground on-site stormwater detention (OSD) tanks and infiltration trenches are not to be located within soft landscaped areas.</p> | Refer to Stormwater Management LEP discussion.  | Yes.     |

### Part 3N- Waste Minimisation and Management

A written Waste Management Plan prepared by David Carey, dated 19 November 2018, as well as a Waste Management Plan drawing, prepared by Pinnacle Plus, dated 4 April 2019, have been provided to Council, which addresses the works involved including location of bins, re-use, recycle and disposal of materials.

### Part 4A- Dwelling House

| Control   | Proposed  | Complies                                   |
|---|---|--|
| <b>4A.2.4 Streetscape Presentation</b>  |   |  |
| <b>C1</b> New dwellings must be designed to reflect the relevant Desired Future Character Statement in Part 8 - Character Precincts and are to reinforce the architectural features and identity which contributes to its character. Applicants must address the design principles outlined in the statement. | The proposed development will maintain the existing streetscape character which consists of a mix of one and two-storey detached dwellings, as well as, several semi-detached dwellings along Banksia Street. | No – however, acceptable. Refer to Note 2. |
| <b>C2</b> Development must be designed to reinforce and maintain the existing character of the streetscape.   |   |  |
| <b>C3</b> Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3).  |   |  |

|   |   |      |
|---|---|------|
|   | proposed roof form is considered acceptable given that the building setbacks, height and scale are not out of character with the existing streetscape. Refer to Note 2 for further discussion.  |      |
| <b>C6</b> The entrance to a dwelling must be readily apparent from the street.  | Entry to both dwellings will be readily apparent from Banksia Street.   | Yes. |
| <b>C7</b> Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.  | Windows have been added to the main entrance to provide for passive surveillance on ground floor and louvres on the first floor reduced in size to ensure greater transparency from the bedroom windows to Banksia Street.  |      |
| <b>4A.2.7 Site Coverage</b>   |   |      |
| <b>C2</b> For sites over 200m <sup>2</sup> the maximum site coverage is:<br><br>• 250m <sup>2</sup> – <300m <sup>2</sup><br>60% of the lot  | Lot 1 = 117.5m <sup>2</sup> (44%)<br>Lot 2 = 121.2m <sup>2</sup> (45%)<br><br>Total Site Coverage = 238.7m <sup>2</sup> (45%)   | Yes. |
| <b>4A.2.8 Building Setbacks</b>   |   |      |
| <b>C.1</b> Dwelling houses must comply with the following minimum setbacks as set out in Table 1. Minimum front setback – comply with the prevailing street setback or 6 metres (min) | <p><u>Front setback</u></p> <p><u>Lot 1</u><br/>Ground Floor = 5.5m<br/>First Floor = 5.1m</p> <p><u>Lot 2</u><br/>Ground Floor = 5.5m<br/>First Floor = 4.5m</p> <p>The existing front setback of adjoining properties varies along Banksia Street. The front setback is proposed to be set further behind No. 74 Banksia Street on ground floor and consistent on the first floor. The proposed front setback is considered acceptable.</p> | Yes. |

|  |  |      |
|--|--|------|
| Minimum side setback - Assessed on merit depending on visual impact to street, pattern of adjoining development, sunlight and natural daylight access, privacy, visual amenity of adjoining residential properties and streetscape | <p><u>Side setback</u></p> <p><u>Ground Floor</u><br/>Eastern side setback = 0.9m<br/>Western side setback = 0.9m</p> <p><u>First Floor</u><br/>Eastern side setback = 1.5m<br/>Western side setback = 1.5m</p> <p><u>Cabana</u><br/>Eastern setback = 0.9m<br/>Western setback = 0.9m</p> <p>The proposed side setbacks have been amended to minimise impacts to neighbouring properties, and are generally consistent with existing pattern of adjoining developments. The proposed setbacks are considered acceptable.</p>  | Yes. |
| Minimum rear setbacks – 4 metres   | <p><u>Rear setback</u></p> <p><u>Ground Floor</u><br/>Lot 1 = 14.27m<br/>Lot 2 = 14.27m</p> <p><u>First Floor</u><br/>Lot 1 = 13m<br/>Lot 2 = 13m</p> <p><u>Cabana</u><br/>Lot 1 = 0.9m<br/>Lot 2 = 0.9m</p> <p>While the rear setback of the cabana complies with BBDCP 2013, the cabanas encroach into the Structural Root Zone (SRZ) of the adjoining mature <i>Ligustrum vulgare</i> (English Privet) on the adjoining rear property.</p> <p>It is satisfied that the condition imposed in the draft Notice of Determination to remove the cabanas at the rear of the site to reduce the proposed FSR will also ensure the adjoining tree on the rear property will not be affected.</p> | Yes  |

|  |   |                 |
|--|---|-----------------|
| Zero lot lines (with Council Discretion) – On merit based on building type and open space provisions<br>Eaves – 450mm minimum setback  | None proposed.<br><br>900mm from the boundaries.  | N/A<br><br>Yes. |
| <b>C5</b> Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.   | Modulation is provided in the proposal along the eastern and western side through stepped walls. The setback will allow for courtyards along the side boundaries as shown on the proposed First Floor Plan.   | Yes.            |
| <b>4A.2.9 Landscaped Area</b>  |   |                 |
| <b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> .<br>Table 2 requires the following minimum landscaped area:<br><ul style="list-style-type: none"> <li>250m<sup>2</sup> -350m<sup>2</sup> =40%</li> </ul> Landscaped area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes. | <u>Lot 1</u><br>Proposed = 89m <sup>2</sup> (33%)<br><br><u>Lot 2</u><br>Proposed = 89m <sup>2</sup> (33%)<br><br>By way of condition to remove the rear cabanas this will provide an additional 17.8m <sup>2</sup> of soft landscaped area for each dwelling, Therefore, result in a total landscaped area of 106.8m <sup>2</sup> (40%) for each dwelling.<br><br>Landscaped areas will be fully permeable deep soil zones with the exception of the proposed driveway which will be semi-permeable. | Yes.            |
| <b>C3</b> Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes.   | The landscaped area proposed is predominantly deep soil area and not planter boxes.   | Yes.            |
| <b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.  | The front setback is fully landscaped (71% for Lot 1 and 69% for Lot 2) other than the entry path. The driveway is proposed to have semi-permeable paving.  | Yes.            |
| <b>4A.3.1 Materials and Finishes</b>   |   |                 |
| <b>C10</b> The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the facade.   | The development was originally proposed with a white and grey external render. The proposed colours of the proposed development was amended by the applicant as requested by Council to ensure the facade is more compatible with the existing streetscape. The final proposal  | Yes.            |



|   |  |  |
|---|--|--|
|   | includes the following colours, materials and textures:<br><br>- White render for ground floor<br>- Beige render for first floor<br>- Operable metal black louvres<br>- Aluminium windows<br>- Colorbond panel lift garage door  |  |
| <b>4A.3.2 Roofs and Attics/Dormer</b>   |  |  |
| <b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.  | Refer to Note 2 for discussion.  | No – however, acceptable. Refer to Note 2. |
| <b>4A.3.5 Voids</b>   |  |  |
| <b>C1</b> Void spaces must be designed so as not to be reasonably capable of future infill. Voids in developments which exceed the permitted FSR will not be supported.                                     | Each semi-detached dwelling has a void.<br><br>The two void spaces proposed centre around the staircase connecting the ground and first floor of the development, which is typical of many developments which involve more than one storey.<br><br>The voids provides lights to the hallway beneath and is minor and no capable of infill as the space it would create is too small to be useable. | Yes.                                       |
| <b>C2</b> Voids shall only be supported where they are provided to increase the amenity to primary living areas or circulation areas, and not unreasonably impact upon the amenity of adjoining properties. | The voids proposed do not unreasonably impact upon the amenity of adjoining properties as it does not increase further visual privacy impacts and allows for increased light and ventilation for the primary circulation area at the front of the dwelling to the rear of the dwelling.  | Yes.                                       |
| <b>C3</b> Voids are to connect related uses and spaces, and should not compromise the useability of spaces.   | The void proposed connects the entryway, ground and first floor of the development and does not compromise the useability of other spaces.   | Yes.                                       |
| <b>4A.4.1 Visual Privacy</b>  |  |  |
| <b>C2</b> Visual privacy for adjoining properties must be minimised by:   | The window selection and locations are considered generally appropriate in providing internal  | Yes.                                       |

|  |  |  |
|--|--|--|
| <ul style="list-style-type: none"> <li>▪ Using windows which are narrow or glazing which is translucent or obscured;</li> <li>▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings;</li> <li>▪ Screening opposing windows, balconies and courtyards; and</li> <li>▪ Increasing sill heights to 1.5 metres above floor level.</li> </ul>                      | <p>amenity to the proposal, whilst minimising privacy impacts to neighbouring properties.</p> <p>Both ground and first floor windows on the eastern and western elevation is proposed with a 1.5m sill height which complies with BBDCP 2013.</p> <p>Windows are offset to preclude views into windows of adjacent buildings.</p> <p>For the western dwelling, windows on the first floor will be overlooking the roof of the single storey adjoining (No. 70 Banksia Street) as such, will have minimal visual impacts.</p> <p>Potential visual impacts on adjoining properties will also be reduced from the removal of the rear cabanas by way of conditions.</p> <p>Notwithstanding, conditions are imposed in the draft Notice of Determination for the first floor staircase windows of both dwellings to be fixed and frosted and for the bathroom windows on ground floor to be frosted.</p> |  |
| <b>4A.4.3 Solar Access</b>   |  |  |
| <p><b>C1</b> Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.</p> | <p>The site is north-south orientated, as such, any overshadowing impact will be to the properties either side.</p>  | <p>No, however acceptable – Refer to Note 3.</p> |
| <b>4A.4.4 Private Open Space</b>   |  |  |
| <p><b>C1</b> Each dwelling is to have a private open space that:</p> <p>(i) Has at least one area with a minimum area of 36m<sup>2</sup>;</p>  | <p>Lot 1 = 70.5m<sup>2</sup><br/>Lot 2 = 70.5m<sup>2</sup></p> <p>The site proposes a private open space area of 70.5m<sup>2</sup> for each dwelling which is well in excess of</p>  | <p>Yes.</p>                                      |

|  |  |      |
|--|--|------|
| <p>(ii) Is located at ground level with direct access to the internal living areas of the dwelling;</p> <p>(iii) Maximises solar access;</p> <p>(iv) Is visible from a living room door or window of the subject development;</p> <p>(v) Minimises overlooking from adjacent properties;</p> <p>(vi) Is generally level;</p> <p>(vii) Is oriented to provide for optimal year round use;</p> <p>(viii) Is appropriately landscaped; and</p> <p>(ix) Is located or screened to ensure privacy;</p> <p>Note: Private open space is not to include:</p> <p>(i) Non-recreational structures (including garages, tool sheds and such like structures);</p> <p>(ii) Swimming pools; and</p> <p>(iii) Driveways, turning areas and car spaces, drying areas and pathways.</p> | <p>the minimum 36m<sup>2</sup> requirement. The area receives direct solar access in accordance with Part 4A.4.3 Solar Access. Additionally, the area acts as an extension to the primary living areas of the dwelling and is appropriately landscaped and maintains an acceptable level of privacy.</p>   |      |
| <b>4A.4.7 Vehicle Access</b>   |  |      |
| <p><b>C1</b> Driveways within a property shall have a minimum width of 3 metres.</p> <p>Note: An additional clearance of 300mm is required (for each side) if the driveway is located adjacent to a solid structure (i.e. masonry wall).</p>   | <p>The proposed driveway has a minimum width of 3m, and is not adjacent to a solid structure.</p> <p>The ability to preserve an on-street parking space is unable to be achieved due to the constraints of the site. Providing a combined driveway through the centre of the site over the common boundary would not help achieve additional off-street parking due to the location of the driveway crossovers servicing the adjoining developments.</p> <p>Council's Development Engineer has not raised any objections towards the proposed driveway design.</p> | Yes. |
| <p><b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.</p>  | <p>One (1) vehicle crossing is proposed for each lot.</p>  | Yes. |

| <b>4A.4.8 Car Parking</b>  |   |      |
|--|---|------|
| <p><b>C3</b> Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building alignment. For existing and new dwellings, a garage or carport in order of priority must be:</p> <p>(i) Located at the rear of the site with access from a rear lane;</p> <p>(ii) At the rear of the site with access from the street frontage;</p> <p>(iii) Located at the side of the dwelling house, at least 1 metre behind the front building alignment and 5.5 metres from the front boundary; or</p> <p>(iv) Located at the side of the dwelling house, at least 1 metre behind the front building alignment.</p>   | <p>Parking is provided through a single garage for each dwelling, accessed from Banksia Street and setback 5.5m from the front boundary.</p> <p>This is considered an appropriate location for the garage, having regard to the existing site conditions, as well as BBDCP 2013 requirements relating to dwelling design, landscaping and site coverage.</p>  | Yes. |
| <p><b>C4</b> Car parking structures must be located and designed to:</p> <p>(i) Comply with AS2890.1 and</p> <p>(ii) Conveniently and safely serve all users;</p> <p>(iii) Enable efficient use of car spaces, including adequate manoeuvrability for vehicles between the site and the street;</p> <p>(iv) Not dominate or detract from the appearance of the existing dwelling or new development and the streetscape;</p> <p>(v) Be compatible in scale, form, materials and finishes with the associated dwelling;</p> <p>(vi) Not reduce availability of kerbside parking;</p> <p>(vii) Retain any significant trees; and</p> <p>(viii) Have minimal impact on existing fences and garden areas that contribute to the setting of the associated dwelling and the character of the streetscape.</p> | <p>The proposed single garage is integrated with the dwelling on ground floor. The dominance of the garage to streetscape is minimal given that it is only a single garage. Notwithstanding, the applicant has attempted to further minimise its dominance by providing a fully landscaped front setback.</p> <p>The proposed colours and materials of the garage door integrates well with overall building design, particularly is compatible with the selected metal black louvres and beige render.</p> | Yes. |
| <p><b>C8</b> In new development the garage/carport is to be setback 5.5 metres from the front boundary.</p>  | <p><u>Lot 1</u><br/>Garage front setback = 5.5m</p> <p><u>Lot 2</u><br/>Garage front setback = 5.5m</p>   | Yes. |

#### **Part 8 – Botany Character Precinct**

The proposed roof form is considered consistent with the desired future character of the area and compliant with the objectives outlined in the R2 – Low Density Residential zone. The dwelling is compliant regarding setbacks, site coverage, and private open space and is considered to have acceptable height, landscaping and privacy to neighbouring sites.

The proposed subdivision as addressed in this report is consistent with the existing and future subdivision pattern occurring in the immediate area.

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

## Discussion

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### Note 2: Existing streetscape character

The existing streetscape character consists predominantly of single and two storey detached dwellings and semi-detached dwellings. The proposed semi-detached dwelling with a flat roof deviates from the existing streetscape character, however it should be noted that the roof form evident along Banksia Street is also gradually changing. The streetscape is comprised of various approved roof designs with commercial buildings and retail shops in proximity that similarly have a flat roof. At No. 86 Banksia a multi-residential development was approved with an inconsistent roof design to the streetscape.

Given that the area is undergoing changes the introduction of a flat roof within the streetscape will be in keeping with the emerging contemporary architectural features and roof forms found within the area. Furthermore, the proposed flat roof form will minimise overshadowing impacts of the development to the adjoining property on the eastern side.

In this regard, the proposed development is considered acceptable given the unique location of the site and its compliance with the bulk, scale, height requirements outlined in the Botany Bay Development Control Plan 2013 and its compatibility in terms of height, setbacks and scale to nearby developments.

### Note 3: Solar Amenity

#### North-South Orientation

Botany Bay 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 21<sup>st</sup> June.

The subject allotment is north - south orientated with north being the rear of the property and south being the front of the property.

With respect to the Land and Environment Court planning principles on the impact on solar access of neighbours (*Parsonage v Ku-ring-gai* (2004) NSWLEC 347) and as amended by *The Benevolent Society v Waverly Council* is addressed as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The proposed development is considered to be contemporary in design, within the height control and boundary setbacks as required by BBDCP2013. The locality is in a low density residential area. In the winter solstice (June), the proposed development will cast a morning shadow to No. 70 Banksia Street to the west and overshadow the driveway and adjoining windows on their eastern elevation. It should be noted that the number of windows on the eastern elevation

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of No. 70 Banksia Street is minimal though and at approximately 11am, windows on No. 70 will start to receive sunlight. The proposed development will then cast an afternoon shadow on No. 74 Banksia Street after approximately 2:00pm.

However, the private open space area at the rear of the site will retain solar access which is accordance with Council's solar access requirements.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

Comment: The amount of existing sunlight comparative to the amount of sunlight retained has been taken into account. The shadow diagrams submitted with the application indicated in plan, that the development would overshadow the adjoining property to the west in the morning and the adjoining property to the east after 2pm onwards.

While the windows on the western elevation of No. 74 Banksia Street to the east will only receive approximately half an hour of solar access to the ground floor windows and an hour to the first floor windows it is also taken into consideration that the adjoining properties currently overshadow themselves. No. 70 Banksia Street currently already overshadow their own windows from the eaves on the western elevation in the morning and the eastern elevation in the afternoon and the rear garage casts a shadow to their own private open space. This is a similar situation for No. 74 Banksia Street and the structure at the rear of the property already partially overshadow their swimming pool. The overshadowing impacts created by the proposed development is thus shared across adjoining sites and the site itself.

The rear bedroom on the first floor of No. 74 Banksia Street will be able to receive alternate solar access from the rear balcony and window. Similarly, the bedroom to the front on the first floor will receive alternate source of sunlight from the front balcony. Other rooms on the first floor include a bathroom and a third bedroom which will receive approximately one (1) hour of solar access as mentioned above, however this is considered acceptable given that bedrooms are low usage rooms.

The proposed cabana being single storey (3m in height) will have minimal impact on the solar access to the private open space of adjoining properties as shown on the proposed Shadow Plan. In this regard, the adjoining properties will retain solar access to 50% of their private open space.

It is considered that the overshadowing impacts created by the proposed development achieves close to the minimum required amount of solar access and are within acceptable limits. The application should be supported in its submitted form.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposal is not considered to be of poor design. The proposed building height at 7.5m is below the maximum 8.5m permissible. The applicant has deleted the living areas at first floor and provided 1.5m side setbacks on either side despite No. 70 Banksia Street is also setback from the subject property by a 3m wide driveway. A larger rear setback (14.27m for ground floor and 13m for first floor) is also provided. The proposed setbacks exceed the minimum setbacks required by BBDCP 2013.

In the assessment of the proposed development, several amendments to the proposed design were provided to Council to address solar access. The applicant has shown consideration to

providing articulation and modulation along the sides with a 6.21m wide courtyard on the first floor with a 2.7m setback from the boundaries to provide additional solar access to the adjoining properties by a wider setback. The study area on the first floor originally proposed has been removed, as a result, consolidated the building further.

The north-south orientation provides as the ideal situation for any two-storey development and the applicant has demonstrated consideration of solar impacts to the adjoining properties, particularly on No. 74 Banksia Street and a sensitive design to retain amenity to adjoining properties.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest proportions of the glazed area.*

Comment: As stated above, the subject allotment is north-south orientated. The submitted shadow diagrams clearly indicate that the private open space areas of the adjoining properties will have access to direct sunlight for the required period during the 9am to 3pm assessment period.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: Overshadowing by fences, roof overhangs and changes in level have been taken into consideration. The site is not affected by any substantial trees, shrubs and or overgrown vegetation.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment: The area is a mixed medium and low-density residential area and is undergoing change with two-storey developments and semi-detached dwellings being developed. Existing single storey dwellings within the area will be redeveloped either by demolition and rebuilding, first floor additions or new two-storey dwellings in the future.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 *Demolition of Structures* when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard.

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

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

The proposed development will have minimal adverse environmental, social or economic impacts in the locality. Matters relating to streetscape and solar access 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 not affected by flooding.

The site is zoned R2 – Low Density Residential and currently accommodates an existing two-storey dwelling. The site is suitable to accommodate the proposed development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 30 November 2018 to 21 December 2018. One (1) submission was received from No. 74 Banksia Street.

**Issue 1: Asbestos**

Comment: Concerns were raised regarding the safe removal of asbestos once demolition commences. Conditions have been included in the draft Notice of Determination regarding the handling of asbestos including the removal and disposal of asbestos in accordance with WorkCover NSW requirements, Protection of the Environment Operations Act 1997, Protection of the Environment Operation (Waste) Regulation 2014 and DECC Waste Classification Guidelines 2008.

**Issue 2: Structural Report**

Comment: The owners of No. 74 Banksia Street has stated they will be carrying out a Structural Report prior to commencement of works and inquired whether this can be at the applicants cost. The owners of No. 74 Banksia Street are advised that this should be on their own negotiation with the applicant or owner of No. 72 Banksia Street. However, a condition has been included in the draft Notice of Determination for a dilapidation report to be provided.

**Issue 3: Overshadowing**

Comment: Refer to Note 3 – Solar Access under the Discussion section of this report.

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

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that

**Civil Aviation Act, 1988**

The proposed development is affected by the 15.24m Building Height Civil Aviation Regulations, however, the proposed building height at 7.5m will have minimal impact upon the height requirements in the regulations.

### Section 7.11 Contributions

Section 7.11 Contributions under the City of Botany Bay Section 94 Contributions Plan 2016 are applicable as follows:

#### Contribution Rates

Community Facilities: \$1,637.16  
Recreation and Open Space: \$16,890.83  
Transport Facilities: \$1,326.38  
Administration: \$145.62  
**Total: \$20,000**

#### Total contribution

The total Section 7.11 Contribution applicable to the proposed development is **\$20, 000**. In accordance with the Plan, the contribution is to be paid prior to the issue of the Construction Certificate.

### Conclusion

Development Application No. 2018/318 for the demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings, at 72 Banksia Street, Botany, has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

## Schedule 1 – Conditions of Consent

Premises: 72 Banksia Street, Botany

DA No: 2018/318

### SCHEDULE OF CONSENT CONDITIONS

#### GENERAL CONDITIONS

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

| Drawing                                   | Author        | Dated  |
|---|---------------|--|
| Demolition Plan / DA-02.00 – Rev 7        | Pinnacle Plus | Dated: 4 April 2019<br>Received: 10 April 2019 |
| Site Analysis Plan / DA-03.00 – Rev 7     |               |  |
| Site Plan / DA-03.05 – Rev 7              |               |  |
| Subdivision Plan / DA-03.10 – Rev 7       |               |  |
| Ground Floor Plan – DA-04.10 – Rev 7      |               |  |
| First Floor Plan – DA-04.20 – Rev 7       |               |  |
| Roof Plan – DA-04.30 – Rev 7              |               |  |
| Section A & B – DA-05.00 – Rev 7          |               |  |
| Front & Rear Elevation – DA-06.00 – Rev 7 |               |  |
| West & East Elevation – DA-06.10 – Rev 7  |               |  |
| Streetscape – DA-06.40 – Rev 7            |               |  |
| Cabana – DA-10.30 – Rev 7                 |               |  |

| Reference Documents                               | Author                                    | Dated   |
|---|---|---|
| Statement of Environmental Effects                | David Carey Town Planning and Development | Dated: April 2019<br>Received: 23 April 2019          |
| External Material and Finishes                    | Pinnacle Plus                             | Dated: 4 April 2019<br>Received: 10 April 2019        |
| Construction Management & Sediment Control Plan   | Pinnacle Plus                             | Dated: 4 April 2019<br>Received: 10 April 2019        |
| Waste Management Plan                             | Pinnacle Plus                             | Dated: 4 April 2019<br>Received: 10 April 2019        |
| Model Site Waste Minimisation and Management Plan | David Carey Town Planning and Development | Dated: 19 November 2018<br>Received: 23 November 2019 |
| Aircraft Noise Intrusion Assessment               | Acoustic Logic                            | Dated: 16 November 2018<br>Received: 23 November 2018 |



2. This Consent relates to land in Lot 29 Sec G DP 1787 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
    - i) smoke alarms must comply with AS3786 - 1993;
    - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
    - iii) be located in a position as required by Vol 2. BCA.
4. A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.
5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (No. 1007593S and No. 1007600S) for the development are fulfilled.

Note:

  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
6. The dwellings shall be used as a single occupancy and contain a single kitchen for each dwelling only.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under Condition 1 of this development consent and any other relevant condition of this consent shall not be altered or amended at the Construction Certificate stage without a prior S4.55 application and approval under the EP&A Act.

9. Capture of rainwater for irrigation purposes as a sustainability measure shall be provided. The irrigation system shall be connected to rainwater tank as a WSUD principle.
10. The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
    - i) The consent authority; or,
    - ii) An accredited certifier; and
  - b) The person having the benefit of the development consent:-
    - i) Has appointed a Certifying Authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
11. The proposed cabanas located at the rear of both lots shall be removed and replaced as soft landscaped area. Details shall be shown on the Construction Certificate Plans.
12. The first floor staircase windows on the eastern and western elevations shall be fixed and obscured. Details shall be shown on the Construction Certificate Plans and retained for the lifetime of the development.

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

13. 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.
14. The applicant must prior to the issue of the construction certificate pay the following fees:-
 

|                              |                                       |
|------------------------------|---------------------------------------|
| a) Footpath Crossing Deposit | \$5,419.00 (Refer to Condition No.17) |
| b) Development Control       | \$3,081.00                            |
| c) Section 94 Contributions  | \$20,000 (Refer to Condition No.18)   |
15. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of \$5,419.00 (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.

16. 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:

|                           |                    |
|---------------------------|--------------------|
| a) Community Facilities:  | \$1,637.16         |
| b) Recreation Facilities: | \$16,890.83        |
| c) Administration:        | \$145.62           |
| d) Transport Management:  | \$1,326.38         |
| <b>Total in 2018/19:</b>  | <b>\$20,000.00</b> |

*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.

17. 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.

18. 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.

19. Prior to the issue of any Construction Certificate a dilapidation report of the adjoining dwellings (No. 70 and 74 Banksia Street, Botany), including a photographic survey prepared by a Practising Structural Engineer, must be prepared in relation to the proposed development at 72 Banksia Street, Botany.

A copy of the dilapidation report together with the accompanying photographs shall be provided to the above property owner/s of No. 70 and 74 Banksia Street, Botany.

Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey to the Accredited Certifier (AC) or Council prior to commencement of works. The insurance cover shall be a minimum of \$10 million.

20. Prior to the issue of any Construction Certificate, a geotechnical engineer shall determine the soil absorption rate (in litres / second / m<sup>2</sup>base area) and the depth of the water table for the site in accordance with the requirements of the Botany Bay DCP Stormwater Management Technical Guideline Section 5.2 prior to design of the drainage system. The geotechnical engineer shall provide a report to the Principal Certifier which includes the details required above. A copy of the report shall be forwarded to Bayside Council prior to the issue of the Construction Certificate.
21. 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 assessment and approval. 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 Development Control Plan 'Stormwater Management Technical Guidelines', AS/NZS 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate the following measures:

- a) The provisions made in the Stormwater Concept Drainage Plans by PAZ Engineering, ref 181120, 181121, 181122, 181123, amendment 1, dated 15/11/18,
- b) 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. The absorption system shall utilize the absorption rate determined through geotechnical testing,
- c) A rainwater tank system shall be provided for each proposed lot with a minimum capacity of 3000L capacity. The rainwater tanks shall service all toilets, clothes washers and any external taps in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. First flush device shall also be incorporated into the tank systems. Overflow from the rainwater tank shall connect to the proposed site drainage system.

Design Certification, in the form specified in Botany DCP Part 10 Stormwater Management Technical Guidelines page 6 part (i), and drainage design calculations must be submitted with the detailed plans.

22. Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed absorption system 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.
23. 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, two new concrete driveways shall be constructed. Two new three (3) metre wide driveway laybacks shall be constructed as part of the new driveways. 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. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted.

24. 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.
25. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.  
  
Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
26. Prior to the issue of the Construction Certificate, the submitted Landscape Plans, dated 24 April 2019 and prepared by melissa wilson landscape architects, shall be revised and show a consistent floor plan to the Ground Floor Plan listed under condition No. 1 of this development consent and submitted to the Accredited Certifier (AC) for approval. A copy of the approved Landscape Plans by the Accredited Certifier shall be forwarded to Bayside Council.
27. 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:

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



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

28. 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.

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

29. Prior to commencing demolition/any works on site, a Tree Protection Zone (TPZ) shall be erected to protect the root zone of the *Ligustrum vulgare* (English Privet) on the adjoining rear property at No. 149 Bay Street. In order to ensure that the tree is protected during demolition and construction, and the health and structural stability ensured the Tree Protection Zone shall be established as follows:
- a) The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts and shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.
30. 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.
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, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
  - e) If the soil conditions require 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.
- 32. The Certifying Authority must be satisfied that: -
  - a) In the case of work to be done by a licensee under the Home Building Act: -
    - i) Has been informed in writing of the licensee name and contractor licence number, and;
    - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
  - b) In the case of work to be done by any other person: -
    - i) Has been informed in writing of the persons name and owner-builder permit number, or;
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
  - 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.
- 33. Prior to the commencement of works, the applicant must inform Council, in writing, of:
  - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the owner-builder who intends to do the work;
  - c) The Council also must be informed if: -
    - i) A contract is entered into for the work to be done by a different licensee; or
    - ii) Arrangements for the doing of the work are otherwise changed.
- 34. 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.
- 35. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
- 36. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.

37. 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.
38. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The *Soil and Water Management Plan* if required under this consent;
  - b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organization of Councils, 2001; and
  - c) "*Managing Urban Stormwater – Soils and Construction*" published by the NSW Department of Housing 4<sup>th</sup> 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 recommended 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](http://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.

39. 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.)*

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,

- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit for roads and footways occupancy (long term/ short term),
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- f) Permit to place skip/waste bin on footpath and/or nature strip, 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)).

#### **DURING WORKS**

40. The Applicant has permission to remove one (1) street tree, *Banksia integrifolia* (Coast Banksia) located within the Council nature strip on Banksia Street in front of the property at the applicant's expense.

Note: Trees are not permitted to be removed until the Construction Certificate has been issued.

41. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- a) A Qualified Arborist, minimum level 2 (AQF 2) with their own public liability insurance must be engaged and undertaken all tree works as per *Australian Standard 4373-Pruning of amenity trees*.
  - b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access. If road and footpath closures are required a Council Road Occupancy Permit is required.
  - c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

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

42. The applicant is to plant a 75 litre root ball tree *Corymbia eximia* (Yellow Bloodwood) as the replacement tree in the Council nature strip on Banksia Street. The street tree replacement is to be funded by the applicant. The tree must be planted during works and prior to issue of any Occupation Certificate.

43. 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.
44. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
  - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation 2014;
  - d) DECC Waste Classification Guidelines 2008.
45. No demolition materials shall be burnt or buried on the site.
46. 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.
47. The proposed development shall comply with the following:
  - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Certifying Authority including an after hours contact the Local Environmental Plan phone number.
  - b) Any such sign is to be removed when the work has been completed.
48. 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.
49.
  - a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
    - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.



- ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -

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.
50. 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 Council's road reserve must also have prior approval of Council.
  51. 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.
  52. The submitted Waste Management Plan, prepared by Pinnacle Plus, dated 4 April 2019 and the Model Site Waste Minimisation and Management Plan, prepared by David Town Planning & Development and dated 19 November 2018, shall be complied with at all times during construction and on-going use of the site.
  53. 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.
  54. The following shall be complied with during construction and demolition:
    - a) Construction Noise
 

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
    - b) Level Restrictions
      - i) Construction period of 4 weeks and under:
 

The  $L_{10}$  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  $L_{10}$  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.
- 55. 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.
  - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 56. 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.
- 57. 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.
- 58.
  - 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.
59. 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 made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
60. 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.
61. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - c) Formwork inspection of Council's footpath prior to laying of concrete,
  - d) Final inspection of driveway layback and adjacent kerb and gutter,
  - e) Final inspection of Council's kerb and gutter,
  - f) Final inspection of Council's footpath.

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

62. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall confirm that a street tree replacement as per Condition No. 44 have been suitably carried out.
63. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:

- a) On Banksia Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
  - b) On Banksia Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
64. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Positive covenant and restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
65. 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 submitted Acoustic Report, prepared by Acoustic Logic and dated 16 November 2018 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).
66. 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 Principal Certifying Authority attesting that this condition has been appropriately satisfied.
67. The installation of the absorption systems 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.
68. 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.
69. Prior to the issue of any Occupation Certificates(s), documentation from a suitably qualified 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.

70. Prior to the issue of any Occupation Certificates(s), all landscape works shall be carried out in accordance with the approved Landscape Plans. The landscaping shall be maintained to the approved standard at all times.
71. A qualified Landscape Architect shall provide a report to the Certifying Authority (with a copy provided to Bayside 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.
72. A report prepared by a qualified air quality/mechanical engineer certifying that any mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997. If mechanical ventilation is required, details shall be submitted to Council within 21 days of the installation of the system and prior to the issue of any occupation certificate.
73. 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.
74. 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.
75. 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**

76. 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.
77. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
78. 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.
79. 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.

80. 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.
81. Any intruder alarms must be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2017, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
82. 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.
83. The Protection of the Environment Operations (Noise Control) Regulation 2017, 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.



| 01.DA Drawing List  |   |      |
|---------------------|---|------|
| Drawing #           | Drawing Name                                    | Rev. |
| COVERS              |   |      |
| DA - 00.00          | LOCALITY MAP                                    | 10   |
| DEMOLITION WORKS    |   |      |
| DA - 02.00          | DEMOLITION PLAN                                 | 10   |
| SITE CONTEXT        |   |      |
| DA - 03.00          | SITE ANALYSIS PLAN                              | 10   |
| DA - 03.05          | SITE PLAN                                       | 10   |
| DA - 03.10          | SUBDIVISION PLAN                                | 10   |
| GENERAL ARRANGEMENT |   |      |
| DA - 04.10          | GROUND FLOOR                                    | 10   |
| DA - 04.20          | FIRST FLOOR                                     | 10   |
| DA - 04.30          | ROOF  | 10   |
| GA SECTIONS         |   |      |
| DA - 05.00          | SECTION A & B                                   | 10   |
| GA ELEVATIONS       |   |      |
| DA - 06.00          | FRONT & REAR ELEVATION                          | 10   |
| DA - 06.10          | WEST & EAST ELEVATION                           | 10   |
| DA - 06.40          | STREETSCAPES                                    | 10   |
| AREA ANALYSIS       |   |      |
| DA - 07.00          | BUILDING & AREA CALCULATIONS                    | 10   |
| DESIGN INTENT       |   |      |
| DA - 08.10          | EXTERNAL MATERIAL AND FINISHES                  | 10   |
| SOLAR ANALYSIS      |   |      |
| DA - 09.00          | WINTER SOLSTICE - EXISTING                      | 10   |
| DA - 09.05          | WINTER SOLSTICE - PROPOSED                      | 10   |
| DA - 09.10          | SPRING EQUINOX                                  | 10   |
| DA - 09.20          | AUTUMN EQUINOX                                  | 10   |
| DA - 09.30          | 74 BANKSIA STREET EXISTING SHADOWS              | 10   |
| DA - 09.40          | 74 BANKSIA STREET PROPOSED SHADOWS              | 10   |
| SITE WORKS          |   |      |
| DA - 10.10          | WASTE MANAGEMENT PLAN                           | 10   |
| DA - 10.20          | CONSTRUCTION MANAGEMENT & SEDIMENT CONTROL PLAN | 10   |

72 Banksia St, Botany



DEVELOPMENT APPLICATION



 **PINNACLE PLUS**  
LEVEL 1, 218 CROWN STREET  
DARLINGHURST NSW 2010  
1300 899 111  
PINNACLEPLUS.COM.AU

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CLIENT NAME HASSARATI  
PRO ECT NUMBER 1010 - SAN  
PRO ECT TYPE RESIDENTIAL  
PRO ECT INFO 72 Bank St, Botany NSW 2019  
LOT Lot 29 - DP 1781

COVERS  
LOCALITY MAP

| REVISION HISTORY |          |          |          |
|------------------|----------|----------|----------|
| 1                | 10/08/19 | 10/08/19 | 10/08/19 |
| 2                | 10/08/19 | 10/08/19 | 10/08/19 |
| 3                | 10/08/19 | 10/08/19 | 10/08/19 |
| 4                | 10/08/19 | 10/08/19 | 10/08/19 |
| 5                | 10/08/19 | 10/08/19 | 10/08/19 |
| 6                | 10/08/19 | 10/08/19 | 10/08/19 |
| 7                | 10/08/19 | 10/08/19 | 10/08/19 |
| 8                | 10/08/19 | 10/08/19 | 10/08/19 |
| 9                | 10/08/19 | 10/08/19 | 10/08/19 |
| 10               | 10/08/19 | 10/08/19 | 10/08/19 |

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AM

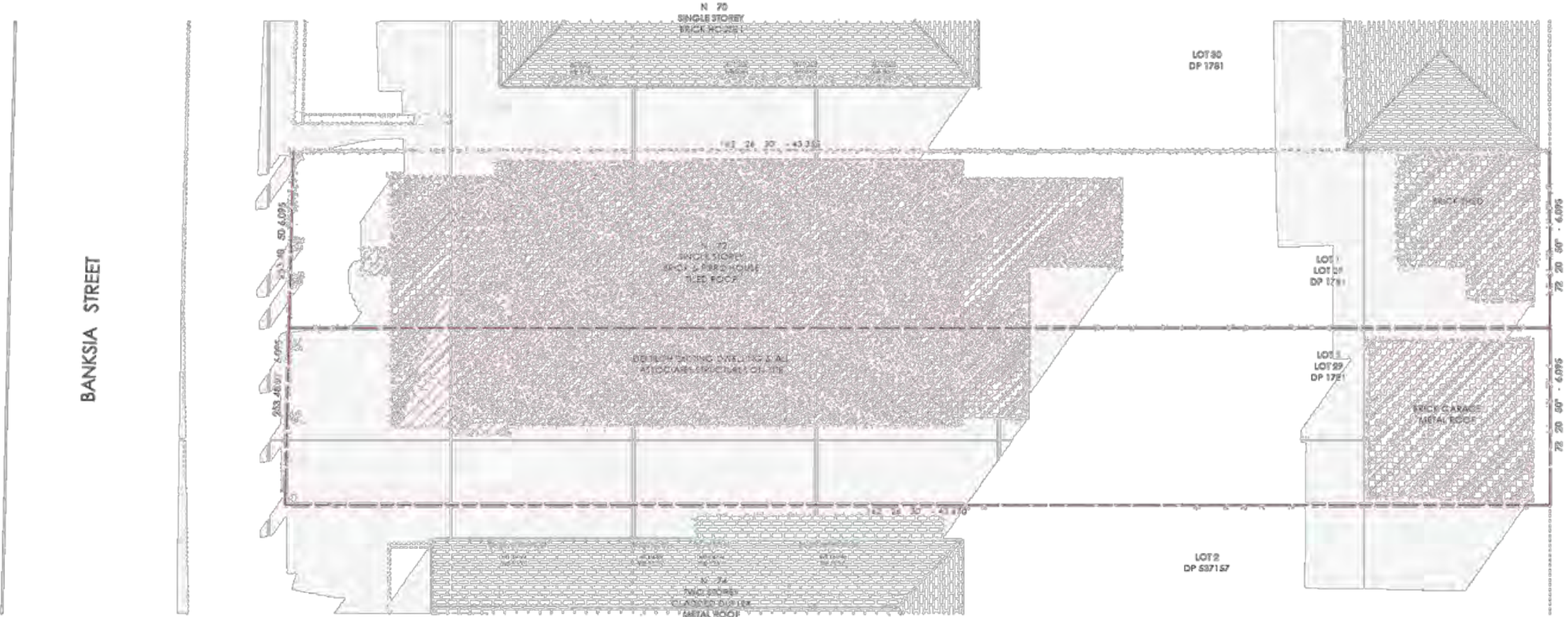
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DRAWING NUMBER  
DA - 00.20

REVISION  
10



DEVELOPMENT APPLICATION



LEVEL 1, 218 CROWN STREET  
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CLIENT NAME HASSARATI  
PROJECT NUMBER 1010 - BAN  
PROJECT TYPE RESIDENTIAL  
PROJECT INFO 72 Banksia St, Bayside NSW 2019  
LOT Lot 29 - DP 1781

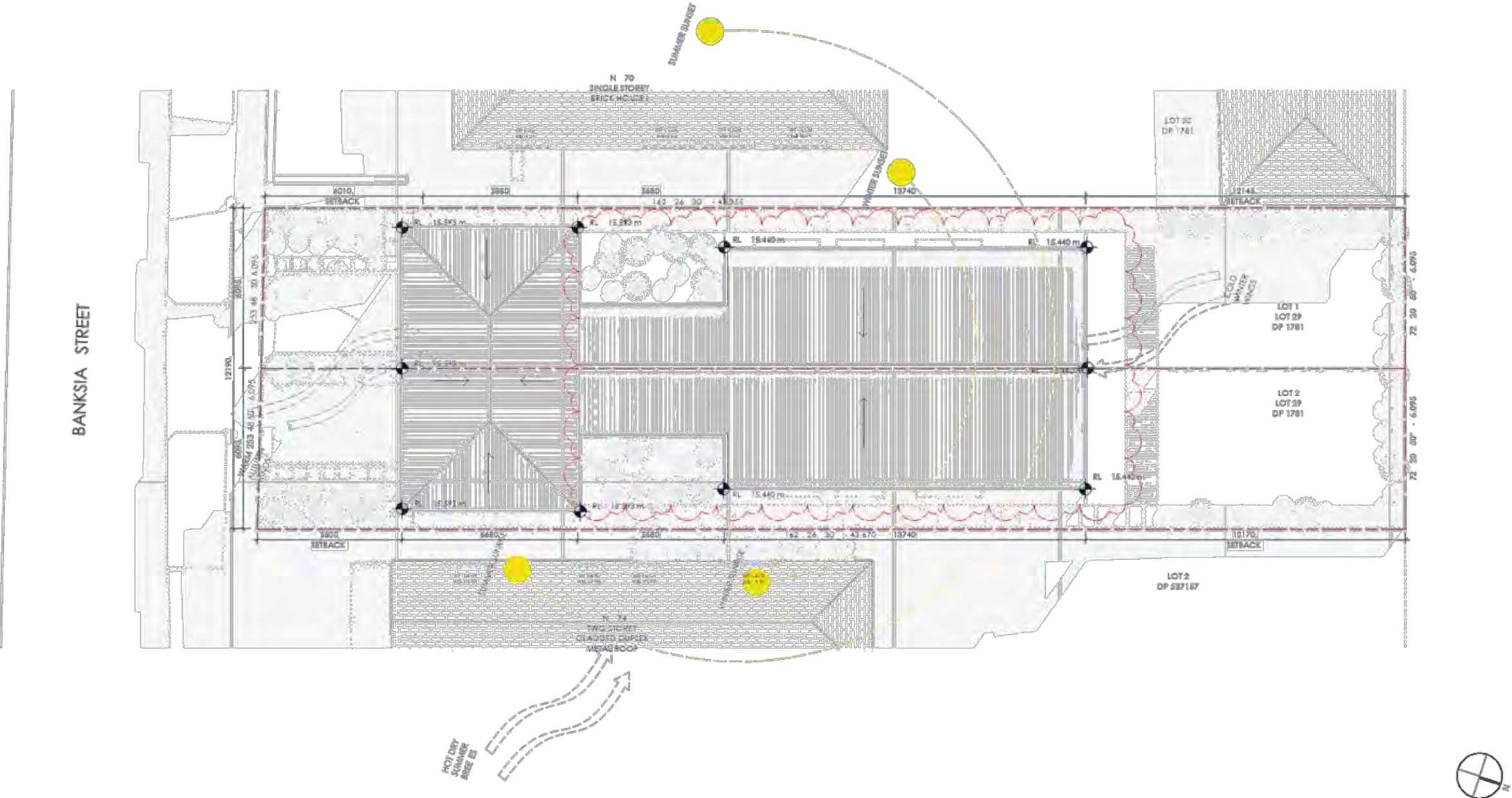
DEMOLITION WORKS  
DEMOLITION PLAN

| REVISION | DATE     | BY | CHKD BY |
|----------|----------|----|---------|
| 1        | 01/08/19 | AM | AM      |
| 2        | 01/08/19 | AM | AM      |
| 3        | 01/08/19 | AM | AM      |
| 4        | 01/08/19 | AM | AM      |
| 5        | 01/08/19 | AM | AM      |
| 6        | 01/08/19 | AM | AM      |
| 7        | 01/08/19 | AM | AM      |
| 8        | 01/08/19 | AM | AM      |
| 9        | 01/08/19 | AM | AM      |
| 10       | 01/08/19 | AM | AM      |

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DA - 02.00  
REVISION  
10

DEVELOPMENT APPLICATION



**PINNACLE PLUS**  
LEVEL 1, 218 CROWN STREET  
DARLINGHURST NSW 2010  
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CLIENT NAME HASSARATI  
PROJECT NUMBER 1010 - SAN  
PROJECT TYPE RESIDENTIAL  
PROJECT INFO 72 Banksia St, Bayside NSW 2019  
LOT Lot 29 - DP 1781

SITE CONTEXT  
SITE ANALYSIS PLAN

| REVISION HISTORY |          |    |       |
|------------------|----------|----|-------|
| 1                | 10/08/19 | AM | Drawn |
| 2                | 10/08/19 | AM | Drawn |
| 3                | 10/08/19 | AM | Drawn |
| 4                | 10/08/19 | AM | Drawn |
| 5                | 10/08/19 | AM | Drawn |
| 6                | 10/08/19 | AM | Drawn |
| 7                | 10/08/19 | AM | Drawn |
| 8                | 10/08/19 | AM | Drawn |
| 9                | 10/08/19 | AM | Drawn |
| 10               | 10/08/19 | AM | Drawn |

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AM  
SCALE AS  
As Indicated

DRAWING NUMBER  
DA - 03.00  
REVISION  
10

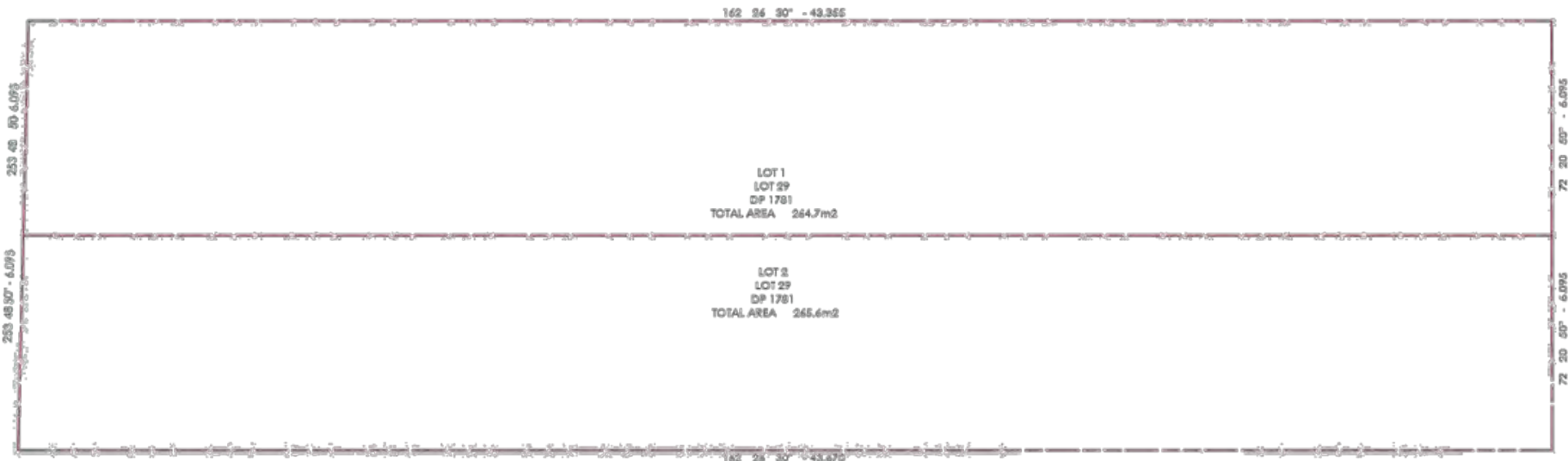


The site plan shows a rectangular lot divided into three sections. The left section is a triangular plot with a building footprint. The middle section is a rectangular plot with a building footprint. The right section is a rectangular plot with a building footprint. The plan includes setbacks, dimensions, and elevations. The setbacks are 6010, 6010, 6010, and 6010. The dimensions are 15.273 m, 15.273 m, 15.273 m, and 15.273 m. The elevations are 15.273 m, 15.273 m, 15.273 m, and 15.273 m. The plan also shows a 'SINGLE STOREY BRICK HOUSE' and a 'TWO STOREY CLAYED COMPLEX'. The lot numbers are LOT 1, LOT 29, and LOT 39, DP 1781. The street name is BANKSIA STREET.



| DRAWING NUMBER | REVISION |
|----------------|----------|
| DA - 03.05     | 10       |

DEVELOPMENT APPLICATION





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CLIENT NAME HASSARATI

PROJECT NUMBER 1010 - SAN

PROJECT TYPE RESIDENTIAL

PROJECT INFO 72 Bantala St, Bantala NSW 2019

LOT Lot 29 - DP 1781

SITE CONTEXT

SUBDIVISION PLAN

| REVISION HISTORY |          |
|------------------|----------|
| 1                | 10/08/19 |
| 2                | 20/08/19 |
| 3                | 20/08/19 |
| 4                | 20/08/19 |
| 5                | 20/08/19 |
| 6                | 20/08/19 |
| 7                | 20/08/19 |
| 8                | 20/08/19 |
| 9                | 20/08/19 |
| 10               | 20/08/19 |

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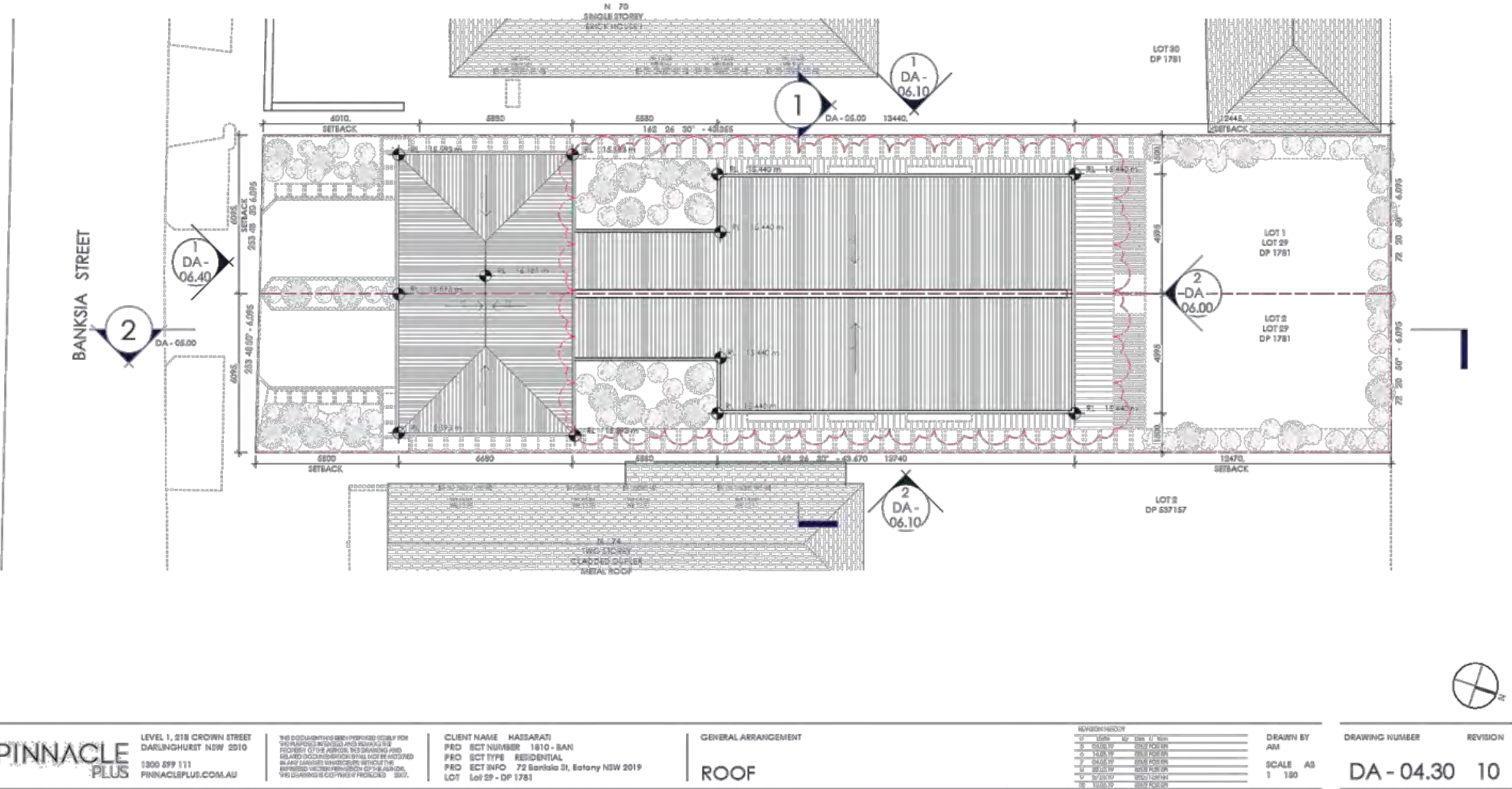
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REVISION

DA - 03.10

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DEVELOPMENT APPLICATION

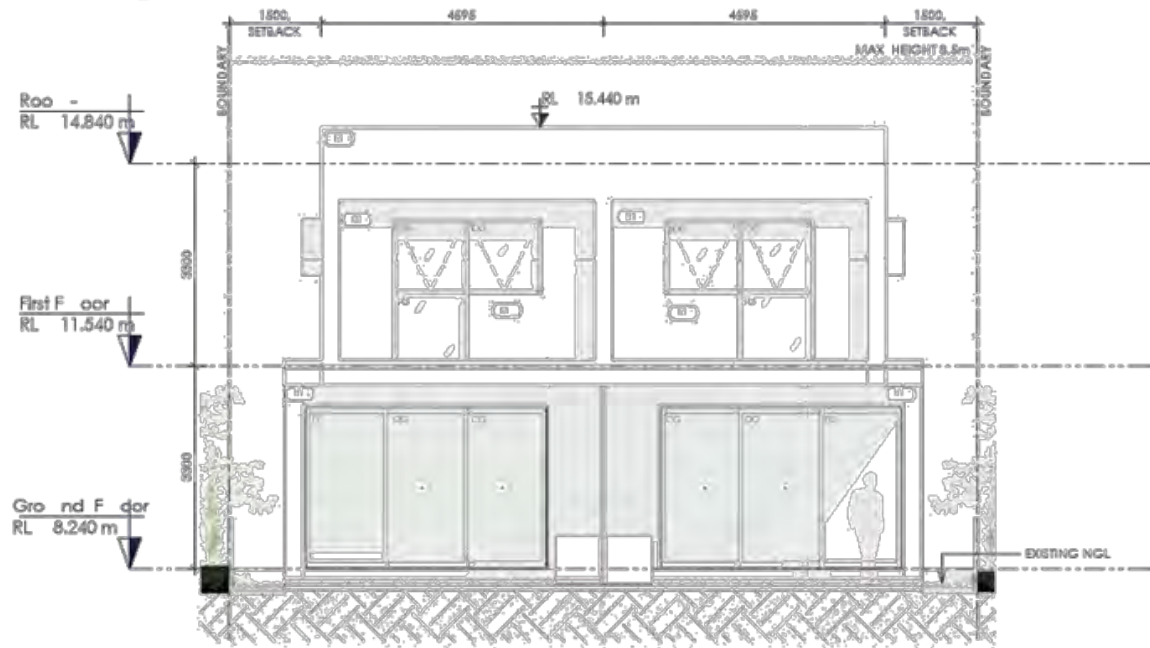




DEVELOPMENT APPLICATION



1 FRONT ELEVATION  
1 100



2 REAR ELEVATION  
1 100

| EXTERNAL FINISHES              | WINDOWS & DOORS            |
|--------------------------------|----------------------------|
| LVR B o k L o v n e s          | OG O o r a e o e l n g     |
| R l D B e n d e r              | FG R e d o e l n g         |
| MD C o r e n d s o e G r e y   | GB O o n B a s t e d e     |
| AL S o e K A m i n m f r a m e | TG T r a n s e n t G a s s |



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PRO ECT NUMBER 1010 - SAN  
PRO ECT TYPE RESIDENTIAL  
PRO ECT INFO 72 Bantala St, Botany NSW 2019  
LOT Lot 29 - DP 1781

GA ELEVATIONS  
FRONT & REAR ELEVATION

| REVISION HISTORY  |
|---|
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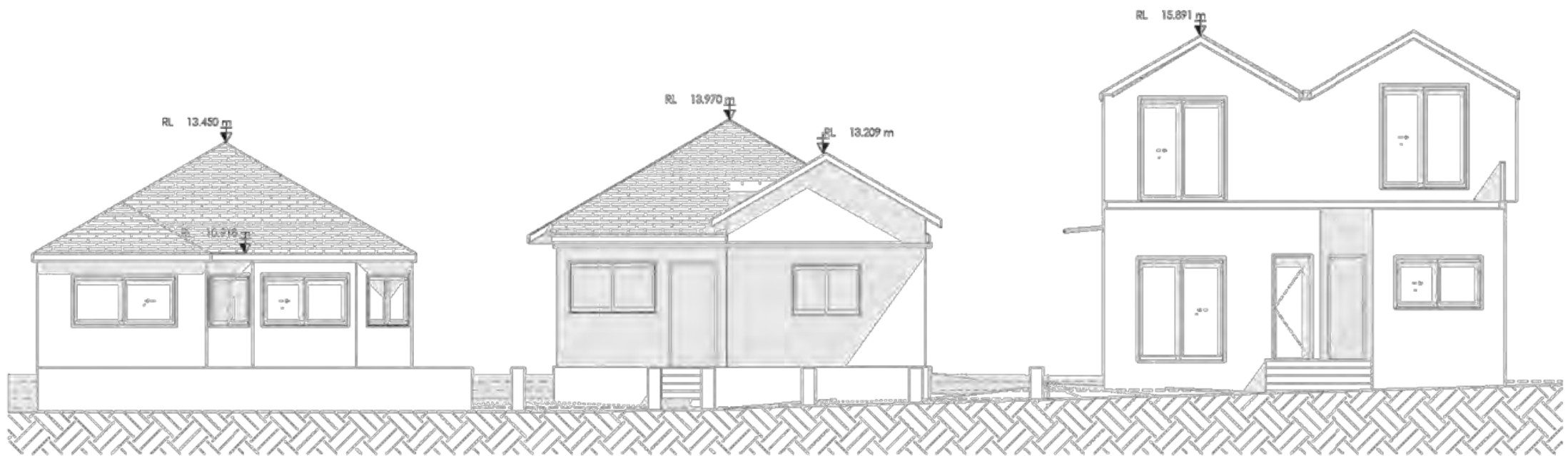
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SCALE AS  
As Indicated

DRAWING NUMBER DA - 06.00  
REVISION 10





DEVELOPMENT APPLICATION



2 PROPOSED STREETSCAPE  
1 100



1 EXISTING STREETSCAPE  
1 100



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CLIENT NAME HASSARATI  
PRO ECT NUMBER 1810 - SAN  
PRO ECT TYPE RESIDENTIAL  
PRO ECT INFO 72 Barkala St, Salford NSW 2019  
LOT Lot 29 - DP 1781

GA ELEVATIONS  
STREETSCAPES

| REVISION HISTORY |          |
|------------------|----------|
| 1                | 15/08/19 |
| 2                | 15/08/19 |
| 3                | 15/08/19 |
| 4                | 15/08/19 |
| 5                | 15/08/19 |
| 6                | 15/08/19 |
| 7                | 15/08/19 |
| 8                | 15/08/19 |
| 9                | 15/08/19 |
| 10               | 15/08/19 |

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AM

SCALE AS  
1 100

DRAWING NUMBER  
DA - 06.40

REVISION  
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DEVELOPMENT APPLICATION

EXTERNAL FINISHES

R1 - DULUX DUNE



AL - BLACK ALUMINIUM FRAME



LVR - BLACK LOUVER



MD - COLORBOND SHALE GREY



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CLIENT NAME HASSARATI  
PROJECT NUMBER 1010 - SAN  
PROJECT TYPE RESIDENTIAL  
PROJECT INFO 72 Barkala St, Botany NSW 2019  
LOT Lot 29 - DP 1781

DESIGN INTENT  
EXTERNAL MATERIAL AND FINISHES

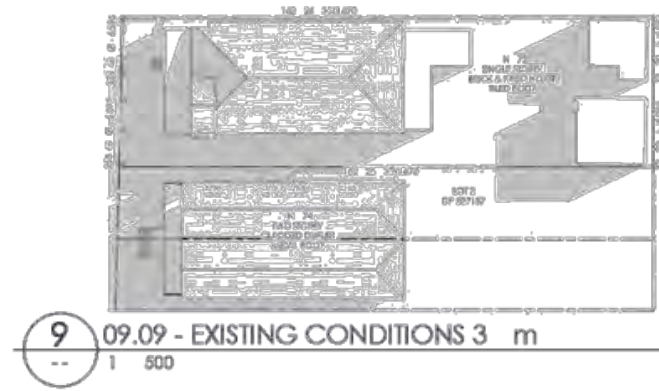
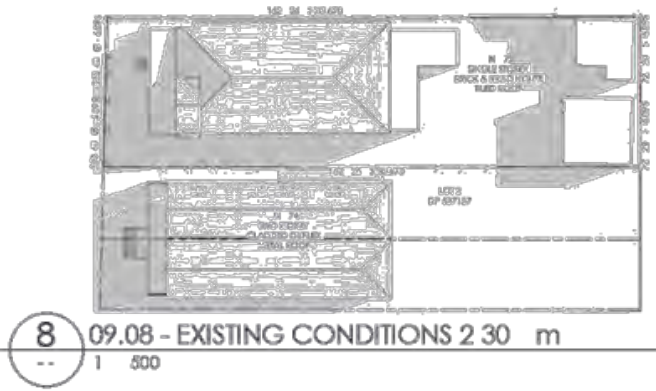
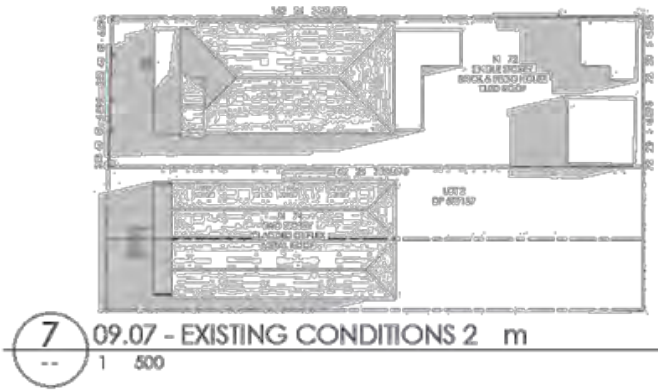
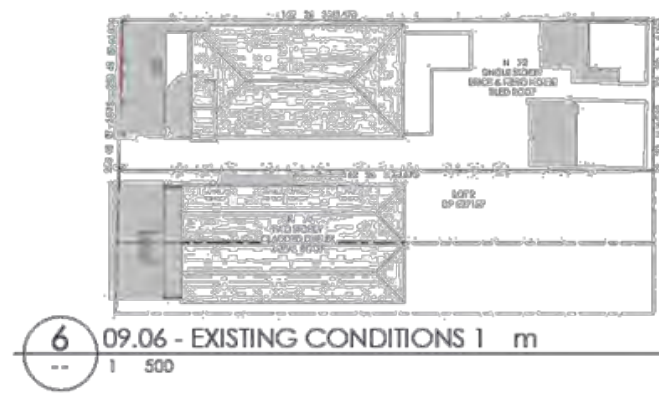
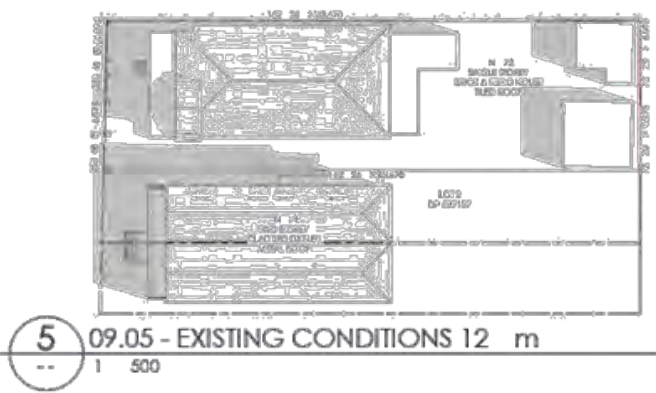
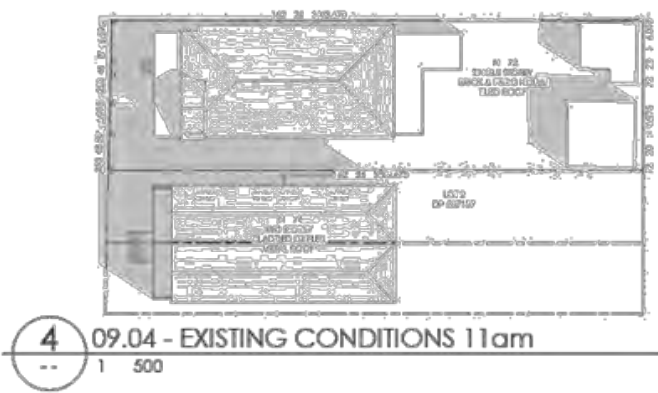
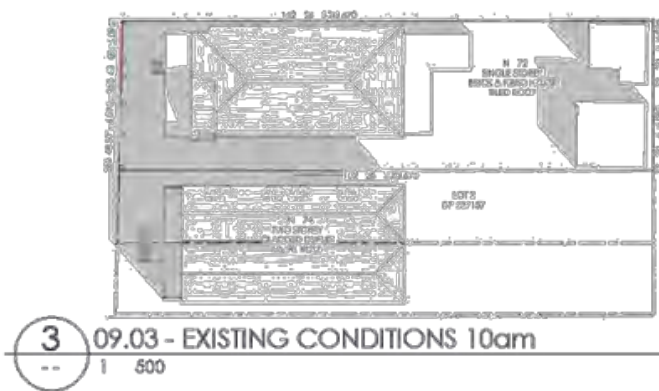
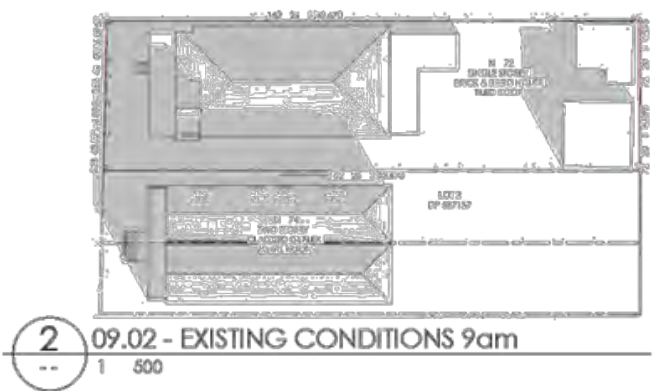
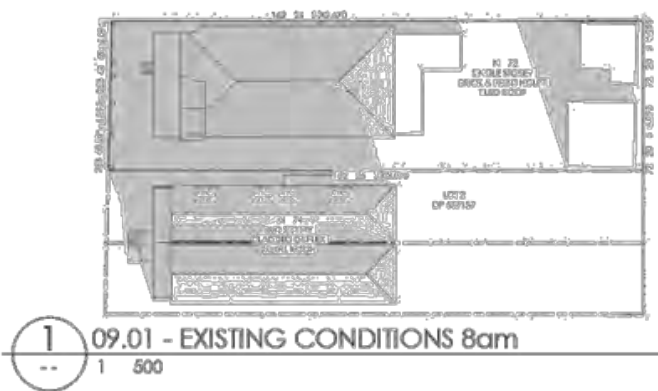
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| 3                | 20/08/19 | AM | 20/08/19 |
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| 10               | 20/08/19 | AM | 20/08/19 |

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DA - 08.10  
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PRO ECT TYPE RESIDENTIAL  
PRO ECT INFO 72 Bardsia St, Bayside NSW 2019  
LOT Lot 29 - DP 1781

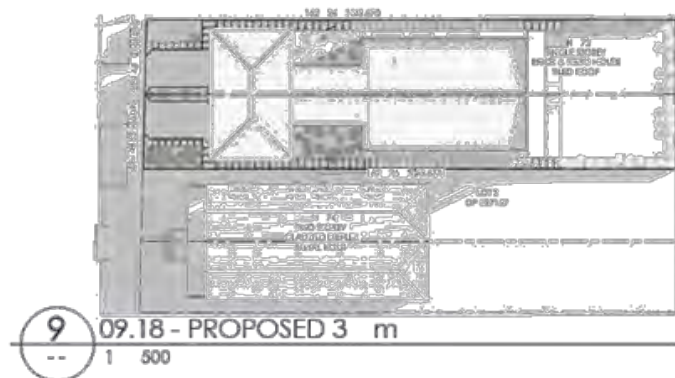
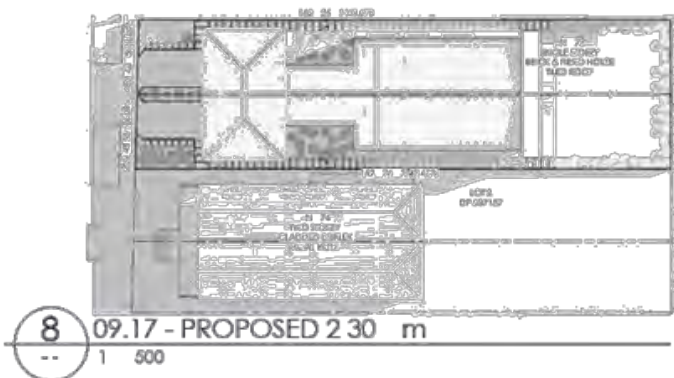
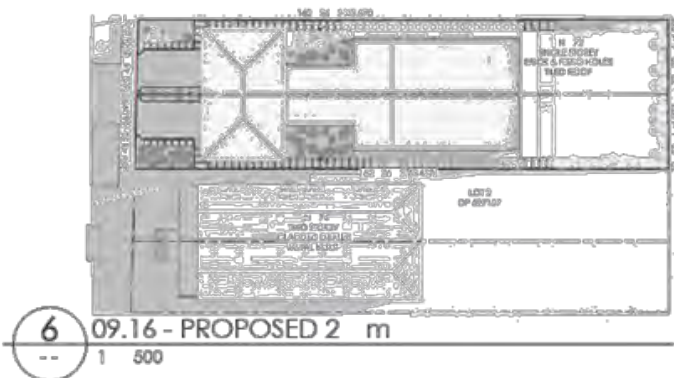
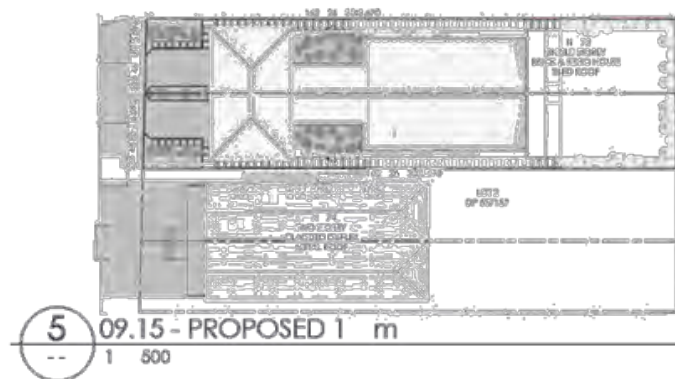
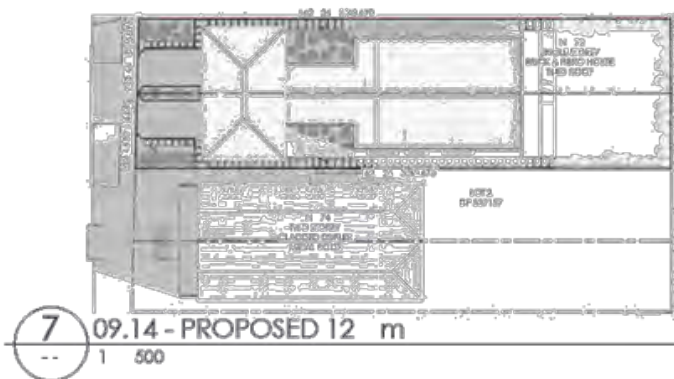
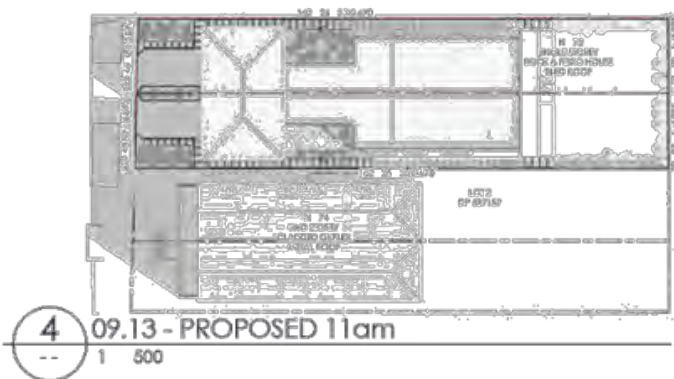
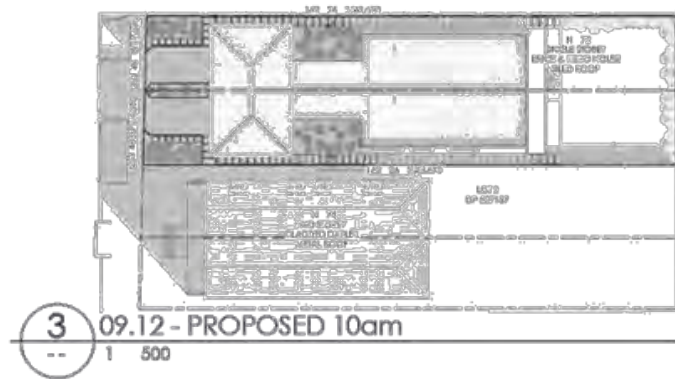
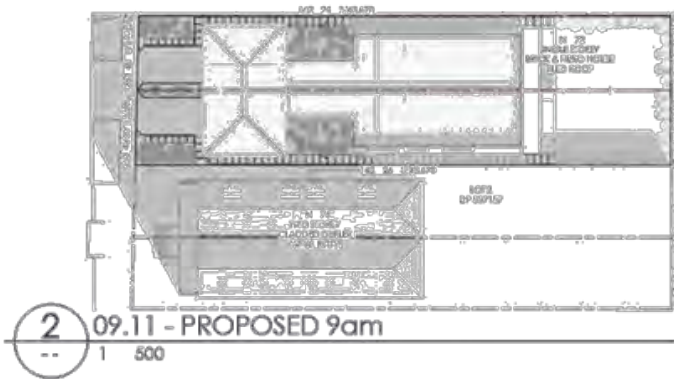
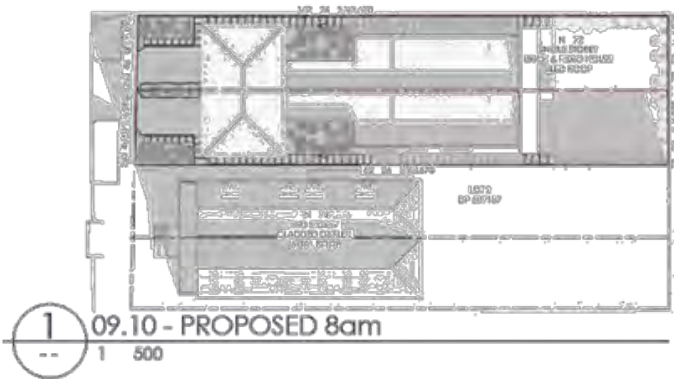
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| 10/12/19 | 10:00 AM | 10/12/19 | 10:00 AM |
| 10/12/19 | 10:00 AM | 10/12/19 | 10:00 AM |
| 10/12/19 | 10:00 AM | 10/12/19 | 10:00 AM |
| 10/12/19 | 10:00 AM | 10/12/19 | 10:00 AM |

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PRO ECT NUMBER 1010 - SAN  
PRO ECT TYPE RESIDENTIAL  
PRO ECT INFO 72 Berridge St, Berridge NSW 2019  
LOT Lot 29 - DP 1781

SOLAR ANALYSIS  
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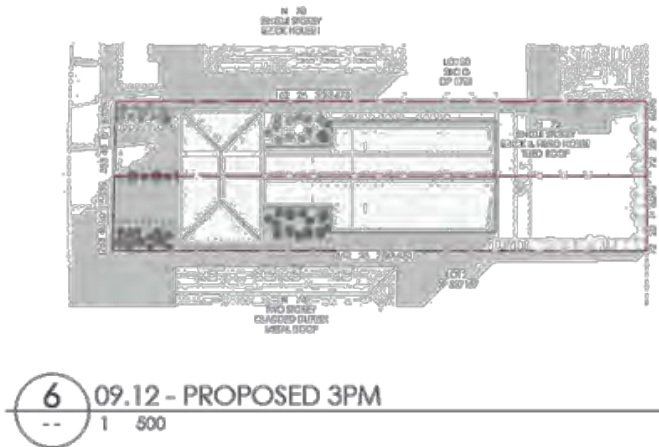
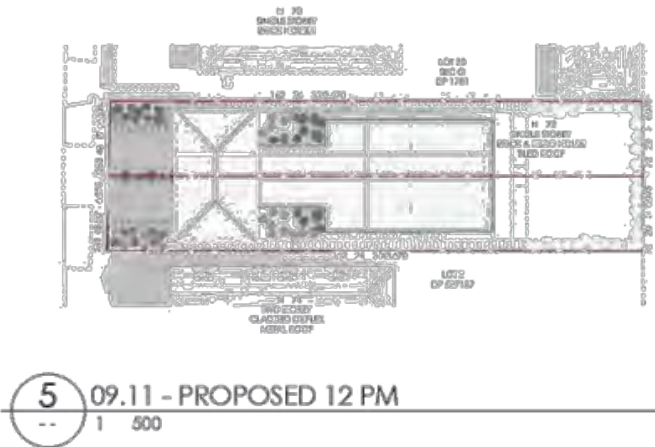
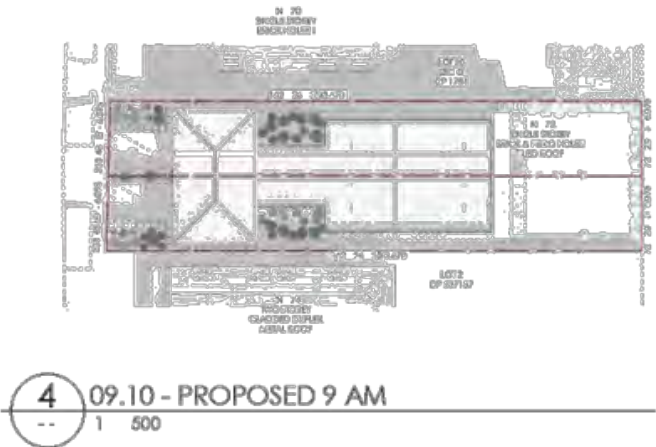
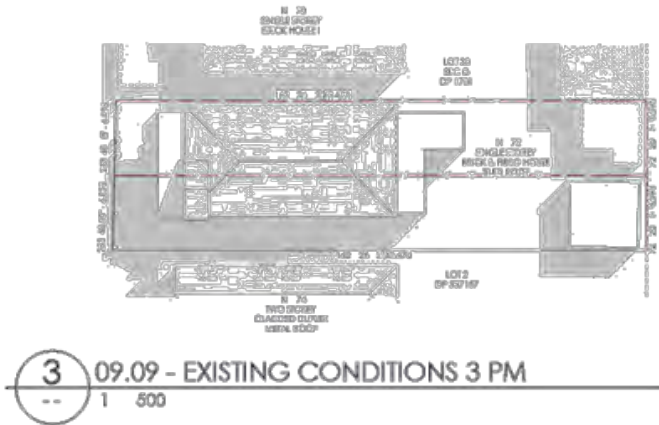
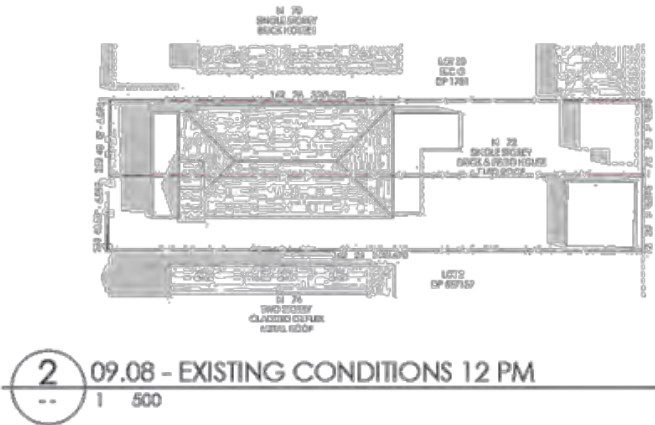
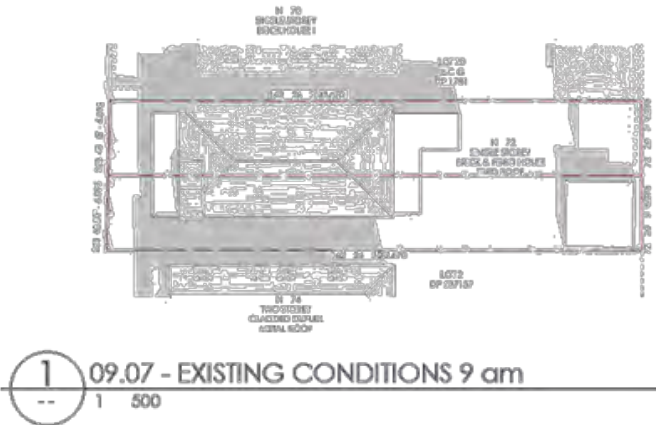
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| 12:00          | 21/12 | 2019  | 2019 |
| 13:00          | 21/12 | 2019  | 2019 |
| 14:00          | 21/12 | 2019  | 2019 |
| 15:00          | 21/12 | 2019  | 2019 |

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1 500

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CLIENT NAME HASSARATI  
PROJECT NUMBER 1810 - SAN  
PROJECT TYPE RESIDENTIAL  
PROJECT INFO 72 Bantala St, Botany NSW 2019  
LOT Lot 29 - DP 1781

SOLAR ANALYSIS  
SPRING EQUINOX

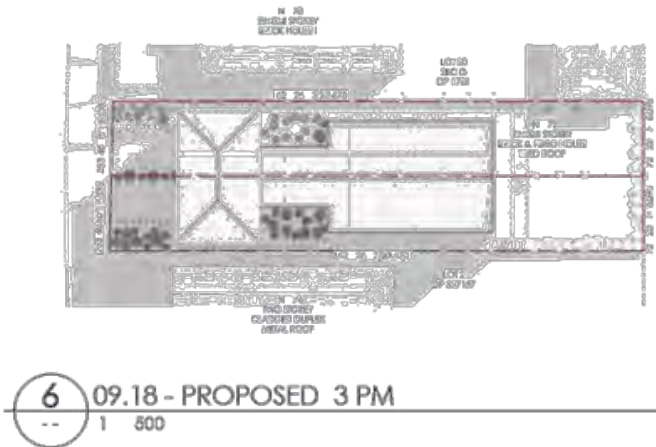
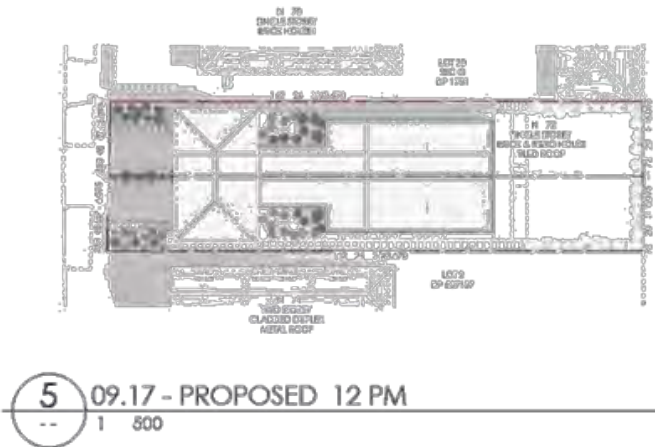
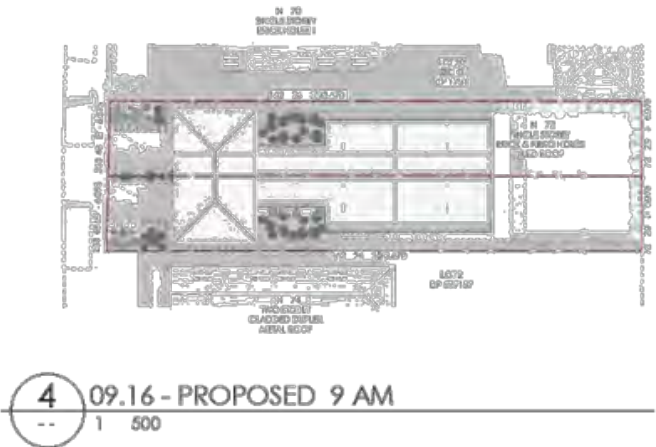
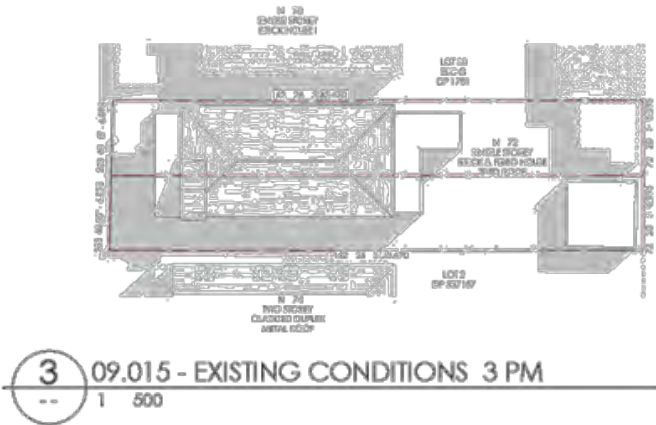
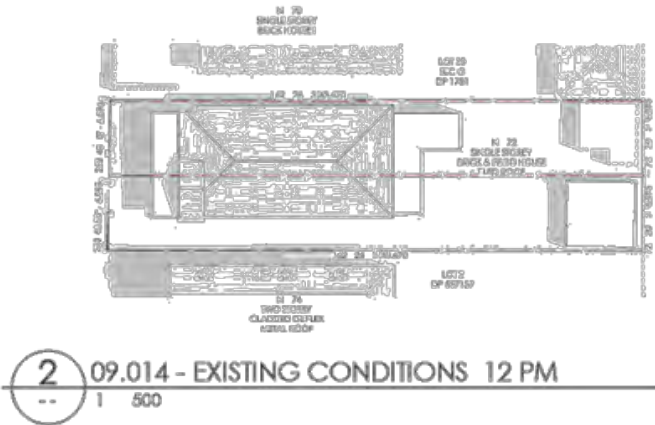
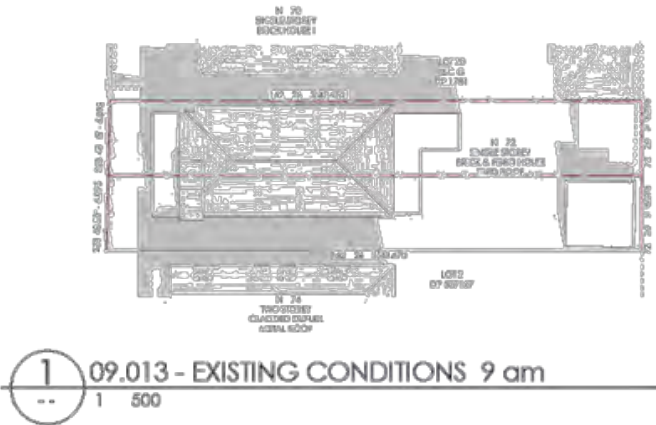
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|----------------|-------|--------|-----|
| Time           | Alt   | Az     | Dir |
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| 10:00          | 35.0° | 82.0°  | E   |
| 11:00          | 40.0° | 63.0°  | ESE |
| 12:00          | 45.0° | 45.0°  | E   |
| 13:00          | 40.0° | 27.0°  | ESE |
| 14:00          | 35.0° | 9.0°   | SE  |
| 15:00          | 30.0° | 18.0°  | SSE |

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DEVELOPMENT APPLICATION



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CLIENT NAME HASSARATI  
PROJECT NUMBER 1010 - SAN  
PROJECT TYPE RESIDENTIAL  
PROJECT INFO 72 Bardsia St, Botany NSW 2019  
LOT Lot 29 - DP 1781

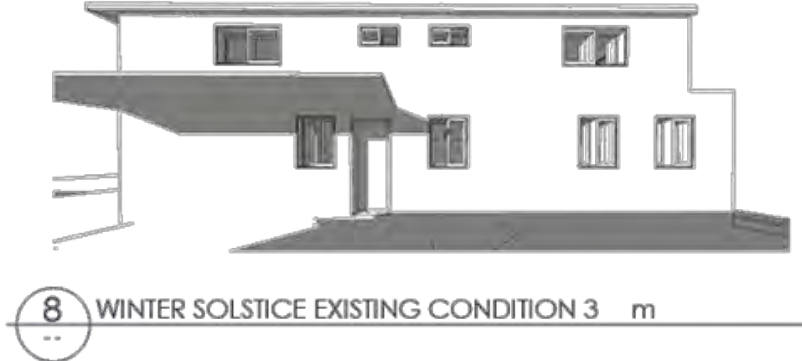
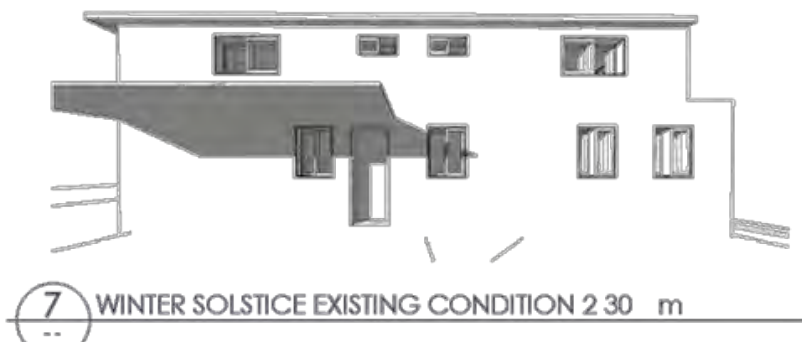
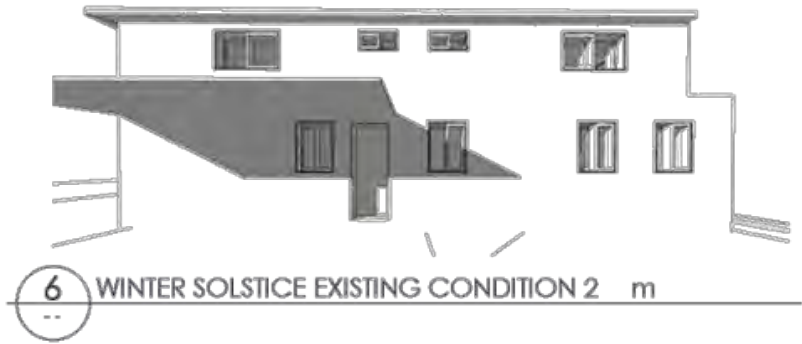
SOLAR ANALYSIS  
AUTUMN EQUINOX

| SOLAR ANALYSIS |          |       |          |
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| 11:00          | 10/10/19 | 11:00 | 10/10/19 |
| 12:00          | 10/10/19 | 12:00 | 10/10/19 |
| 13:00          | 10/10/19 | 13:00 | 10/10/19 |
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DRAWING NUMBER  
DA - 09.20  
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DEVELOPMENT APPLICATION





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CLIENT NAME HASSARATI  
PROJECT NUMBER 1010 - BAN  
PROJECT TYPE RESIDENTIAL  
PROJECT INFO 72 Banksia St, Botany NSW 2019  
LOT Lot 29 - DP 1781

SOLAR ANALYSIS

74 BANKSIA STREET EXISTING SHADOWS

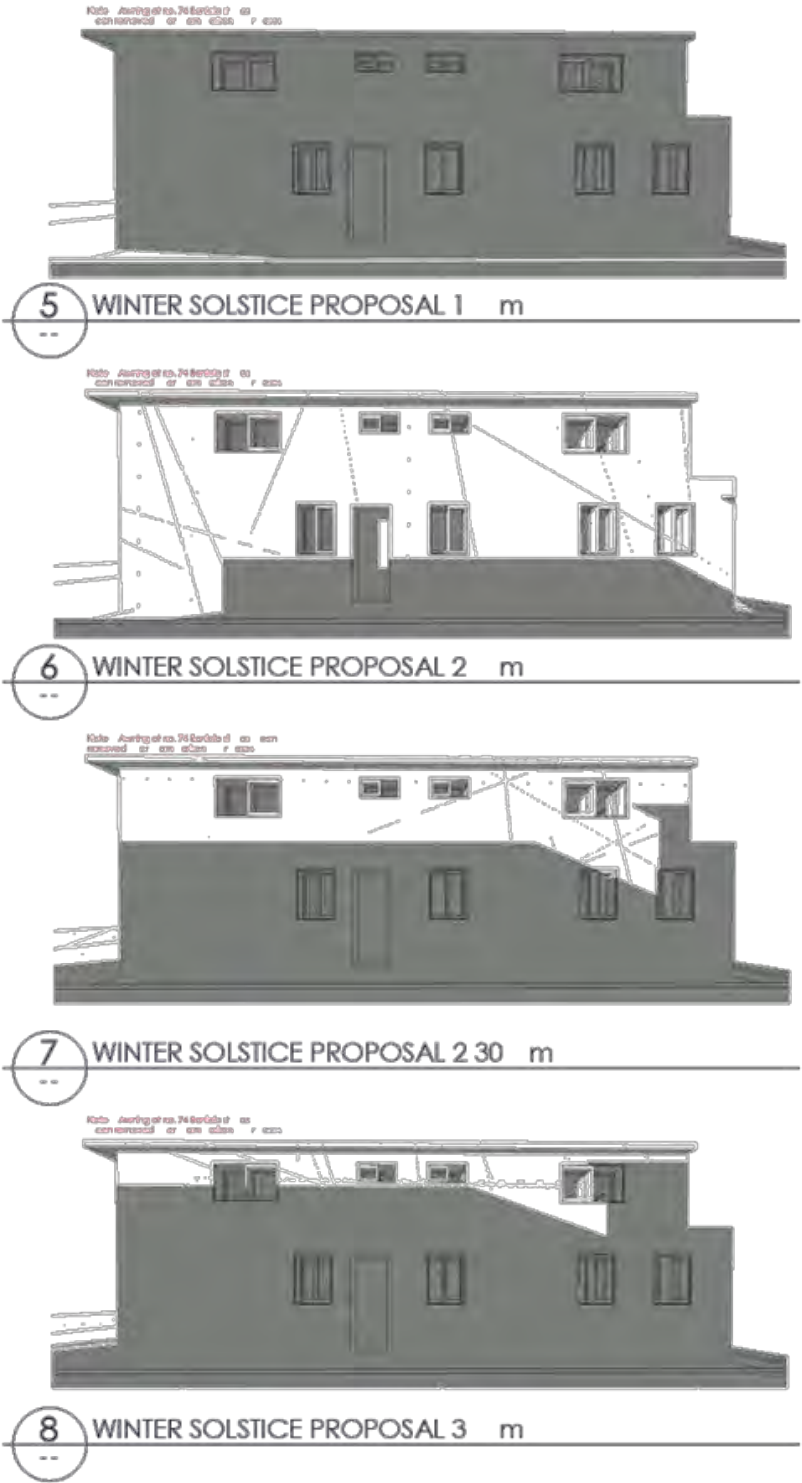
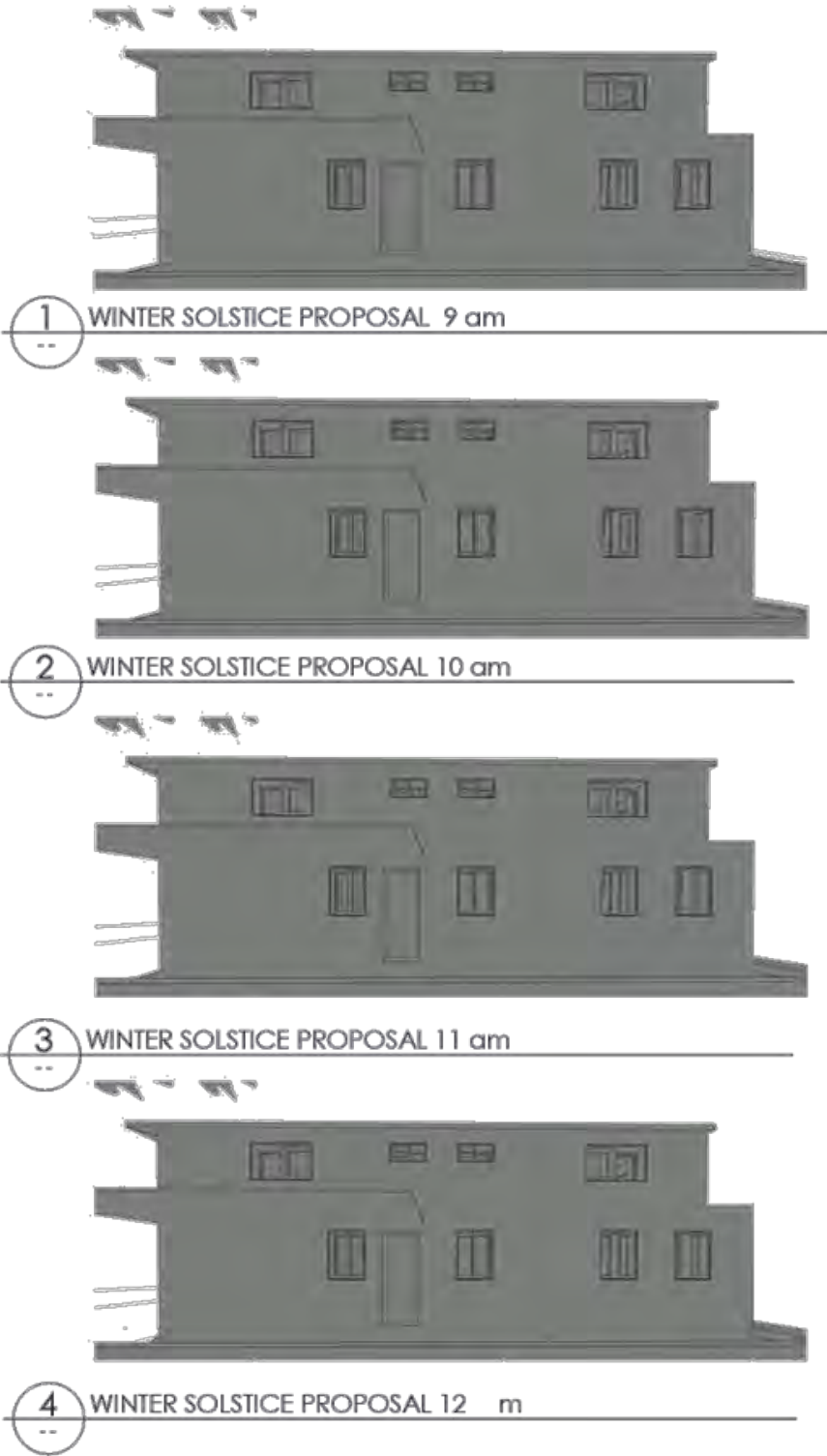
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|------------------|-------|------------|------------|
| TO               | FROM  | BY         | DATE       |
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| 11               | 11:00 | 10/07/2019 | 10/07/2019 |
| 12               | 12:00 | 10/07/2019 | 10/07/2019 |
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| 17               | 17:00 | 10/07/2019 | 10/07/2019 |
| 18               | 18:00 | 10/07/2019 | 10/07/2019 |

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| DRAWING NUMBER | REVISION |
|----------------|----------|
| DA - 09.30     | 10       |

DEVELOPMENT APPLICATION





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PRO ECT NUMBER 1010 - SAN  
PRO ECT TYPE RESIDENTIAL  
PRO ECT INFO 72 Banksia St, Botany NSW 2019  
LOT Lot 29 - DP 1781

SOLAR ANALYSIS  
74 BANKSIA STREET PROPOSAL SHADOWS

| SUNSHINE HISTORY |          |     |          |
|------------------|----------|-----|----------|
| Day              | Time     | Day | Time     |
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| 2                | 10:00:00 | 11  | 10:00:00 |
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| 7                | 10:00:00 | 16  | 10:00:00 |
| 8                | 10:00:00 | 17  | 10:00:00 |
| 9                | 10:00:00 | 18  | 10:00:00 |
| 10               | 10:00:00 | 19  | 10:00:00 |
| 11               | 10:00:00 | 20  | 10:00:00 |
| 12               | 10:00:00 | 21  | 10:00:00 |
| 13               | 10:00:00 | 22  | 10:00:00 |
| 14               | 10:00:00 | 23  | 10:00:00 |
| 15               | 10:00:00 | 24  | 10:00:00 |

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SCALE AS 1 1

DRAWING NUMBER DA - 09.40  
REVISION 10



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**Bayside Local Planning Panel**

**23/07/2019**

|                     |   |
|---------------------|---|
| Item No             | 6.3   |
| Application Type    | Development Application   |
| Application No      | SF19/3611   |
| Lodgement Date      | 30/04/2019  |
| Property            | <b>5 Highgate Street, Bexley</b>  |
| Ward                | Ward 1  |
| Owner               | Killsey Pty Ltd   |
| Applicant           | Space 0.618:1 Pty Ltd   |
| Proposal            | Demolition of existing structures and construction of a two storey dwelling with basement level, secondary dwelling and garage. |
| No. of Submissions  | Seven (7)   |
| Cost of Development | \$494,000   |
| Report by           | Michael McCabe, Director City Futures   |

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**Officer Recommendation**

- 1 That the proposed variation to the building height and floor space ratio prescribed by cl 4.3 Height of Buildings and cl 4.4 Floor Space Ratio of the Rockdale Local Environmental Plan 2011, NOT BE SUPPORTED as the applicant's request has not adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would not be in the public interest because it is not consistent with the objectives of that particular standard and the objectives for development within the zone.
  - 2 That development application DA-2019/141 for the demolition of existing structures and construction of a two storey dwelling with basement level, secondary dwelling and garage at 5 Highgate Street, Bexley be **REFUSED** pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
    1. Pursuant to the provisions of Section 4.15(1)(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.
    2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with SEPP (Affordable Rental Housing) 2009 with respect to the maximum gross floor area and floor space ratio allowable.
    3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 of the Rockdale Local Environmental Plan 2011 with respect to height of buildings.
-

4. 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 4.4 of the Rockdale Local Environmental Plan 2011 with respect to floor space ratio.
  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 Clause 6.6 and Clause 6.7 of the Rockdale Local Environmental Plan 2011 with respect to stormwater management and flood planning.
  6. 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 Rockdale Development Control Plan 2011 with respect to the following:
    - a Part 4.1.3 - Water Management
    - b Part 4.2 - Streetscape and Site Context
    - c Part 4.4.2 - Solar Access
    - d Part 4.4.5 - Visual Privacy
    - e Part 4.6 - Car Park Location and Design
    - f Part 5.1 - Building Design
  7. 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.
  8. 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, and height, and would adversely impact upon the amenity of the locality.
  9. 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.
  10. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
- 3 That the submitters be notified of the Panel's decision.
-



The map shows a grid of streets and numbered plots. Highgate Street runs horizontally across the top. Kingsland Road runs diagonally from the top right towards the bottom right. Godwin Street runs diagonally from the top right towards the bottom right. Medway Street runs vertically on the left. Abercorn Street runs horizontally across the bottom. A red rectangle highlights a plot of land labeled '5' on Highgate Street, between Medway Street and Kingsland Road. The plot is shaded with diagonal lines. Other plots are numbered, including 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43, 45, 47, 49, 51, 53, 55, 57, 59, 61, 63, 65, 67, 69, 71, 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, 99, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 471, 473, 475, 477, 479, 481, 483, 485, 487, 489, 491, 493, 495, 497, 499, 501, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559, 561, 563, 565, 567, 569, 571, 573, 575, 577, 579, 581, 583, 585, 587, 589, 591, 593, 595, 597, 599, 601, 603, 605, 607, 609, 611, 613, 615, 617, 619, 621, 623, 625, 627, 629, 631, 633, 635, 637, 639, 641, 643, 645, 647, 649, 651, 653, 655, 657, 659, 661, 663, 665, 667, 669, 671, 673, 675, 677, 679, 681, 683, 685, 687, 689, 691, 693, 695, 697, 699, 701, 703, 705, 707, 709, 711, 713, 715, 717, 719, 721, 723, 725, 727, 729, 731, 733, 735, 737, 739, 741, 743, 745, 747, 749, 751, 753, 755, 757, 759, 761, 763, 765, 767, 769, 771, 773, 775, 777, 779, 781, 783, 785, 787, 789, 791, 793, 795, 797, 799, 801, 803, 805, 807, 809, 811, 813, 815, 817, 819, 821, 823, 825, 827, 829, 831, 833, 835, 837, 839, 841, 843, 845, 847, 849, 851, 853, 855, 857, 859, 861, 863, 865, 867, 869, 871, 873, 875, 877, 879, 881, 883, 885, 887, 889, 891, 893, 895, 897, 899, 901, 903, 905, 907, 909, 911, 913, 915, 917, 919, 921, 923, 925, 927, 929, 931, 933, 935, 937, 939, 941, 943, 945, 947, 949, 951, 953, 955, 957, 959, 961, 963, 965, 967, 969, 971, 973, 975, 977, 979, 981, 983, 985, 987, 989, 991, 993, 995, 997, 999, 1001, 1003, 1005, 1007, 1009, 1011, 1013, 1015, 1017, 1019, 1021, 1023, 1025, 1027, 1029, 1031, 1033, 1035, 1037, 1039, 1041, 1043, 1045, 1047, 1049, 1051, 1053, 1055, 1057, 1059, 1061, 1063, 1065, 1067, 1069, 1071, 1073, 1075, 1077, 1079, 1081, 1083, 1085, 1087, 1089, 1091, 1093, 1095, 1097, 1099, 1101, 1103, 1105, 1107, 1109, 1111, 1113, 1115, 1117, 1119, 1121, 1123, 1125, 1127, 1129, 1131, 1133, 1135, 1137, 1139, 1141, 1143, 1145, 1147, 1149, 1151, 1153, 1155, 1157, 1159, 1161, 1163, 1165, 1167, 1169, 1171, 1173, 1175, 1177, 1179, 1181, 1183, 1185, 1187, 1189, 1191, 1193, 1195, 1197, 1199, 1201, 1203, 1205, 1207, 1209, 1211, 1213, 1215, 1217, 1219, 1221, 1223, 1225, 1227, 1229, 1231, 1233, 1235, 1237, 1239, 1241, 1243, 1245, 1247, 1249, 1251, 1253, 1255, 1257, 1259, 1261, 1263, 1265, 1267, 1269, 1271, 1273, 1275, 1277, 1279, 1281, 1283, 1285, 1287, 1289, 1291, 1293, 1295, 1297, 1299, 1301, 1303, 1305, 1307, 1309, 1311, 1313, 1315, 1317, 1319, 1321, 1323, 1325, 1327, 1329, 1331, 1333, 1335, 1337, 1339, 1341, 1343, 1345, 1347, 1349, 1351, 1353, 1355, 1357, 1359, 1361, 1363, 1365, 1367, 1369, 1371, 1373, 1375, 1377, 1379, 1381, 1383, 1385, 1387, 1389, 1391, 1393, 1395, 1397, 1399, 1401, 1403, 1405, 1407, 1409, 1411, 1413, 1415, 1417, 1419, 1421, 1423, 1425, 1427, 1429, 1431, 1433, 1435, 1437, 1439, 1441, 1443, 1445, 1447, 1449, 1451, 1453, 1455, 1457, 1459, 1461, 1463, 1465, 1467, 1469, 1471, 1473, 1475, 1477, 1479, 1481, 1483, 1485, 1487, 1489, 1491, 1

- 1 Planning Assessment Report [↓](#)
- 2 Proposed Site Plan [↓](#)
- 3 Proposed Elevations [↓](#)
- 4 Shadow Diagrams [↓](#)
- 5 Statement of Environmental Effects [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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|                            |  |
|----------------------------|--|
| <b>Application Number:</b> | DA-2019/141  |
| <b>Date of Receipt:</b>    | 30 April 2019  |
| <b>Property:</b>           | 5 Highgate Street, BEXLEY (Lot 19 DP 1594)   |
| <b>Owner:</b>              | Killsey Pty Ltd  |
| <b>Applicant:</b>          | Space 0.618:1 Pty Ltd  |
| <b>Proposal:</b>           | Demolition of existing structures and construction of a two storey dwelling with basement level, secondary dwelling and garage |
| <b>Recommendation:</b>     | Refused  |
| <b>No. of submissions:</b> | SEVEN (7)  |
| <b>Author:</b>             | Ana Trifunovska  |
| <b>Date of Report:</b>     | 24 June 2019   |

### Key Issues

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Bayside Council received the subject Development Application on 30 April 2019 seeking approval for the demolition of existing structures and construction of a two storey dwelling with basement level, secondary dwelling and garage at 5 Highgate Street, Bexley.

The application was placed on public notification in accordance with the requirements of RDCP2011, for a period of fourteen (14) days from 6 May 2019 to 22 May 2019. Seven (7) submissions were received raising a number of concerns including building bulk, setbacks, streetscape character, and visual privacy. The issues raised have been expanded upon in this report.

The design is not in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, therefore amended plans were requested on the 28 May 2019. No response was received from the applicant, therefore a 7-day reminder letter was sent on the 12 June 2019. The information requested was not provided, therefore the original proposal and provided information has been assessed.

The key issues in the assessment of the proposal included the following:

- Non-compliant floor space ratio and building height and no submission of a Clause 4.6 Variation Statement justifying the development standard contraventions;
- Poor relation to the existing streetscape and the amenity of adjoining dwellings due to excessive bulk and scale of the development;
- Visual privacy impacts and setback non-compliances regarding the primary dwelling's rooftop terrace;
- Non-compliance with the setback requirements; and

- Insufficient information regarding cost of works, owner's/applicant's declaration of relationship to Council, and stormwater management.

The proposed development has been assessed in accordance with the requirements of the *Environmental Planning and Assessment Act 1979 (EPA Act)*.

## Recommendation

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That the proposed variation to the building height and floor space ratio prescribed by cl 4.3 Height of Buildings and cl 4.4 Floor Space Ratio of the Rockdale Local Environmental Plan 2011, NOT BE SUPPORTED as the applicant's request has not adequately addressed the matters required to be demonstrated by cl 4.6 of that Plan, and the proposed development would not be in the public interest because it is not consistent with the objectives of that particular standard and the objectives for development within the zone.

That development application DA-2019/141 for the demolition of existing structures and construction of a two storey dwelling with basement level, secondary dwelling and garage at 5 Highgate Street, Bexley be REFUSED pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:

1. Pursuant to the provisions of Section 4.15(1)(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.
2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with SEPP (Affordable Rental Housing) 2009 with respect to the maximum gross floor area and floor space ratio allowable.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 of the Rockdale Local Environmental Plan 2011 with respect to height of buildings.
4. 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 4.4 of the Rockdale Local Environmental Plan 2011 with respect to floor space ratio.
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 Clause 6.6 and Clause 6.7 of the Rockdale Local Environmental Plan 2011 with respect to stormwater management and flood planning.
6. 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 Rockdale Development Control Plan 2011 with respect to the following:
  - a) Part 4.1.3 - Water Management
  - b) Part 4.2 - Streetscape and Site Context
  - c) Part 4.4.2 - Solar Access
  - d) Part 4.4.5 - Visual Privacy
  - e) Part 4.6 - Car Park Location and Design

f) Part 5.1 - Building Design

7. 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.
8. 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, and height, and would adversely impact upon the amenity of the locality.
9. 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.
10. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

That the submitters be notified of the Panel's decision.

## Background

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### History

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

### Proposal

Council is in receipt of a development application DA2019/141 at 5 Highgate Street, Bexley, which seeks consent to carry out the demolition of the existing structures on site and the construction of a two storey dwelling with basement level, secondary dwelling and garage. Specifically, the proposal consists of:

#### Basement Floor

- Basement with access from the ground floor level.

#### Ground Floor

- Front facing study;
- Front facing lounge;
- Dining room;
- Rear facing open plan family room and kitchen;
- Bathroom; and
- Laundry.

#### First Floor

- Front facing Bedroom 2 with balcony;
- Front facing Bedroom 4 with ensuite and balcony;
- Bedroom 3;
- Rear facing Master Bedroom with ensuite; and
- Bathroom.

**Secondary Dwelling & Garage**

- Open plan lounge and kitchen;
- Bedroom 1;
- Bedroom 2;
- Bathroom; and
- Garage to accommodate two (2) off-street car parking spaces and a boat.

**Site location and context**

The subject site is known as Lot 19 DP 1594, 5 Highgate Street Bexley. The site is a rectangular shape with front and rear boundary widths of 15.24 metres. The side boundaries are 40m deep. The total site area is 610.8 sq.m. The topography of the site is such that it slopes from the rear towards the north-western corner as much as 1.57m.

The subject site contains a one storey weatherboard clad dwelling with tiled roof, a detached awning and a metal shed. The site is located on the southern side of Highgate Street between Kingsland Road South to the east and Medway Street to the west. There is one street tree located within the public domain forward of the subject site. Adjoining development to the sides includes a one storey clad cottage with tiled roof to the east (3 Highgate Street) and a one storey brick dwelling with tiled roof to the west (7 Highgate Street). A two storey brick gospel hall building is situated on the rear property. There is a mix of one storey and two storey residential buildings within close proximity to the subject property.

**Statutory Considerations**

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***Environmental Planning and Assessment Act, 1979***

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

**S4.15 (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**

The proposal is subject to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. An assessment of the proposal against the ARHSEPP has been carried out as follows:

In accordance with Part 2, Division 2, Clause 22 of the SEPP:

*(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.*

The proposed development will not result in any dwelling other than the principal dwelling and the secondary dwelling.

*(3) A consent authority must not consent to development to which this Division applies unless:*



*(a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*

The Gross floor area of the principal dwelling and secondary dwelling has been calculated as 445 sqm over a site area of 610.8 sqm. In this regard, the proposed floor space ratio (FSR) for the building is 0.73:1 and therefore exceeds the maximum FSR for the land (0.5:1). The proposal is not supported as the development will have an area more than the maximum floor area permitted by Clause 4.4 in Rockdale Local Environmental Plan 2011.

*(b) the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.*

The total floor area of the proposed secondary dwelling is 60 sq.m.

*(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:*

*(a) site area*

*if:*

- (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or*
- (ii) the site area is at least 450 square metres,*

The site area is 610.8 sq.m and the proposed secondary dwelling will be detached from the principal dwelling.

*(b) parking*

*if no additional parking is to be provided on the site.*

Provision for the required two (2) car parking spaces on-site has been proposed within the garage attached to the secondary dwelling.

*(5) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).*

The proposed development is considered acceptable with regards to this clause however will not comply with subclause (3) and therefore is not supported.

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

The applicant has submitted a BASIX Certificate for both the proposed primary and secondary dwellings.

The Certificate number for the primary dwelling is 983118S\_03.

The commitments made result in the following reductions in energy and water consumption:

*Reduction in Energy Consumption 59%*

*Reduction in Water Consumption 46%*

*Thermal Comfort Pass*

The Certificate number for the secondary dwelling is 983146S\_03.

The commitments made result in the following reductions in energy and water consumption:

*Reduction in Energy Consumption 52%*

*Reduction in Water Consumption 42%*

*Thermal Comfort Pass*

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

The provisions of SEPP 55 have been considered in the assessment of the development application. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

- The site appears to have been continuously used for residential purposes;
- 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.

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

| Relevant clauses                          | Compliance with objectives | Compliance with standard/provision |
|---|----------------------------|------------------------------------|
| 2.3 Zone R2 Low Density Residential       | Yes                        | Yes - see discussion               |
| 2.7 Demolition requires consent           | Yes                        | Yes - see discussion               |
| 4.3 Height of buildings                   | No - see discussion        | No - see discussion                |
| 4.4 Floor space ratio - Residential zones | No - see discussion        | No - see discussion                |
| 4.6 Exceptions to development standards   | No - see discussion        | No - see discussion                |
| 5.4 (9) Secondary dwellings               | Yes                        | Yes - see discussion               |
| 6.1 Acid Sulfate Soil - Class 5           | Yes                        | Yes - see discussion               |
| 6.2 Earthworks                            | Yes                        | Yes - see discussion               |
| 6.4 Airspace operations                   | No - see discussion        | Yes - see discussion               |
| 6.6 Flood planning                        | No - see discussion        | No - see discussion                |
| 6.7 Stormwater                            | No - see discussion        | No - see discussion                |
| 6.12 Essential services                   | Yes                        | Yes                                |

#### **2.3 Zone R2 Low Density Residential**

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a dwelling house, secondary dwelling and garage which constitute permissible development only with development consent. The objectives of the zone are:

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

residents.

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

#### 2.7 Demolition requires consent

The proposed development seeks consent for the demolition of all existing structures on site and hence satisfies the provisions of this Clause.

#### 4.3 Height of buildings

The maximum permissible height of building in accordance with this Clause is 8.5 metres, as measured from NGL.

The proposed development seeks an overall height of 8.8 metres which does not comply with the numerical provisions of this Clause. A Clause 4.6 Variation Statement has not been provided with the application, therefore the variation of the development standard cannot be assessed or accepted given there is insufficient information to justify the contravention.

The proposed building height of the development in its current form will not maintain an appropriate transition in built form and land use intensity. Accordingly, the proposed height does not satisfy the objectives and requirements of this Clause.

#### 4.4 Floor space ratio - Residential zones

The proposed development does not comply with clause 4.4(2) in RLEP 2011, which restricts the floor space ratio (FSR) to 0.5:1 in a R2 Low Density Residential Zone. The proposed development will result in an overall FSR of 0.73:1. The breakdown of gross floor area (GFA) calculations is as follows:

*Basement GFA: 82.8 sqm (area that extends more than 1m above NGL)*

*Ground Floor GFA: 128 sqm (including stair)*

*First Floor GFA: 120.7sqm (excluding stair)*

*Secondary Dwelling GFA: 60 sqm*

*Garage GFA: 53.5 sqm (area that exceeds the 2 car parking spaces required by the consent authority)*

**Total GFA: 445 sqm**

**Proposed FSR: 0.73:1**

The applicant has not submitted a Clause 4.6 Variation Statement to vary the Clause 4.4 FSR development standard, therefore there is insufficient information to justify the contravention. Approval of the proposal would create an undesirable precedent and is not in the public interest. Further, it is considered that the proposed FSR contravenes the objectives of Clause 4.4 as it will create an inappropriate visual relationship in the street in terms of bulk and scale, and will therefore adversely impact upon the use and enjoyment of adjoining properties. As such, the proposed variation is not supported.

#### 4.6 Exceptions to development standards

The Floor Space Ratio and Building Height of the proposed development do not comply with the requirements of Clauses 4.3 and 4.4 of RLEP2011. The proposed development will result in a 46% variation from the FSR development standard and a 3.5% variation from the Building Height development standard.

A Clause 4.6 Variation Statement has not been provided with the application, therefore there is insufficient information to justify the contravention from both development standards.

It has not been demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient planning grounds to justify contravening the development standard.

The applicant has not adequately addressed any of the matters required in subclause (3) and has not illustrated that the development will be in the public interest because it is consistent with the objectives of the Floor Space Ratio and Building Height standards and the objectives for development within the R2 Low Density Residential Zone, in which it is situated.

The proposal does not comply with the objectives of this Clause as it results in an over-development of the site and encourages a poor development outcome within the context of the site. Therefore, the proposed development and deviation from the development standards is not supported.

#### 5.4 (9) Secondary dwellings

The proposed secondary dwelling has a GFA of 60 sqm which does not exceed the maximum allowable area as stipulated in Clause 5.4 (9).

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

#### 6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement level. The impacts of the proposed earthworks have been considered in the assessment of this proposal.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51 metres to Australian Height Datum (AHD). The proposed building height is at 41.588 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

Note that the building height of the proposed development does not comply with Clause 4.3 Height of Buildings or Clause 4.6 Exceptions to development standards, and is therefore not supported.

#### 6.6 Flood planning

The subject site is not shown as a flood affected area on the Flood Planning Map. However, the site is flood affected under the Bardwell Creek Flood Study Review 2019, therefore the proposal was referred to Council's Floodplain Engineer for comment.

The flood levels from the current flood study are as follows:

1% AEP flood level = up to 500mm above ground level (over the pipe alignment)

PMF flood level = up to 1.45m above ground level (over the pipe alignment)

1% AEP velocity = up to 1.5m/sec

Risk Category: High Hazard (H1 to H3)

The current 1D model is not acceptable as it is being compared to the previous flood study which is now superseded. A 2D model is required to demonstrate pre and post development scenarios.

The proposed footprint of the secondary dwelling is also located in the cut/fill platform. The additional building footprint in the flood affected area is required to be designed with a suspended/flow through structure. No filling is to be permitted on site.

As the information requested by Council's Development Engineer in regards to stormwater has not been provided and as the above information has not been incorporated in the design, there is insufficient information for Council to complete an accurate assessment of the proposal. The proposal is unacceptable in its current state and is therefore not supported.

#### **6.7 Stormwater**

The proposal was referred to Council's Development Engineer for comment. Insufficient information was provided at the initial stages of the application, and further information was requested including the following:

- A soft copy of the HEC-RAS files.
- A longitudinal surface profile for the proposed driveway.
- An amended flood report acknowledging the type of driveway proposed within the overland flow path/easement area. Also note that in accordance with Council's flood advice letter, no filling is permitted onsite.
- First flush and water harvesting details as there are discrepancies between the BASIX Certificates and the Stormwater concept drawings.
- An engineering certificate for the stormwater concept design.
- Drainage details that show how discharge of all roof and surface runoff will be managed.
- A hydrological report as on-site detention is required for the whole site.
- Amended drawings showing drainage grates provided at the boundary.

The requested information was not provided, therefore there is insufficient information for Council to provide an accurate assessment and the proposed development is not supported.

#### **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:

| <b>Relevant clauses</b> | <b>Compliance with objectives</b> | <b>Compliance with standard/provision</b> |
|-------------------------|-----------------------------------|---|
| 4.1.1 Views and Vista   | Yes                               | Yes - see discussion                      |
| 4.1.3 Water Management  | No - see discussion               | No - see discussion                       |
| 4.1.4 Soil Management   | Yes                               | Yes - see discussion                      |
| 4.1.7 Tree Preservation | Yes                               | Yes - see discussion                      |



| Relevant clauses   | Compliance with objectives | Compliance with standard/provision |
|--|----------------------------|------------------------------------|
| 4.1.9 Lot size and Site Consolidation - Dwelling                       | Yes                        | Yes                                |
| 4.2 Streetscape and Site Context - General                             | No - see discussion        | No - see discussion                |
| 4.3.1 Open Space & Landscape Design - Low & medium density residential | Yes                        | Yes - see discussion               |
| 4.3.2 Private Open Space - Low density residential                     | Yes                        | Yes - see discussion               |
| 4.3.2 Private Open Space - Secondary Dwelling                          | Yes                        | Yes                                |
| 4.4.1 Energy Efficiency - Residential                                  | Yes                        | Yes - see discussion               |
| 4.4.2 Solar Access - Low and medium density residential                | No - see discussion        | No - see discussion                |
| 4.4.3 Natural Lighting and Ventilation - Residential                   | Yes                        | Yes - see discussion               |
| 4.4.4 Glazing - General Controls                                       | Yes                        | Yes                                |
| 4.4.5 Visual privacy   | No - see discussion        | No - see discussion                |
| 4.4.5 Acoustic privacy   | Yes                        | Yes                                |
| 4.6 Parking Rates - Dwelling House                                     | Yes                        | Yes - see discussion               |
| 4.6 Car Park Location and Design                                       | No - see discussion        | No - see discussion                |
| 4.6 Driveway Widths  | Yes                        | Yes - 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               |
| 5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings | Yes                        | Yes - see discussion               |
| 5.1 Building Design - General  | No - see discussion        | No - see discussion                |

#### 4.1.1 Views and Vista

There is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents.

#### 4.1.3 Water Management

The stormwater system proposed is not supported by Council's Development Engineer as insufficient information has been provided to enable an accurate assessment of the development.

#### 4.1.4 Soil Management

The 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 minimised.

#### 4.1.7 Tree Preservation

The proposal was referred to Council's Tree Management Officer and the following SEPP, DCP, Codes and Policies are considered relevant to the proposed development:

- SEPP (Vegetation in Non-Rural Areas) 2017
- DCP 4.1.7 - Tree Preservation

All existing trees on site are to be removed. The concept landscape plan does not depict any replacement trees.

#### 4.2 Streetscape and Site Context - General

The proposal is located in a R2 Low Density Residential Zone. The immediate context is relatively low

scale consisting of predominately single and double storey dwellings. The proposed two storey dwelling, secondary dwelling, and garage are not consistent with the desired and future character of the area in terms of height, bulk and scale, and are not considered to be appropriate in this context.

The proposed built form on site does not comply with the required height and FSR requirements as stipulated in RLEP2011.

RDCP2011 requires building design to incorporate materials, roof pitch, and architectural features and styles that have regard for surrounding buildings to ensure a cohesive streetscape. The overall design of the proposal, including the detached secondary dwelling and garage, is not in line with the dominant patterns and compositions of the street and does not reflect the existing or desired future streetscape character of Highgate Street. The design is considered to be excessive in bulk and scale and would therefore impact upon the spatial characteristics and legibility of the existing urban environment.

The building does not present well to the adjoining development as the western garage wall presents a 16.5 metre long blank wall on the boundary.

The proposed development will have a front door and lounge room windows addressing the street. However, due to the non-compliances with FSR, building height, and setbacks, the design presents as an imposing and obtrusive agglomeration of chunky buildings that do not appropriately correspond with the lower density, established housing stock that is apparent along the street.

The proposed development does not reflect the objectives of the streetscape character and site context clause in the RDCP2011 and therefore is not supported.

#### 4.3.1 Open Space & Landscape Design - Low & medium density residential

RDCP2011 requires dwelling house developments to allocate a minimum of 25% of the site area, towards landscaped area. The proposed development provides 172.2 sqm of landscaped area on site, which is 28% of the site area and complies with the minimum requirement.

#### 4.3.2 Private Open Space - Low density residential

RDCP2011 states that dwelling houses with a GFA greater than 125 sqm and secondary dwelling are to provide a minimum of 80 sqm of private open space with a minimum width of 3m. The proposal provides 103.6 sqm of shared private open space which complies with the minimum requirement.

#### 4.4.1 Energy Efficiency - Residential

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

The commitments made result in reductions in energy and water consumption, and will achieve the efficiency target set under SEPP BASIX.

#### 4.4.2 Solar Access - Low and medium density residential

RDCP2011 states that the minimum amount of direct solar access that should be received by the subject dwelling and adjoining properties shall not be less than 3 hours between 9am and 3pm on the 21 June. The same is stated for 50% of the subject site's and adjoining site's private open space areas. Furthermore, buildings must be sited to reduce overshadowing on adjoining properties by increasing setbacks, varying the roof form and reducing the building bulk and height.

The subject allotment is north-south orientated with north being the front of the property and south being the rear of the property. Shadow diagrams have been submitted which demonstrate that the proposal

will not comply with the solar access requirements.

***Impact upon 3 Highgate Street***

Most of the bulk of the primary building is orientated towards the eastern side of the lot adjoining 3 Highgate Street. There is a metal garage located closest to the subject site, therefore the impact upon the windows within the adjoining dwelling (which are set further into the lot) will only be affected in the afternoon, after approximately 1pm. Given the southern orientation of the private open space, the rear yard will be completely overshadowed by itself, the proposed dwelling and/or the secondary dwelling/garage during all times of the day, except for the morning, from approx. 9am-10am.

***Impact upon 7 Highgate Street***

Most of the bulk of the proposed garage and secondary dwelling is orientated towards the western side of the lot adjoining 7 Highgate Street. The dwelling at 7 Highgate Street is setback deep into the lot with a number of windows located on its eastern facade. The adjoining property's eastern facade will be overshadowed by the proposed development from approx. 9am to 10am. Following midday, the property will begin to overshadow upon itself. Therefore, the adjoining windows will not be able to achieve the minimum of 3 hours of direct sunlight on 21 June. Furthermore, the private open space of the adjoining dwelling will only be able to achieve the minimum requirement of sunlight to 50% of its rear private open space during select hours after midday. It will be completely overshadowed by the garage development in the morning from approximately 9am to 10am and will overshadow upon itself following 10am.

The development has not sought to minimise the adverse impact on the adjoining properties, particularly their private open spaces. The development has exceeded the development standards for FSR and building height, resulting in a bulky and tall building that not only impacts upon the adjoining dwellings but also on the private open space of the subject site, which will be overshadowed during all times of the day. The development also does not comply with the minimum setback requirements (as discussed in part 5.1 below) and incorporates a flat roof, all elements that further add bulk to the scale of the development.

Therefore, the development, which seeks to vary from the minimum standards of RDCP 2011, has failed to demonstrate that it is not possible to meet the solar access requirements and is not compliant or supported.

**4.4.3 Natural Lighting and Ventilation - Residential**

The proposed development is designed to achieve natural ventilation and lighting, incorporating minimum ceiling heights of 2.7m to the ground and first floors.

**4.4.5 Visual privacy**

The proposed development has not been designed and sited to minimise the overlooking of adjoining properties. Given the curve of the western facade, there are a large number of windows located on the first floor, that are facing directly towards the windows and rear yard of the adjoining property at 7 Highgate Street. No privacy measures have been incorporated to preclude the overlooking impacts.

Furthermore, the use of the roof remains unknown. It is assumed that the roof area will be utilised as a rooftop terrace considering the provision of rooftop planters and stair access from the first floor. The usable area of the rooftop exceeds the maximum allowable (24sqm), has not been setback at least 1.5m from the edge of the building, and internal stair access has not been provided from within the building. The area is non-compliant with all controls regarding recreational rooftop areas.

Therefore, taking the above into consideration, the proposed building will not ensure that visual privacy is maintained for occupants and neighbour, is not compliant with the requirements of this control, and is not supported.

#### 4.6 Parking Rates - Dwelling House

The provision of 2 off-street car spaces within the proposed garage is in accordance with RDCP 2011.

#### 4.6 Car Park Location and Design

The proposed garage structure is considered to be excessive and will visually dominate the development and the amenity of the adjoining property at 7 Highgate Street. The garage has not been treated as an integrated element of the building design and is therefore not supported.

#### 4.6 Driveway Widths

The proposed driveway width complies with Council's Technical Specifications and hence satisfies the provisions of this Clause.

#### 4.7 Air Conditioning and Communication Structures

The plans do not depict the location of proposed residential air conditioning units on site.

#### 4.7 Waste Storage and Recycling Facilities

The applicant has provided a Waste Management Plan regarding construction waste and on-going management of waste facilities on site.

#### 5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings

The proposed setbacks are as follows:

| DCP2011  | PROPOSED   | COMPLIES?        |
|--|--|------------------|
| Front setback consistent with street               | Consistent with the street                       | Yes              |
| Basement side setbacks                             | East - 0.9m<br>West - 4.3m                       | Yes<br>Yes       |
| Ground floor side setback 900mm                    | East - 0.9m<br>West - 4.3m                       | Yes<br>Yes       |
| First floor side setback – 1.2m                    | <b>East - 0.9m</b><br>West - 4.3m                | <b>No</b><br>Yes |
| Secondary Dwelling/Outbuilding side setback - 0.9m | Secondary Dwelling - 0.9m<br><b>Garage - Nil</b> | Yes<br><b>No</b> |
| Rear setback ground – 0.9m                         | 2.66m  | Yes              |

A 1.2m side setback is required for the first floor of dwellings located on lots with frontages of more than 15m. The subject site has a frontage of 15.24m and is therefore required to adhere to this requirement. The proposal, however, provides a 0.9m distance from the first floor to the eastern side boundary which is not compliant with the control. The proposed detached garage is also located on the boundary for a length of 16.5 metres which is unacceptable in regards to fire safety and the amenity of the adjoining lot at 7 Highgate Street.

The proposal will cause unreasonable impact upon the adjoining dwellings and the streetscape in terms

of bulk, scale, reduced solar access, and reduced amenity. Given the width of the lot, the bulky, sprawled nature of the design will negatively impose on the existing and future desired neighbourhood character of the street.

Therefore, the proposed setbacks are not considered to be consistent with the objectives of this control and are not supported in this circumstance.

#### **5.1 Building Design - General**

The building design and architectural style of the proposed development does not interpret or respond to the positive character of the locality, as has been discussed in the streetscape presentation section of this report, above. It is understood that the site constraints of the lot, including the large easement traversing the middle of the site, limit the composition of buildings on site. However, the building articulation does not take into account dominant patterns and textures in the locality, including pitched/hipped roof forms, low density configurations and massing of structures, and appropriate use of materials that correspond to neighbouring properties.

The development has not avoided large expanses of blank walls especially in terms of the garage which has a 16.5 metre long blank wall on the boundary shared with 7 Highgate Street. As discussed before, the garage has not been appropriately integrated with the overall design of the building, further detracting from the streetscape.

The development does not comply with the general building design requirements as stipulated in RDCP2011 and is therefore not supported.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - *Demolition of Structures* when demolition of a building is involved.

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

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

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. As outlined in the assessment above, the proposed development will have significant adverse environmental, social and economic impacts in the locality.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. It is considered that the site is not suitable to accommodate the development as insufficient information has been provided to enable an accurate assessment of the proposal.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and seven (7) submissions have been received. The issues raised in the submission are discussed below:

##### ***Issue 1: Building Bulk***



*Submitter's Comments:* Concerns were raised regarding the bulk and scale of the development, especially in regards to FSR, building height, floor levels, and building design, stating that the proposal is an over-development of the site. Objections have raised concern that the development is '*abnormally high*', '*boxy*', '*top heavy*', and '*too large*'. The FSR and building height of the development have been highlighted as non compliant and inconsistent with the Statement of Environmental Effects. The proposed garage area and height, and the area of the basement are also considered to be excessive. Furthermore, the proposed floor level of the secondary dwelling is considered by objectors, to be too high with no reason.

*Planner's Comment:* Council has accurately calculated the FSR and building height of the proposed development and it is confirmed that the proposal will not comply with the requirements of *Clause 4.3 Height of buildings* and *Clause 4.4 Floor Space Ratio*. The applicant has not provided a *Clause 4.6 Variation Statement* justifying the contravention, therefore the variation of the development standards is not supported. The impact of the development in terms of building bulk has also been addressed in *Part 4.2 Streetscape and Site Context*, *Part 4.4.2 Solar Access*, *Part 4.6 Car Park Location and Design*, and *Part 5.1 Building Design*. The higher floor level of the secondary dwelling is required as the site is flood affected, however the information requested regarding stormwater and flooding concerns was not provided, and therefore an accurate assessment could not be conducted. Based on the insufficient information provided and the excessive bulk and scale of the development as assessed in this report, the proposal is not supported.

#### **Issue 2: Setbacks**

*Submitter's Comments:* The deviation from the minimum requirements for setbacks in RDCP2011 was raised in regards to the nil boundary setback of the garage and the 0.9m first floor eastern side setback.

*Planner's Comment:* The impacts of the non-compliant setbacks have been addressed in *Part 5.1 Storey Height and Setbacks*. The reduced setbacks will add building bulk further impact upon the solar access and visual amenity of adjoining properties, therefore the deviation is not supported.

#### **Issue 3: Streetscape & Locality**

*Submitter's Comments:* Concerns were raised in relation to the development's disregard for the existing streetscape character and locality. It was highlighted that the development would not be sympathetic or proportionate to the surrounding locale or topography.

*Planner's Comment:* The proposed development's impacts upon streetscape character and the locality have been expanded upon in *Part 4.2 Streetscape and Site Context* and are therefore not supported.

#### **Issue 4: Visual Privacy**

*Submitter's Comments:* Concerns were raised regarding the extensive number of windows on the western elevation, the nil boundary setback of the garage and overlooking impacts from the rooftop terrace area.

*Planner's Comment:* The impacts of visual privacy have been addressed in *Part 4.4.5 Visual Privacy*. All the elements above are contrary to the objectives of the controls and therefore, are not supported.

#### **Issue 5: Cost of Works**

*Submitter's Comments:* The accuracy of the cost of works was raised as a concern.

*Planner's Comment:* Council requested an itemised quantity surveyors report to be submitted, confirming the cost of works. The additional information was not provided, therefore Council has insufficient and inaccurate information for determining the fees and charges required.

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

The proposed development is considered to be unsatisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is not in the public interest.

#### **S7.12 Fixed development consent levies**

Note that Section 7.12 of the Environmental Planning and assessment Act 1979 (as amended) applies to the proposal.

#### ***Civil Aviation Act, 1988***

The site is within an area that is subject to the Civil Aviation (Building Controls) Regulations 1988 made under the *Civil Aviation Act, 1988*.

#### **Civil Aviation (Building Control) Regulations 1988**

The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

#### **Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas**

The proposed development is affected by the 15.24 m Building Height Civil Aviation Regulations, however the proposed building height at 8.8 m will not impact upon the height requirement in these regulations.

site calculations:

site area: 610.8sqm

existing floor area:  
ground floor: 92sqm

proposed floor areas:  
basement: 120sqm  
ground floor: 120sqm (fsr)  
first floor: 125sqm (fsr)  
secondary dwelling: 60sqm (fsr)  
garage: 86sqm  
total: 305sqm (50%)

proposed site built on and paved areas:  
patio: 5sqm  
driveways: 70sqm  
paths: 10sqm

proposed landscaped areas:  
total: 180sqm (29%)

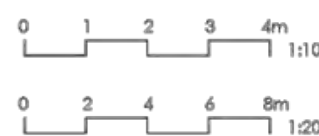
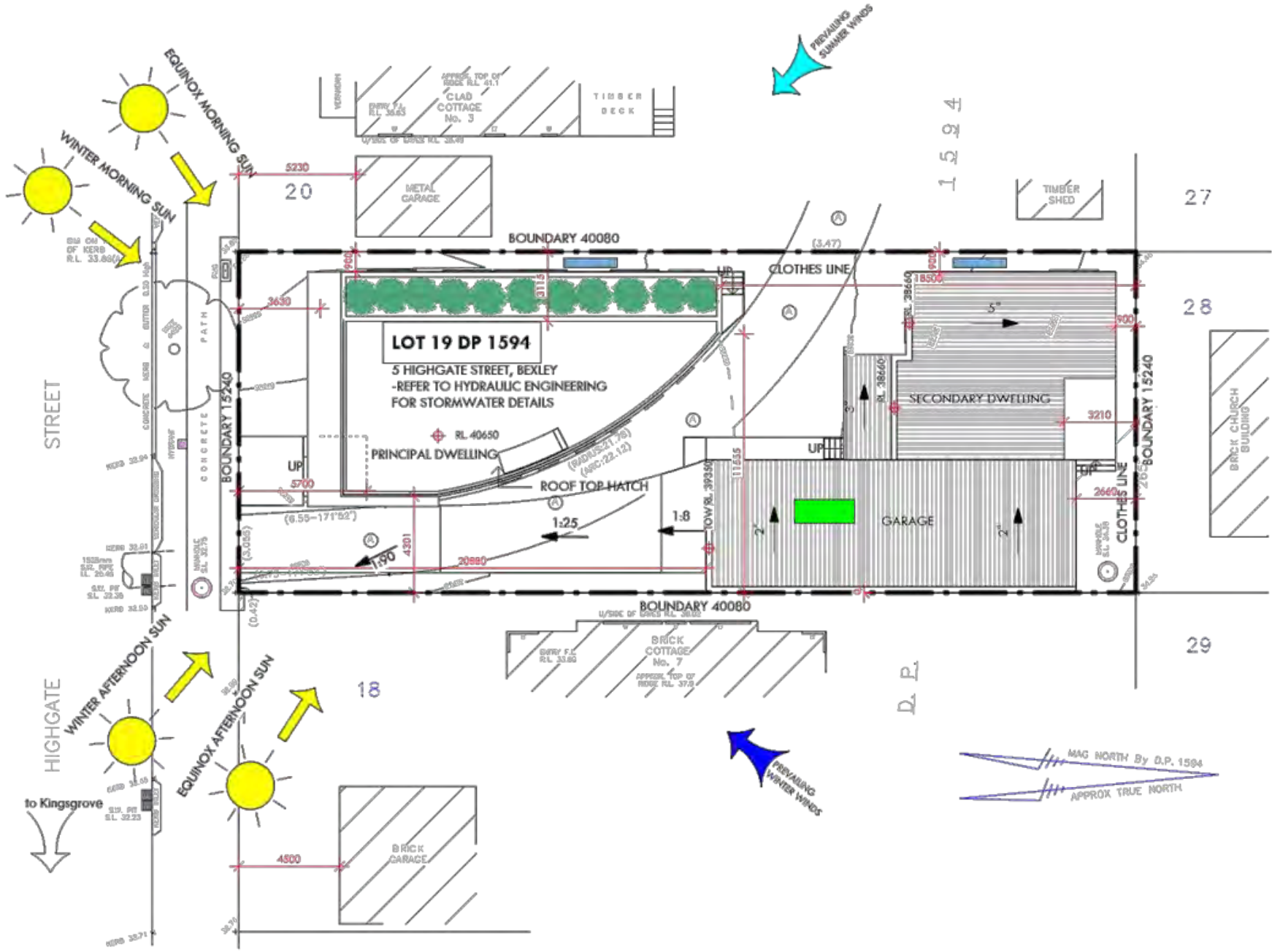
LEGEND:

|                                |
|--------------------------------|
| WATER HEATER TO BATH           |
| EXISTING STRUCTURE             |
| PLASTERBOARD                   |
| BRICKWORK IN SECTION           |
| CONCRETE ON PERMANENT FILL     |
| BRICKWORK IN SECTION           |
| DRIVE IN SECTION               |
| DRIVE IN PLAN                  |
| LANDSCAPE                      |
| LANDSCAPE                      |
| POINT ON RETAINING STRUCTURE   |
| RFC RENDERED FINE CEMENT SHIRT |
| RPS RENDERED POLYSTYRENE PANEL |
| RFB RENDERED FACE BRICK        |
| FB FACE BRICK                  |

TRANSFORMER SHED / DETECTOR  
SD

EASEMENT

RAIN 1KW PHOTOVOLTAIC  
SYSTEM AS PER BASIS



| Date | Rev |
|------|-----|
|      |     |

Amendment

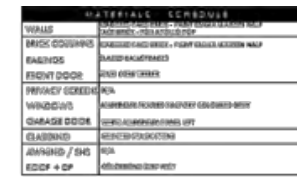
project:  
5 HIGHGATE STREET, BEXLEY

NOT FOR CONSTRUCTION

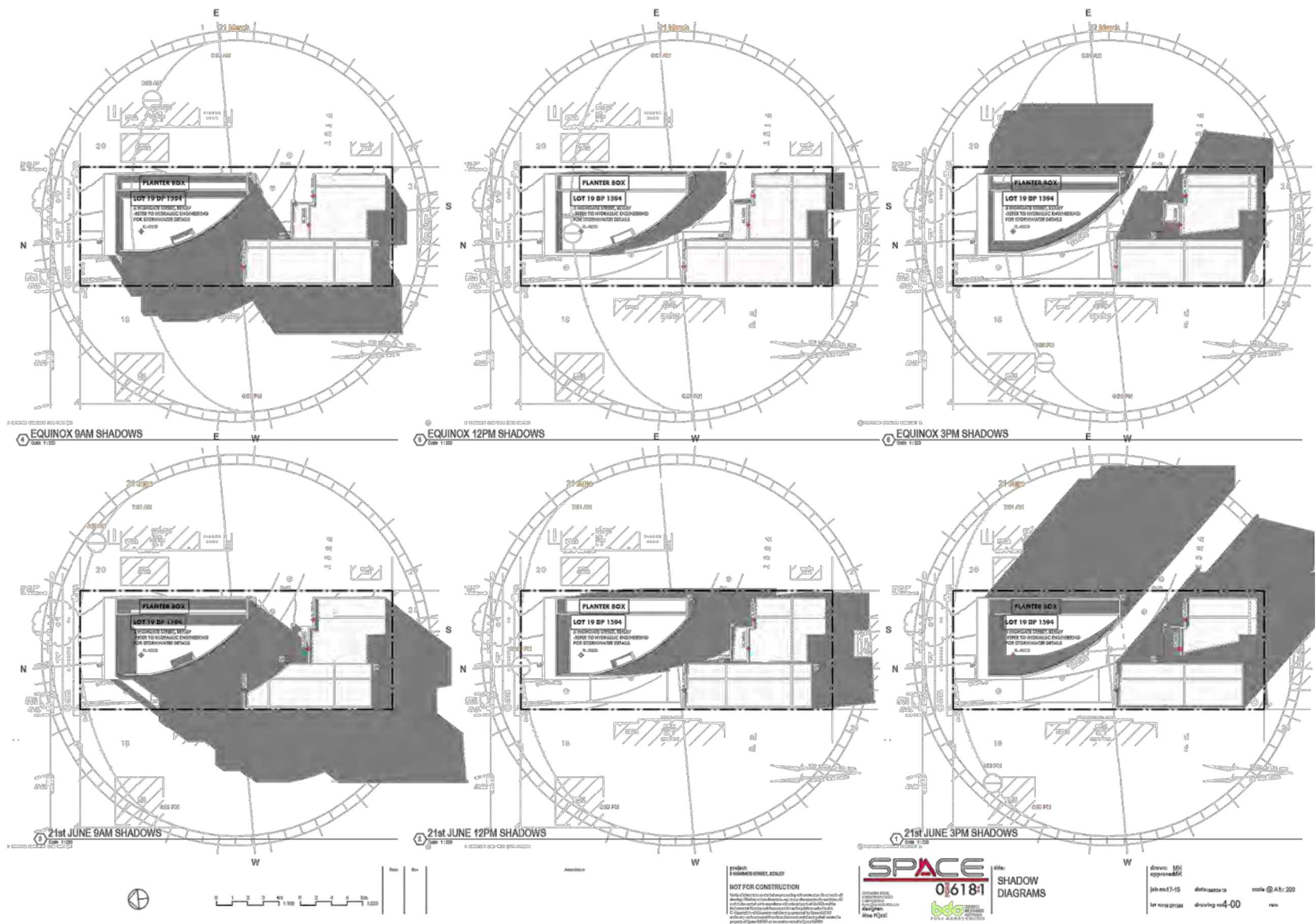
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P L C A B E R No. 1728-14

title: PROPOSED SITE & ANALYSIS  
PLAN  
Lot Number: 19 DP1594  
Job Numbers: 7-15 Stage: DA Class Type: 1A  
date: MARCH 19 scale @ A3: 1 : 200 drawing no: 1-01 rev:











**STATEMENT OF ENVIRONMENTAL EFFECTS**

**NEW TWO STOREY DWELLING WITH SECONDARY  
DWELLING AND DETACHED GARAGE**

**AT**

**No. 5 HIGHGATE STREET, BEXLEY**

Prepared by

MOE HIJAZI

163A West Botany Street  
Arncliffe NSW 2205

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5 HIGHGATE STREET, BEXLEY

**SPACE**  
06181



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5 HIGHGATE STREET, BEXLEY

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## **1.0 INTRODUCTION**

This Statement of Environmental Effects is submitted to Bayside Council in regards to a development application for the demolition of all structures on site with a proposed two storey dwelling with basement + secondary dwelling + detached garage for boat storage.

This report describes the site, locality and the proposed development proposed. It includes an assessment of the proposal in reflection to the codes stipulated in section 79C(1) of the Environmental Planning and Assessment Act 1979.

## **2.0 SITE DESCRIPTION & LOCATION**

### **2.1 The site**

**LOT NUMBER & D.P.** - LOT 19 D.P. 1594

**ADDRESS** – 5 Highgate Street, Bexley

**LOCATION** – Southern side of Highgate Street

**TOTAL SITE AREA** – 610.8m<sup>2</sup>

**FRONTAGE** – 15.24m

**CURRENT USE** - Single storey Residential dwelling

**SURROUNDING LAND USES** – Single and two storey residential dwellings.

**Zoning** – R2 - Low Density Residential in alignment to Rockdale LEP 2011

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5 HIGHGATE STREET, BEXLEY

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Fig. 1: Subject Site (source NSW Six Maps)



Fig. 2: Streetscape of Existing Site (source Google Maps)

5 HIGHGATE STREET, BEXLEY





### **3.0 PROPOSED DEVELOPMENT**

#### **Details of the proposal**

The proposal is for demolition of all structures on site with a proposed two storey dwelling with basement + secondary dwelling + detached garage for boat storage.

### **4.0 STATUTORY CONSIDERATIONS**

#### **4.1 Section 79C(1)(a) Considerations**

##### **4.1.1 Rockdale Local Environmental Plan (RLEP 2011)**

#### **Zone R2Low Density Residential**

##### **1Objectives 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 ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

##### **2Permitted without consent**

Home-based child care; Home businesses; Home industries; Home occupations; Roads

##### **3Permitted with consent**

Attached dwellings; Boarding houses; Building identification signs; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Health consulting rooms; Hostels; Places of public worship; Recreation areas; Respite day care centres; Secondary dwellings; Semi-detached dwellings; Seniors housing; Water supply systems

##### **4Prohibited**

Any development not specified in item 2 or 3

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#### 4.1.2 Rockdale Development Control 2011

The proposed development compliance / non-compliance to the relevant codes of DCP 2011 as outlined in the table below.

**How the proposed development reflects the DCP 2011 Regulations are outlined below.**

- **Compliance of DCP 2011**  
The proposed development complies with all relevant DCP 2011 regulations.
- **Floor Space Ratio**  
The proposed development is within FSR limitations  
 $50\% \text{ of } 420\text{sqm} = 305.4\text{sqm}$   
Proposed FSR = 305sqm (50%)
- **Height, Form, Bulk & scale**  
The proposed development complies with the DCP 2011 building envelope. Building bulk is to a minimum and scale of development is to a minimum. Building height is well below the council maximum. Max Height Allowed = 8500mm  
Proposed Height at Lowest Point:  
Principal Dwelling = 8473mm (REFER TO SECTION 1)  
Secondary Dwelling = 5220mm (REFER TO SECTION 1)

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5 HIGHGATE STREET, BEXLEY

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- **Setbacks**

North Front Setback = 3630mm (due to site constraints imposed by the easement)

Side Setbacks:

East Side - Principle Dwelling; Ground Fl = 900mm

First Fl = 900mm (proposed) variation of the 1500mm first floor setback requirement is requested due to site constraints imposed by the existing easement running through the site. The setback encroachment does not create any excess overshadowing or privacy issues for the western side neighbour with the use of high sill windows and due to the North / South orientation of the dwellings, all neighbours get their min 3 hours solar access during the winter solstice. The proposed terrace setback is at 3.1m with a proposed planter box and hedging to negate any overlooking into No. 3 Highgate Street

- Secondary dwelling 900mm

North Rear – Principal dwelling 18500mm

- Secondary dwelling 900mm

- Garage 2600mm

West Side – Principal dwelling ground and first floor varies from 4301mm to 11555mm

- Garage 0mm (garage wall brick cavity 270mm wall with FRL 60/60/60 min with no openings)

The western side setback of the garage does not also comply with the min. 900mm required setback being at 0mm. The proposed 270mm cavity brick wall along that section has an FRL 60/60/60 and no openings which is in compliance with the NCC.

All materials encroaching 900mm setback are non-combustible.

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5 HIGHGATE STREET, BEXLEY

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- **Sunlight**  
The proposed development is bathed in sunlight and the adjoining properties get their minimum 3 hours of sunlight over 50% of their private open space during the winter solstice.  
  
As mentioned above the private open space is bathed sunlight.
- **Parking**  
2+ off street car parking allocations will be available with boat parking in garage.
- **Streetscape and Local Character Context**  
The proposed development will have no adverse effect on the streetscape and is within the local character context on new development.  
  
There is no set architectural style or buildings that are of heritage significance being impacted by the proposal within the vicinity.
- **Building Envelope**  
The building is within the building envelope.
- **Proposed Fencing**  
N/A – all new fencing will be in compliance with the NSW Housing Code for Exempt Development
- **Crime Prevention**  
The proposal complies with DCP 2011
- **Pedestrian and Vehicle Movement**  
Pedestrian access is from the front for the principle and secondary dwelling.  
  
Vehicle access is from Highgate St.
- **Privacy, Views and Overshadowing**  
There are no privacy issues for neighbouring dwellings.

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5 HIGHGATE STREET, BEXLEY

**SPACE**  
06181



- **Air and Noise**  
Noise generated by the proposed development will be consistent with noise generated by a residential dwelling.
- **Waste Management**  
Waste will be removed on a weekly basis or whenever is needed. A skip bin will be place at the front on site during construction with ongoing waste management being collected by council.
- **Demolition Management**  
To be done in accordance with AS 2601-2001.
- **Stormwater**  
Please refer to hydraulic engineering plans accompanying the DA package.
- **Basix**  
Refer to DA package.
- **Landscaping**  
Landscaping is 180sqm (29%)  
  
25% as stipulated in the DCP 2011.
- **Waste**  
Waste will be removed off the site when required, a bin will be placed at the front on site, and so whenever it is full a new bin will replace it. A wash down area will be allocated at the front on site also.  
  
All waste generated from demolition will be either recycled or if not possible to recycle or reuse then it will be taken to the local tip.

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5 HIGHGATE STREET, BEXLEY

**SPACE**  
06181

**4.1.3 Stormwater Management**

Refer to hydraulic engineering.

**4.1.4 Pool and Spa Code**

N/A.

**4.2 Section 79C(1)(b) Considerations - Likely Impact of the Development**

The proposed development is not expected to have a significant impact on the environment. The development has been designed to maintain the privacy of adjoining residential properties and will have an adverse impact on solar access as mentioned in this report.

**4.3 Excavation**

Excavation is to be carried out for the proposed basement.

**4.4 Section 79C(1)(c) Considerations - Suitability of the Site**

The attributes of this site, and its location in regards to easy access to public transport and the size make it a suitable site for the proposed development. The site is appropriately zoned to accommodate the alteration, its size and dimensions enable the provision of a building that provides a high level of amenity for occupants without having adverse impacts on neighbours.

**4.5 Section 79C(1)(d) Considerations - Public Interest**

Council will notify the application and consider any submissions received from the public during the exhibition period. There is no cause to suspect that the proposal is not in the public interest.

**4.6 Acid Sulfate Surface**

Class 5 – no excavation to take place below 3m NGL

**5.0 Subdivision**

N/A

**6.0 Trees**

There are no trees on site and any street trees will be protected during construction as per Australian Standards.

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5 HIGHGATE STREET, BEXLEY

**SPACE**  
06181



**7.0 Heritage**

The proposal is within a heritage item on Kingsland Rd.

The proposal will have no effect on the heritage item as they do not share any street frontages.

**8.0 Flooding**

Site is flood effected as per flood advice letter. All floor levels are in accordance with the attached flood advice letter.

**9.0 Groundwater Protection**

N/A

**10. Ecological Impact**

The proposal is not adjacent to environmentally sensitive land.

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5 HIGHGATE STREET, BEXLEY

**SPACE**  
06181



**11.0 Streetscape Images**



**East towards Kingsland Rd (source Google Maps)**



**West towards Kingsgrove (source Google Maps)**



**Across the street (source Google Maps)**

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5 HIGHGATE STREET, BEXLEY



**12. CONCLUSION**

The proposed development complies with all relevant codes stipulated in DCP 2011 and Rockdale LEP 2011 except the ones as shown and explained in the SoEE.

The proposed development will immensely improve the liveability of the dwelling for the Occupants and will not have an adverse impact on adjoining properties.

Yours Faithfully

Moe Hijazi

30<sup>th</sup> March 2019

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5 HIGHGATE STREET, BEXLEY

**SPACE**  
06181

## Bayside Local Planning Panel

23/07/2019

|                     |  |
|---------------------|--|
| Item No             | 6.4  |
| Application Type    | S4.55(1A) – Modification Application   |
| Application No      | DA-2016/47/B   |
| Lodgement Date      | 18/06/2019   |
| Property            | <b>7-9 Gertrude Street, Wolli Creek</b>  |
| Ward                | Ward 3   |
| Owner               | Serenity Living Pty Ltd  |
| Applicant           | Serenity Living Pty Ltd  |
| Proposal            | Modification to add three (3) car parking staker units and relocate two(2) accessible parking in basement level. |
| No. of Submissions  | N/A  |
| Cost of Development | Nil  |
| Report by           | Michael McCabe, Director City Futures  |

## Officer Recommendation

- That the proposed modification application BE SUPPORTED given it:
  - is of minimal environmental impact;
  - is substantially the same development as the development for which consent was originally granted and before that consent was modified; and
  - has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- That modification application DA-2016/47/B seeking to modify development consent DA-2016/47 to add three (3) car stacker units and relocate two (2) accessible car parking spaces within the basement at 7-9 Gertrude Street, Wolli Creek be **APPROVED**. The proposal is modified in the following manner:

By amending conditions 2, 11, 54, 98 and 114 to read as follows;

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

| Plan/Dwg No.                   | Drawn by                  | Dated      | Received by Council |
|--------------------------------|---------------------------|------------|---------------------|
| Basement Plan A2.001 Rev H     | Marchese Partners Pty Ltd | 05/07/2018 | 10/07/2019          |
| Ground Floor Plan A2.002 Rev J | Marchese Partners Pty Ltd | 05/07/2019 | 08/07/2019          |
| Level 00 Plan S96 2.02 Rev K   | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 1 Plan S96 2.03 Rev H    | Marchese Partners Pty Ltd | 22/09/2017 | 26/09/2017          |
| Level 2 Plan S96 2.04 Rev H    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 3 Plan S96 2.05 Rev H    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |

|  |                           |            |            |
|--|---------------------------|------------|------------|
| Level 4 Plan S96 2.06 Rev H  | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| Level 5 Plan S96 2.07 Rev G  | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| Level 6 Plan S96 2.08 Rev H  | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| Level 7 Plan S96 2.09 Rev G  | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| Level 8 Plan S96 2.10 Rev G  | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| Roof Plan S96 2.11 Rev H   | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| North Elevation<br>S96 3.01 Rev F  | Marchese Partners Pty Ltd | 05/05/2017 | 11/05/2017 |
| South Elevation<br>S96 3.02 Rev F  | Marchese Partners Pty Ltd | 05/05/2017 | 11/05/2017 |
| East Elevation<br>S96 3.03 Rev G   | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| West Elevation<br>S96 3.04 Rev G   | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| Section AA S96 4.01 Rev F  | Marchese Partners Pty Ltd | 05/05/2017 | 11/05/2017 |
| Section BB S96 4.02 Rev D  | Marchese Partners Pty Ltd | 05/05/2017 | 11/05/2017 |
| Section Driveway<br>S96 4.10 Rev C   | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018 |
| Section Entrance Ramp<br>S96 4.11 Rev G                                    | Marchese Partners Pty Ltd | 22/09/2017 | 26/09/2017 |
| Material Board S96 7.02 Rev B  | Marchese Partners Pty Ltd | 05/05/2017 | 11/5/2017  |
| LP-BP2618 Vehicle Stacker<br>Sheet 1 of 6 to Sheet 6 of 6<br>P-50738 Rev 2 | Levanta Park              | 03/04/2019 | 19/06/2019 |

[Amendment A - S96(1A) amended on 28/02/2018]

[Amendment B - S4.55(1A) amended on 23/07/2019]

11. *Parking spaces shall be allocated to residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:*

*Allocated Spaces*

*Studio apartments - Nil spaces*

*1 bedroom apartments - Minimum 0.6 space per dwelling*

*2 bedroom apartments - Minimum 0.9 space per dwelling*

*3 bedroom apartments - Minimum 1.4 spaces per dwelling*

*Including 4 residential accessible spaces*

*Non-Allocated Spaces*

*Visitor Spaces - Total of 8 (1 shared visitor / car wash / 1 accessible space)*

*1 SRV loading / unloading bay*

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

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

*Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*



*[Amendment B - S4.55(1A) amended on 23/07/2019]*

54. *A car wash bay shared with a visitor bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate. The width should be a minimum of 3.5m wide.*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

98. *46 off-street car spaces (including a car wash / visitor / accessible space 3.5m x 5.4m) shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.*

*Signage shall be installed specifying small car spaces. Signage shall also be provided with maximum size of vehicle in both level of car stacker parking space...*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

114. *Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater facility to provide for the maintenance of the rain tank / pump facility and the mechanical parking facilities with stacker parking system to provide for the maintenance of the mechanical parking facility with stacker parking system facility. Installation certificate of the car stacker and relevant signage to be installed. Documentary evidence to be submitted to council with the positive covenant for the car stacker system.*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

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## Location Plan



## Attachments

- 1 Planning Assessment [↓](#)
- 2 SEE Letter [↓](#)
- 3 Car Stacker Plans [↓](#)
- 4 Basement Plan [↓](#)
- 5 Ground Floor Plan [↓](#)
- 6 Technical Specifications [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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|                            |  |
|----------------------------|--|
| <b>Application Number:</b> | DA-2016/47/B   |
| <b>Date of Receipt:</b>    | 18 June 2019   |
| <b>Property:</b>           | 7 Gertrude Street, WOLLI CREEK<br>9 Gertrude Street, WOLLI CREEK   |
| <b>Owner:</b>              | Serenity Living Pty Ltd  |
| <b>Applicant:</b>          | Serenity Living Pty Ltd  |
| <b>Proposal:</b>           | 7-9 Gertrude Street, WOLLI CREEK NSW 2205 - Modification to add three(3) car parking staker units and relocate two(2) accessible parking in basement level |
| <b>Recommendation:</b>     | Approved   |
| <b>No. of submissions:</b> | N/A  |
| <b>Author:</b>             | Fiona Prodromou  |
| <b>Date of Report:</b>     | 9 July 2019  |

### Key Issues

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The proposal as modified seeks to install 3 x dual level car stackers within the development, in order to provide 3 additional car spaces within the development.

The proposal as modified further seeks to relocate two accessible car spaces within the development in order to accomodate the above.

### Recommendation

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A) That the proposed modification application BE SUPPORTED given it:

- is of minimal environmental impact;
- is substantially the same development as the development for which consent was originally granted and before that consent was modified; and
- has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.

B) That modification application DA-2016/47/B seeking to modify development consent DA-2016/47 to add three(3) car parking staker units and relocate two (2) accessible car parking spaces within the basement at 7-9 Gertrude Street, Wolli Creek be APPROVED. The proposal is modified in the following manner:

By amending conditions 2, 11, 54, 98 and 114 to read as follows;

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

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| Level 2 Plan S96 2.04 Rev H          | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 3 Plan S96 2.05 Rev H          | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 4 Plan S96 2.06 Rev H          | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 5 Plan S96 2.07 Rev G          | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 6 Plan S96 2.08 Rev H          | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 7 Plan S96 2.09 Rev G          | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
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| North Elevation S96 3.01 Rev F       | Marchese Partners Pty Ltd | 05/05/2017 | 11/05/2017          |
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| East Elevation S96 3.03 Rev G        | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| West Elevation S96 3.04 Rev G        | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
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| Section Driveway S96 4.10 Rev C      | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Section Entrance Ramp S96 4.11 Rev G | Marchese Partners Pty Ltd | 22/09/2017 | 26/09/2017          |
| Material Board S96 7.02 Rev B        | Marchese Partners Pty Ltd | 05/05/2017 | 11/5/2017           |

|  |              |            |            |
|--|--------------|------------|------------|
| LP-BP2618 Vehicle<br>Stacker<br>Sheet 1 of 6 to Sheet 6<br>of 6<br>P-50738 Rev 2 | Levanta Park | 03/04/2019 | 19/06/2019 |
|--|--------------|------------|------------|

[Amendment A - S96(1A) amended on 28/02/2018]

[Amendment B - S4.55(1A) amended on 23/07/2019]

11. Parking spaces shall be allocated to residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

Studio apartments - Nil spaces

1 bedroom apartments - Minimum 0.6 space per dwelling

2 bedroom apartments - Minimum 0.9 space per dwelling

3 bedroom apartments - Minimum 1.4 spaces per dwelling

Including 4 residential accessible spaces

Non-Allocated Spaces

Visitor Spaces - Total of 8 (1 shared visitor / car wash / accessible space)

1 SRV loading / unloading bay

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

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

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

[Amendment B - S4.55(1A) amended on 23/07/2019]

54. A car wash bay shared with a visitor bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate. The width should be a minimum of 3.5m wide.

[Amendment B - S4.55(1A) amended on 23/07/2019]

98. 46 off-street car spaces (including a shared car wash / visitor / accessible space 3.5m x 5.4m) shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, maneuvering areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.

Signage shall be installed specifying small car spaces. Signage shall also be provided with maximum size of vehicle in both level of car stacker parking space.



*[Amendment B - S4.55(1A) amended on 23/07/2019]*

*114. Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater facility to provide for the maintenance of the rain tank / pump facility and the mechanical parking facilities with stacker parking system to provide for the maintenance of the mechanical parking facility with stacker parking system facility. Installation certificate of the car stacker and relevant signage to be installed. Documentary evidence to be submitted to council with the positive covenant for the car stacker system.*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

## Background

### History

DA-2016/47 - Approved 12 October 2016

Construction of a nine (9) storey residential flat building comprising thirty six (36) residential units, basement parking and demolition of existing structures.

DA-2016/47/A - Approved 28 February 2018

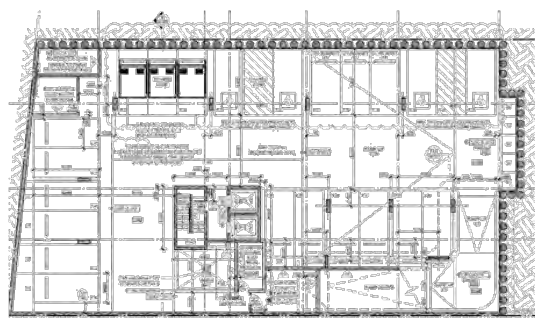
Modification application to amend approved development including changes to materials / finishes, addition of 3 car spaces via incorporation of car stackers, basement reconfiguration, deletion of substation, relocation of hydrant booster, modification to levels and increase to overall building height.

DA-2016/47/B - Submitted 18 June 2019

Modification to add three(3) car parking staker units and relocate two (2) accessible parking spaces within basement level.

### Proposal

The proposal as modified seeks to install three (3) car stackers within the basement level of the development and relocate two (2) accessible parking internally, in order to accommodate a further 3 car spaces within the development.



### Site location and context

The subject site is rectangular and comprises two parcels of land. The site has a frontage of 22.63m to Gertrude Street, a total site area of 1004sq/m and is relatively flat, with a natural ground level of 1.5RL.

Along the rear boundary of the site an open box drainage reserve spans the width of the site, this is 1.22m in width. This reserve continues through adjoining properties in an east / west direction. The site is currently occupied by the previously approved development, which is nearing completion.

The subject site is affected by:

- Potential Contamination
- Class 3 Acid Sulfate Soils
- Flooding
- Obstacle Limitation Surface & 15.24m Building Height Civil Aviation Regulations

The image below details recent approvals of adjoining and nearby properties within close proximity to the subject site.



## Statutory Considerations

### *Environmental Planning and Assessment Act, 1979*

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

#### **S4.55 (1A) - Modification**

Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 states:

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

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

Comment: Proposed modifications are minor in nature, and specifically relate to the installation of car stackers within the basement of the constructed development, in order to accommodate 3 additional car spaces on site. The proposal is of minimal environmental impact given its nature and scale.

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

Comment: The application is only for minor modifications to the development consent. The proposal remains as previously approved, namely a residential flat building. The proposed modifications will not change the land use or substantially alter the nature of the development. As such it is considered substantially the same development.

*c) it has notified the application in accordance with:*

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

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The application did not require public notification in accordance with the provisions of Council's DCP 2011.

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

Comment: N/A

#### S4.55(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

S4.55(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. The reasons for the original granting of consent were considered in the assessment of the proposal as modified.

An assessment of the application has been carried out under the provisions of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The matters of relevance to this application have been considered. The following is an assessment of the proposed development under the provisions of Section 4.15(1) of the Environmental and Planning Assessment Act.

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

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

The following Environmental Planning Instruments are relevant to this application:

**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 original application was accompanied by a Detailed Site Investigation Report E22573 AA dated 31 July 2015 & subsequent Remediation Action Plan (RAP) ref: E22573 AB rev1 dated 22 June 2016 undertaken by Environmental Investigations.

The original consent was conditioned to ensure the recommendations of both aforementioned reports were adhered to. It is understood that the site has since been remediated through the construction phase. The proposal as modified is therefore satisfactory with regards to SEPP 55.

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

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

*a. The advice of the Design Review Panel (DRP)*

Given the nature and scale of the proposal as modified, it was not referred to the Design Review Panel for comment. Notwithstanding, an independent assessment of the modified proposal has been undertaken below.

*b. The design quality of the development when evaluated in accordance with the design quality principles.*

The proposal as modified has been assessed against the relevant design quality principle below;

Principle 6 – Amenity

The proposal as modified seeks to incorporate a further 3 car stackers within the development to provide additional car parking to future occupants. Of the three stackers to be incorporated, this would result in dual car spaces for 3 x 3 bedroom residential units within the development. The proposal as modified does not exceed the maximum number of spaces permitted by Rockdale DCP 2011 and will maximise amenity for future occupants of the development, in particular occupants of the 3 bedroom units. The proposal as modified is satisfactory in this regard.

*c. the Apartment Design Guide*

The proposal as modified has been assessed against the relevant objectives and design criteria of the Apartment Design Guide (ADG).

As originally approved, the development comprised 38 on site car spaces, with an additional space as a dedicated car wash bay as required by DCP 2011. A previous modification increased this number to 42 car spaces.

The proposal as modified, seeks to further increase this figure as below;

| <b>3J - Bicycle &amp; Car Parking</b> |                                     |                                     |   |                 |
|---------------------------------------|-------------------------------------|-------------------------------------|---|-----------------|
| <i>Units / Visitor</i>                | <i>RMS Rate (Min)</i>               | <i>DCP Rate (Max)</i>               | <i>Proposed</i>   | <i>Complies</i> |
| 1 x studio                            | Nil                                 | 1 space per unit (1)                | 38 Residential (including 4 adaptable)                              | Yes             |
| 17 x 1 bed                            | 0.6 spaces per unit (10.2 spaces)   | 1 space per unit (17)               |   |                 |
| 12 x 2 bed                            | 0.9 spaces per unit (10.8 spaces)   | 1 space per unit (12)               |   |                 |
| 6 x 3 bed                             | 1.4 spaces per unit (8.4 spaces)    | 2 spaces per unit (12 spaces)       |   |                 |
| Visitor                               | 1 per 5 units (8 spaces)            | 1 per 5 units (8 spaces)            | 8 spaces (including 1 shared car wash / visitor / accessible space) | Yes             |
| <b>Total</b>                          | 30 residential & 8 visitor required | 42 residential & 8 visitor required | 38 residential & 8 visitor proposed                                 | Yes             |

#### Rockdale Local Environmental Plan 2011

| <b>Relevant clauses</b>                   | <b>Compliance with objectives</b> | <b>Compliance with standard/provision</b> |
|---|-----------------------------------|---|
| 2.3 Zone R4 High Density Residential      | Yes                               | Yes - see discussion                      |
| 4.3 Height of buildings                   | Yes - see discussion              | No - see discussion                       |
| 4.4 Floor space ratio - Residential zones | Yes                               | No - see discussion                       |
| 6.6 Flood planning                        | Yes                               | Yes - see discussion                      |

#### 2.3 Zone R4 High Density Residential

The subject site is zoned R4 - High Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal as modified does not alter the approved residential flat building use on site and thus the proposal as modified remains 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 approved development comprises a maximum height as follows:



- 32.35m - Top of lift and stair overrun / Pergola / Lobby / Toilet / Air Conditioning Plant
- 30.48m - Top of rooftop balustrades.
- 29.5m - Parapet of building.
- 29.25m - Roof of building.

The proposal as modified does not alter the previously approved height of the development.

#### 4.4 Floor space ratio - Residential zones

A maximum FSR of 2.2:1 applies to the subject site. The development was approved with an FSR of 2.52:1. The proposal as modified does not alter the aforementioned FSR of the subject development. The proposal as modified remains consistent with the objectives of this standard.

#### 6.6 Flood planning

The site is affected by flooding. The development was originally approved with minimum floor levels to ensure that driveway crossings and floor levels are above the 100 year street flood level at 2.85RL. The proposal as modified is satisfactory in regards to flooding.

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

No relevant proposed instruments are applicable to this proposal as modified or the subject site.

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

The following Development Control Plan is relevant to this application:

##### **Rockdale Development Control Plan 2011**

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

| Relevant clauses                                   | Compliance with objectives | Compliance with standard/provision |
|--|----------------------------|------------------------------------|
| 4.6 Car Park Location and Design                   | Yes                        | Yes                                |
| 4.6 Vehicles Enter and Exit in a Forward Direction | Yes                        | Yes                                |

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

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

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

The proposal as modified will facilitate the provision of 3 additional on site car spaces to be allocated to future residents of the development.

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

The relevant matters pertaining to the suitability of the site for the development were considered in the assessment of the original proposal.

There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposal as modified.

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

The proposed development did not require notification in accordance with the provisions of Rockdale DCP 2011.

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

The proposal as modified is satisfactory having regard to the objectives and requirements of the relevant planning legislation. The proposal as modified is in the public interest.

**Schedule 1 - Draft Conditions of consent****General Conditions**

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

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

| Plan/Dwg No.                   | Drawn by                  | Dated      | Received by Council |
|--------------------------------|---------------------------|------------|---------------------|
| Basement Plan A2.001 Rev H     | Marchese Partners Pty Ltd | 05/07/2018 | 10/07/2019          |
| Ground Floor Plan A2.002 Rev J | Marchese Partners Pty Ltd | 05/07/2018 | 08/07/2019          |
| Level 1 Plan S96 2.03 Rev H    | Marchese Partners Pty Ltd | 22/09/2017 | 26/09/2017          |
| Level 2 Plan S96 2.04 Rev H    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 3 Plan S96 2.05 Rev H    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 4 Plan S96 2.06 Rev H    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 5 Plan S96 2.07 Rev G    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 6 Plan S96 2.08 Rev H    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 7 Plan S96 2.09 Rev G    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Level 8 Plan S96 2.10 Rev G    | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| Roof Plan S96 2.11 Rev H       | Marchese Partners Pty Ltd | 01/02/2018 | 01/02/2018          |
| North Elevation S96 3.01 Rev F | Marchese Partners Pty Ltd | 05/05/2017 | 11/05/2017          |

|  |                              |            |            |
|--|------------------------------|------------|------------|
| South Elevation<br>S96 3.02 Rev F  | Marchese Partners Pty<br>Ltd | 05/05/2017 | 11/05/2017 |
| East Elevation<br>S96 3.03 Rev G   | Marchese Partners Pty<br>Ltd | 01/02/2018 | 01/02/2018 |
| West Elevation<br>S96 3.04 Rev G   | Marchese Partners Pty<br>Ltd | 01/02/2018 | 01/02/2018 |
| Section AA S96 4.01<br>Rev F   | Marchese Partners Pty<br>Ltd | 05/05/2017 | 11/05/2017 |
| Section BB S96 4.02<br>Rev D   | Marchese Partners Pty<br>Ltd | 05/05/2017 | 11/05/2017 |
| Section Driveway<br>S96 4.10 Rev C   | Marchese Partners Pty<br>Ltd | 01/02/2018 | 01/02/2018 |
| Section Entrance Ramp<br>S96 4.11 Rev G  | Marchese Partners Pty<br>Ltd | 22/09/2017 | 26/09/2017 |
| Material Board S96<br>7.02 Rev B   | Marchese Partners Pty<br>Ltd | 05/05/2017 | 11/5/2017  |
| LP-BP2618 Vehicle<br>Stacker<br>Sheet 1 of 6 to Sheet 6<br>of 6<br>P-50738 Rev 2 | Levanta Park                 | 03/04/2019 | 19/06/2019 |

[Amendment A - S96(1A) amended on 28/02/2018]

[Amendment B - S4.55(1A) amended on 23/07/2019]

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 647613M\_04 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. Balconies shall not be enclosed at any future time without prior development consent.
7. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S96 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be

displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

10. All works are to be carried out in accordance with the integrated development conditions provided by the NSW Office of Water and listed within this consent.
11. *Parking spaces shall be allocated to residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:*

*Allocated Spaces*

*Studio apartments - Nil spaces*

*1 bedroom apartments - Minimum 0.6 space per dwelling*

*2 bedroom apartments - Minimum 0.9 space per dwelling*

*3 bedroom apartments - Minimum 1.4 spaces per dwelling*

*Including 4 residential accessible spaces*

*Non-Allocated Spaces*

*Visitor Spaces - Total of 8 (including 1 shared visitor / car wash / accessible space)*

*1 SRV loading / unloading bay*

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

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

*Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 81 (1)(A) of the Environmental Planning and Assessment Act 1979 or a Complying Development Certificate issued in accordance with Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

### **Development specific conditions**

The following conditions are specific to the Development Application proposal.

12. Loading and unloading within the site shall be restricted to commercial vehicles not exceeding the size and mass description of the SRV from AS2890.2:2002. Commercial vehicles greater in size and mass than the SRV are not permitted to enter the site. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
13. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
14. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the rain tank-pump system. The registered proprietor will:
  - (i) permit stormwater to be temporarily detained by the system;

- (ii) keep the system clean and free of silt, rubbish and debris;
  - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
  - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
  - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
  - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
15. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
  16. The contaminated site shall be remediated in accordance with 'State Environmental Planning Policy No 55 Remediation of Land' (SEPP55). All remediation and validation works shall be carried out in accordance with the Site Remedial Action Plan called – Remediation Action Plan 7-9 Gertrude Street Wolli Creek NSW Report E22573 AB rev2 prepared by Environmental Investigations Australia dated 22 June 2016.
  17. 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.
  18. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
  19. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
  20. Temporary dewatering of the site to enable the construction of the subsurface structure shall not be carried out unless a permit has been issued pursuant to the Water Management Act 2000, and, in the case where water is to be pumped into the public road, a permit has been issued pursuant to the Roads Act 1993.
  21. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
  22. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
  23. Internal height clearance shall be designed throughout the car park and access



driveway in accordance with AS2890.1 and AS2890.6.

24. Commercial vehicle facilities shall be designed strictly in accordance with AS2890.2:2002.
25. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
26. Hot and cold water hose cocks shall be installed to the garbage room. Services or utility systems shall not be located in the garbage room.
27. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
  - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

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

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

A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

28. a) In order to ensure the design quality excellence of the development is retained:
  - i. Marchese Partners Pty Ltd is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  - ii. The design architect is to have full access to the site and is to be authorized by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii. Evidence of the design architect's commission is to be provided to the Department prior to release of the Construction Certificate.
 b) The design architect of the project is not to be changed without prior notice and approval of the Council or Department.
29. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
30. Any soil disposed of off-site shall be classified in accordance with the procedures in the NSW Environment Protection Authority's Environmental Guidelines: Waste Classification Guidelines (2009).
31. All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The

applicant shall confer with Energy Australia to determine Energy Australia requirements. Written confirmation of Energy Australia's requirements shall be obtained prior to issue of Construction Certificate.

32. **Safety & Security**

- a. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels
- b. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners
- c. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.
- d. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
- e. Graffiti resistant materials are to be used to all ground floor external surface areas. Details to be provided prior to the issue of the Construction Certificate.
- f. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
- g. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.

33. **Landscaping**

The following modifications are to be detailed upon podium level landscape and architectural plans prior to the issue of the Construction Certificate.

- a. The garden store room at podium level shall be reduced in size, in order to accommodate an accessible toilet facility in this location.
- b. 1 x 12sq/m pergola structure shall be provided within the accessible podium.
- c. A kitchenette and bbq facility is to be provided within the accessible podium level.
- d. Stormwater and drainage systems are not to be located in, or under those areas shown as landscaped beds, or where proposed trees are located.
- e. Retaining walls used for raised planter beds on concrete slabs shall accommodate a minimum 800mm of soil/plant mix (over and above any drainage medium).
- f. A minimum soil depth of 800mm is required for planted areas (other than turf) on podiums or roof-tops or any other concrete slab.
- g. A minimum soil depth of 300mm is required for turfed areas on podiums or roof-tops or any other concrete slab, including the soil above stormwater drainage tanks.
- h. The basement carpark shall be screened using a combination of dense planting and mounding.
- i. Podium landscaping and paved areas shall be drained into the stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
- j. All softfall treatments shall satisfy the relevant AS/NZS standards (AS/NZS 4486.1:1997, AS/NZS 4422:1996).
- k. All pavements shall comply with AS/NZ 4586:1999 standards Class W (low) for slip resistance on both private and Council property.

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

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

34. INTEGRATED DEVELOPMENT / EXTERNAL AUTHORITIES

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

*Sydney Airport Corporation Limited (SACL)*

SACL has approved the maximum height of the proposed building at 38RL relative to Australian Height Datum (AHD). This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

Note: Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units. For further information on Height Restrictions please contact SACL on 9667 9246.

NSW OFFICE OF WATER

a. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

b. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.

c. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

i) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and

ii) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and

iii) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

d. Construction methods and material used in and for construction shall be designed

to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

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

Prior to excavation

f. The following shall be included in the initial report:

i) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.

ii) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

iii) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.

iv) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.

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

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

must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.

i. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

j. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).

k. A copy of a valid consent for the development shall be provided in the initial report.

l. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.

m. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

n. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.

o. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off site discharge.

p. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

q. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

r. Dewatering shall be undertaken in accordance with groundwater-related



management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

s. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.

t. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

u. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:

i) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and

ii) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and

iii) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.

iv) The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

35. Access to the planted deep soil zone along the rear boundary of the site is for maintenance purposes only. The doorway within the car parking area at ground level shall be internally signposted "Maintenance Access Only".

### **Prior to issue of the construction certificate**

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

36. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- i. A Footpath Reserve Restoration Deposit of \$9165.15. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$17.00.

37. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
38. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.  
A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
39. A Section 94 contribution of \$616,843.26 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:  
  
 Open Space \$344,250.54  
 Town Centre & Streetscape Improvements \$36,889.38  
 Roads, Traffic Management & Public Parking \$132,988.62  
 Flood Mitigation and Stormwater \$56,872.32  
 Pedestrian & Cyclist \$19,048.32  
 Administration and Management \$10,151.94  
 Community Facilities and Services \$16,642.14

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

40. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
41. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
42. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
43. 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 and a PMF event.
44. Where the front fence and or planter boxes are greater than 1200mm in height, the vehicular access area shall be kept clear and the return fences / planter boxes on each side are to be splayed minimum 900mm at an angle of 45 degrees to the boundary. Details of the fence / planter boxes to be included in the documentation

accompanying the Construction Certificate.

45. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with Australian Standard 4299 must be provided to and within four residential units, and between these units and their allocated carparking spaces. The allocated parking space will be located in close proximity to the access points of the building. Please note that compliance with this condition requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of AS4299.

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

46. The applicant shall confer with Energy Australia to determine if:
  - a. an electricity distribution substation is required.
  - b. installation of electricity conduits in the footway is required.

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

47. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please contact Sydney Water.

The consent authority or a private accredited certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans before issue of any Construction Certificate.

48. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 20 and shall include all relevant levels, grades (%) and lengths.
49. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
50. Prior to the issue of the Construction Certificate, amended architectural plans shall be submitted to Principal Certifying Authority PCA for assessment and approval. The amended plans shall incorporate the following;

(a) A visitor parking bay shall accommodate a van loading bay. In addition to the van space to incorporate a SRV loading bay – 3.5m wide and 7m in length in front of the waiting / passing bay in tandem within ground level access open space. The passing bay shall be formed with green porous grass pavers.

(b) A drainage easement 0.875m wide benefitting Council, along the open drainage channel adjoining the rear of the property.

(c) a minimum 1.5m setback from the drainage reserve (measured from the centreline of the channel) for the purposes of an easement to drain water, to enable upgrade to the culvert width and passage of overland flow.

51. Amended stormwater design and plans shall be submitted to the Principal Certifying Authority for assessment prior to the issue of the Construction Certificate. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

**Note:** The detailed plans are required to show the basement levels as tanked system.

The amended design plans shall address the following issues:

(a) A rainwater tank is required and the development is required to capture the first 10-20mm of stormwater runoff and detain it for re-use purposes. Refer to 7.1.9 of Rockdale DCP 2011.

The post development stormwater discharge from the site into the Gertrude Street should not exceed the pre development discharge and the discharge must be less than 50 l/s for the combined discharge of the site for the 50 year ARI event.

(b) Stormwater reuse from proposed rain tanks.

The design shall identify, and discuss in detail, the measures put in place to re-use water, maintain groundwater quality, minimise at source generation of water pollutants, and convey stormwater flows through the site

(c) The geotechnical engineer is required to review and comment on proposed stormwater drainage design, mainly the impact on tanked basement / subsoil drains / permanent dewatering and ground water table.

#### Numerical design standards

- The size of the rainwater storage tank should be sized such that water can be reused without supply from town water for the majority of the year. As a minimum, the storage tank should be capable of storing the first 10-20mm of runoff from the site. Rainwater should be used for landscape irrigation, car washing, and toilet flushing in apartments and general cold water supply at lower levels.
- The rainwater tank should have an overflow at or above the minimum habitable floor level (2.85m AHD).
- The piped drainage within the site should be capable of conveying the 5% AEP

flow; and

- Overland flow paths (i.e. situated internally within the building and used when the flow in the piped drainage exceeds the 5% AEP flow) should be capable of conveying the 1% AEP flows.

General design standards

- All piped drainage within the development should discharge to the rainwater storage tank; and
- All surface runoff from car park areas should be directed through a proprietary oil treatment system prior to discharge to the rainwater storage tank. NB: Information regarding the treatment system should be supplied including the type of system to be used and the compatibility of the system with regard to the rainwater reuse objective for the development. The proprietary oil treatment system must provide a high quality of water.

General controls

- The design should meet water sensitive urban design principles.

52. Prior to the issue of the Construction Certificate a Flood Evacuation Management Plan shall be submitted to Principal Certifying Authority PCA for assessment and approval. The Flood Evacuation Management Plan shall demonstrate whether evacuation provisions are required, and if so how they will be managed. Alternatively, where it is recommended that occupants stay within the building, how is this to be communicated to occupants. In this situation occupants need to escape above the PMF level plus 0.5 m. The plan is also to detail how the flood awareness of owners, residents or occupants, who change through time, can be preserved. The Plan shall be prepared by a suitably qualified and experienced Flood/Hydraulic Engineer.
53. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
54. *A car wash bay shared with a visitor bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate. The width should be a minimum of 3.5m wide.*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

55. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:
  - A). All vertical plumbing, other than roof water heads and down pipes, shall be concealed within the brickwork of the building.
  - B). All hot water systems/units located on the balcony of a dwelling shall be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.



C). Air conditioning units located upon residential balconies shall not be visible from the public domain.

D). Glass balustrades shall be provided as frosted or opaque.

E). Ceiling heights for habitable areas shall be a minimum of 2.7 metres, and 2.4m for non habitable areas, as measured vertically from finished floor level to the underside of the ceiling.

F). Compliance with the recommendations of the BCA Report dated August 2015 prepared by Steve Watson and Partners. Relevant objectives and design code requirements of the Building Code of Australia 2015 / DDA Premises Standard pertaining to accessible common domain areas and access to all apartments and the Adaptable Housing standard AS4299 for four (4) adaptable units.

G). The following recommendations of the Pedestrian and Wind Environment Study (WC539-01AF03(REV0) prepared by Wind Tech dated 23 June 2016 are to be depicted upon plans and implemented on site.

- The inclusion of recommended densely foliating trees capable of growing to a height of 3m with a 3m wide canopy along the north-eastern boundary of the subject development site.
- The wind conditions can be further enhanced with the inclusion of 1.5m high impermeable screens along the perimeter of the eastern stairway
- The inclusion of additional densely foliating vegetation as indicated in the architectural drawings is expected to further enhance the localized wind conditions.
- The inclusion of densely foliating shrubs, capable of growing to a height of at least 1.5m within and along the perimeter of the Level 1 communal terrace.
- The inclusion of a densely foliating tree capable of growing to at least 4m high with 4m wide canopy to the north of the common deck area on Level communal terrace.
- The inclusion of a 2m high impermeable screen along the southern perimeter of the communal roof terrace.
- The inclusion of the proposed balustrade along the remaining perimeter of the communal roof terrace.
- The inclusion of additional densely foliating vegetation such as shrubs within the proposed planter areas along the eastern and western perimeter edge of the communal roof terrace as indicated in the architectural drawings.

H) A single antenna shall be provided to the building for use of all residents.

I). The eastern elevation (party wall) of the development shall be provided with an alternative treatment / form of relief to alleviate the expanse of blank wall on the boundary until such time that the adjoining properties are redeveloped. Details of three selected finishes and/or treatments proposed for this party wall are to be submitted to Council for approval prior to the issue of the Construction Certificate.

J). The loading / unloading and passing bay on site within the front setback are to comprise concrete grasscrete cells and be delineated from the adjoining vehicular entry.

K). Corridors within the development shall be a minimum of 1.5m in width for their entire length. Services within corridors, including but not limited to electrical cupboards, fire safety equipment etc. shall be moved clear of the corridor and within the unit footprint.

L). The south facing terrace to unit 1.01 adjoining the common boundary with 1-5 Gertrude Street shall be deleted. 1 x 2m deep x 3.25m wide balcony may be retained adjoining the bedroom of unit 1.01 that adjoins the proposed garden store.

M) The door to the residential lobby shall be brought forward to align with the balcony wall of the ground floor studio. Letter boxes shall be relocated to the bottom of the stairs to the pedestrian entrance from Gertrude Street.

- 55a. The Principal Certifying Authority shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including air-conditioners which meet the NSW EPA Industrial Noise Policy and Protection Of Environment Operations Act 1997 noise emission criteria for residential air - conditioners as specified in Acoustic Assessment for Development Application 7-9 Gertrude Street Wolli Creek by Renzo Tonin & Associates – Doc Reference; TH496-01F02 Acoustic Report For DA (r1) dated the 5 August 2015 has been carried out.

The acoustic assessment / report shall include at least the following information:

- the name and qualifications or experience of the person(s) preparing the report
- the project description, including proposed or approved hours of operation
- relevant guideline or policy that has been applied
- results of background and any other noise measurements taken from most noise affected location at the boundary line
- meteorological conditions and other relevant details at the time of the measurements
- details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
- a site map showing noise sources, measurement locations and potential noise receivers
- noise criteria applied to the project
- noise predictions for the proposed activity
- a comparison of noise predictions against noise criteria
- a discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures
- how compliance can be determined practically

The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). It shall be submitted to the Principal Certifying Authority. All recommendations and/or noise mitigation measures (If applicable) shall be complied with.

[Amendment A - S96(1A) inserted on 12/02/2018]

Reason for additional condition 55a. is:

- To correct an error in the issue of the original consent.

### Prior to commencement of works

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

56. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
57. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

58. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
59. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
60. A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:
  - hazard identification and control
  - site security
  - personal protective equipment
  - work zones and decontamination procedures
  - contingency plans and incident reporting
  - environmental monitoring.
61. Where it is necessary to import landfill material onto the site to fill the land to levels

shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.

62. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
63. Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government act 1993 for a Barricade Permit is to be obtained from Council prior to commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.
64. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
  - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.  
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:
  - (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
  - (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -
  - (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
  - (ii) have a clear height above the footpath of not less than 2.1m;
  - (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
  - (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPaThe 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.  
Any such hoarding, fence or awning is to be removed when the work has been completed.  
The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.
65. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

**During demolition / excavation / construction**

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

66. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
67. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
68. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
69. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

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

70. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
71. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
72. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been



constructed at the approved levels.

- v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

73. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

74. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
75. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
76. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and

- penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
- A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
77. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.
78. Adopt and implement all recommendations contained in the Acid Sulfate Soil Management Plan prepared by Environmental Investigations Australia Report No. E228573 AC dated the 5 February 2016.
79. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
  - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
  - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  - iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  - v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
  - vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
    - a) spraying water in dry windy weather
    - b) cover stockpiles

c) fabric fences

- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.

80. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
81. Trees located within adjoining properties shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
82. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.

**Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

83. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
84. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
85. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
86. A by-law shall be registered and maintained for the life of the development, which requires that :
- (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2, A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.
- Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.
87. Lot 37 DP 4301 and Lot 36 DP 4301 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
88. All landscape works are to be carried out in accordance with the approved landscape plans. The landscaping is to be maintained to the approved standard at all times.
89. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
90. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
91. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.

92. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
93. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
94. A convex mirror is to be installed at change of direction in ramps to provide increased sight distance for vehicles.
95. The roller gate for the basement shall be located in order to permit the queuing of two (2) vehicles when waiting to enter the basement garage. The control mechanism for the gate shall be arranged such that access to the basement garage for residence and visitors.
96. A drainage easement 0.875m wide along the rear boundary of the subject site is to be provided in favour of Rockdale Council and covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale City Council. A restriction to user preventing building works within the easement is also required.

These provisions are to be put into effect prior to release of the Occupation Certificate. Council requires proof of lodgement of the signed Linen Plan and 88B Instrument with the Land Titles Office.

97. Suitable vehicular bollards shall be provided outside the exit doors that adjoin the vehicle circulation area or other exit door(s) that may be blocked by parked vehicles.
98. *46 off-street car spaces (including a car wash bay shared with a visitor bay 3.5m x 5.4m) shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, maneuvering areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.*

*Signage shall be installed specifying small car spaces. Signage shall also be provided with maximum size of vehicle in both level of car stacker parking space.*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

99. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.



100. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
101. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.
102. Prior to issue of Occupation Certificate the applicant shall submit to the Principal Certifying Authority (PCA) an Certificate of Compliance to verify that the measures stated in the 'Acoustic Assessment for Development Application 7-9 Gertrude Street Wolli Creek by Renzo Tonin & Associates – Doc Reference; TH496-01F02 Acoustic Report For DA (r1) dated the 5 August 2015' and all other noise mitigation measures associated with the mechanical plants (ventilation systems, exhaust fans, ventilation fans and condenser units) and equipment including air-conditioners have been carried out and certify that the construction meets the above requirements. If Council is not the PCA, a copy shall be submitted to Council concurrently. The certificate of compliance shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
103. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
104. 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.
105. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
106. An accredited auditor under the Contaminated Land Management Act 1997 shall review the Validation Report prepared by the contaminated land consultant and issue a Site Audit Statement. The accredited auditor shall provide Council being the Regulatory Authority for the management of contaminated land, with a copy of the Site Audit Report and Site Audit Statement, prior to issue of the Occupation Certificate.
107. A Site Audit Statement (SAS) shall be submitted to Council being the Regulatory Authority for the management of contaminated land, prior to the issue of Occupation Certificate, clearly demonstrating that the site is suitable for the intended use. Conditions imposed on the SAS shall form part of this consent. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of inconsistency and a S96 application pursuant to the Environmental Planning & Assessment Act 1979 will be required.
108. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
109. A certificate from a Registered Surveyor shall be provided to the Principal Certifying

Authority (PCA) certifying that the habitable/commercial floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.

110. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
111. A benchmark shall be established adjacent to the site to Australian Height Datum to enable comparison to the flood standard.
112. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability flood level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
113. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter, referenced FA-71/2015, dated 28 May 2015.
114. *Positive covenants pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater facility to provide for the maintenance of the rain tank / pump facility and the mechanical parking facilities with stacker parking system to provide for the maintenance of the mechanical parking facility with stacker parking system facility. Installation certificate of the car stacker and relevant signage to be installed. Documentary evidence to be submitted to council with the positive covenant for the car stacker system.*

*[Amendment B - S4.55(1A) amended on 23/07/2019]*

115. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

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

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

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

comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.

- A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

## Roads Act

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

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

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

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

119. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
  - ii) construction of a new fully constructed concrete vehicular entrance/s;
  - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
  - v) construction of paving between the boundary and the kerb;
  - vi) removal of redundant paving;
  - vii) construction of kerb and gutter.
120. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
121. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

122. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
123. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
124. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped.

### Development consent advice

- a. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- b. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- c. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- d. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on phone number 1800810443.

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

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

- f. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- g. Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- h. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- i. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.



# marchesepartners

18.06.2019

Buildview Corp  
Attention: Mahmoud Mohanna  
A2/13-15 Forrester Street  
Kingsgrove NSW 2205

## STATEMENT OF ENVIRONMENTAL EFFECTS 7-9 Gertrude Street, WOLLI CREEK, NSW, 2205

For Development Application No. DA-2016/47/A

This Statement of Environmental Effects has been prepared on behalf of Buildview Corp to support a planning modification to development application no. DA-2016/47/A under Section 4.55 of Environmental Planning and Assessment Act, 1979.

### Description of the proposed changes:

The applicant proposes to add 3 no. car stacking devices to the basement level parking of the development, at the same time relocating two accessible parking spaces to adjacent spaces. The net effect of this proposed change is to increase the parking yield by 3 car spaces.

### Reason for the proposed changes:

To comply with general condition 11 of the development application notice of determination. Without making the proposed modification the allocation of spaces would have been inconsistent with this condition of the planning consent.

The modified development will remain consistent with the relevant development control plan for the address and does not require the alteration of any written conditions of consent. The modified scheme will provide additional off-street parking spaces for the development, assisting to reduce the use of on-street and general parking spaces by residents of the development.

We assess that there is minimal impact on the environment and trust that Council will support this application.

Yours Sincerely,



**Richard Darvill**  
Senior Associate

marchese partners international Pty Ltd  
Level 11, 53 Waterloo Street North Sydney  
NSW 2060 Australia

correspondence :  
PO Box 1183 North Sydney NSW 2060  
ph : + 61 2 9522 4375  
e : info@marchesepartners.com.au  
ABN 92 949 041 469

www.marchesepartners.com

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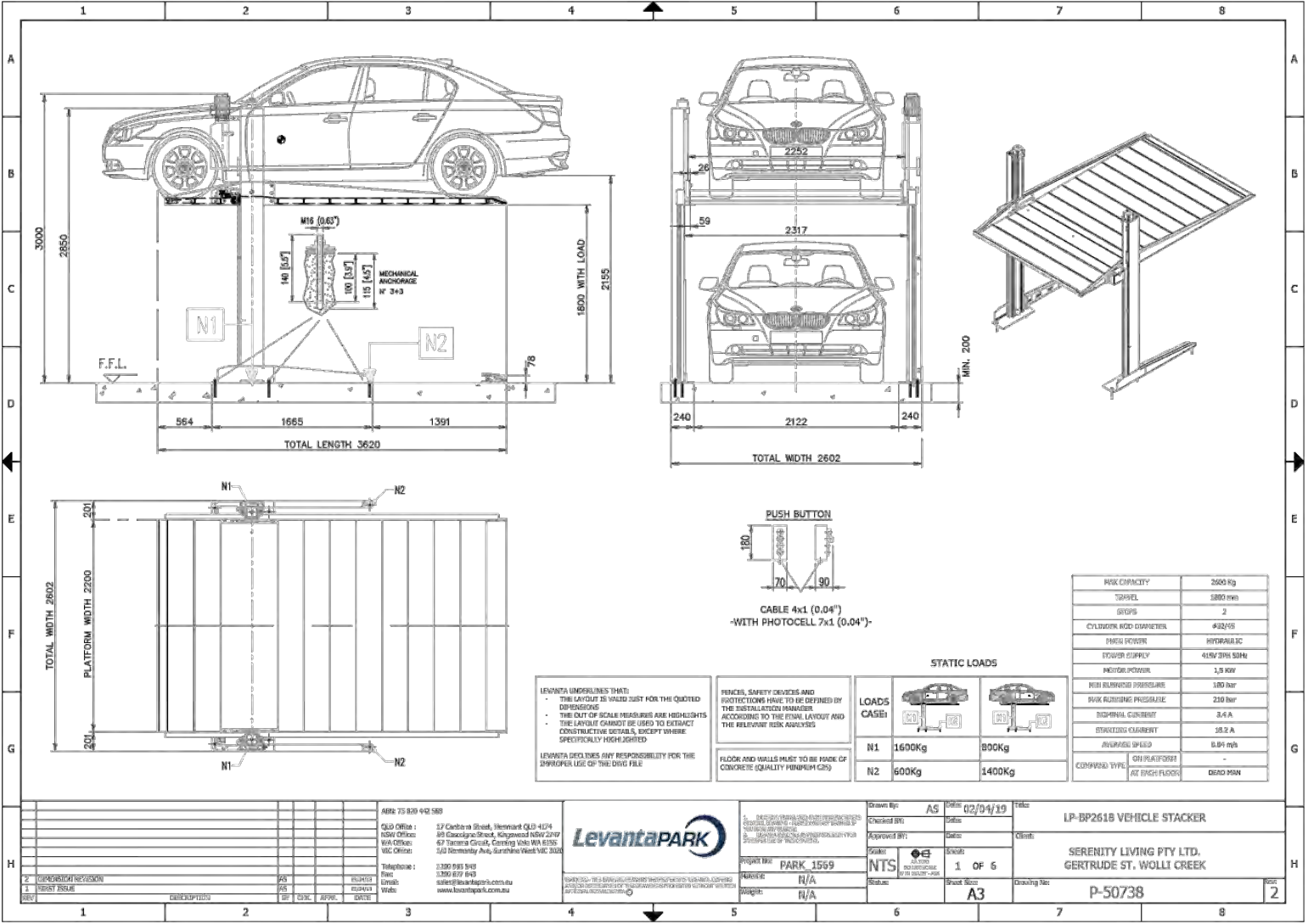
principals + nominated architects :  
eugene marchese (architect) (NSW) (VIC)  
stuart zappala (architect) (NSW) (VIC)

office principals :  
guy farrar (architect) (NSW) (VIC) - Sydney  
frank shenberg (architect) (NSW) (VIC) - Brisbane  
jon valler (architect) (NSW) (VIC) - Melbourne  
new chandhi (architect) (NSW) (VIC) - Canberra  
scott colligate (architect) (NSW) (VIC) - Adelaide  
drew dunn (architect) (NSW) (VIC) - Perth  
blair kennan (architect) (NSW) (VIC) - Auckland  
simon johnson (architect) (NSW) (VIC) - Christchurch  
sidharth mansukhani (architect) (NSW) (VIC) - Bangalore  
roberto garcia (architect) (NSW) (VIC)

senior associate partners :  
paulo salento (architect) (NSW) (VIC)  
robin mason (architect) (NSW) (VIC)

senior associates :  
sarah kinn (architect) (NSW) (VIC)  
bruno egallio (architect) (NSW) (VIC)  
grigore blazice (architect) (NSW) (VIC)  
lindsay scully (architect) (NSW) (VIC)  
nicholas mcgovern (architect) (NSW) (VIC)  
paul chang (architect) (NSW) (VIC)  
andrew ewick (architect) (NSW) (VIC)  
kate hansen (architect) (NSW) (VIC)  
peter allen (architect) (NSW) (VIC)  
richard darvill (architect) (NSW) (VIC)

associates :  
kyle prime (architect) (NSW) (VIC)  
katie schmidt (architect) (NSW) (VIC)  
linh huong khuet (architect) (NSW) (VIC)

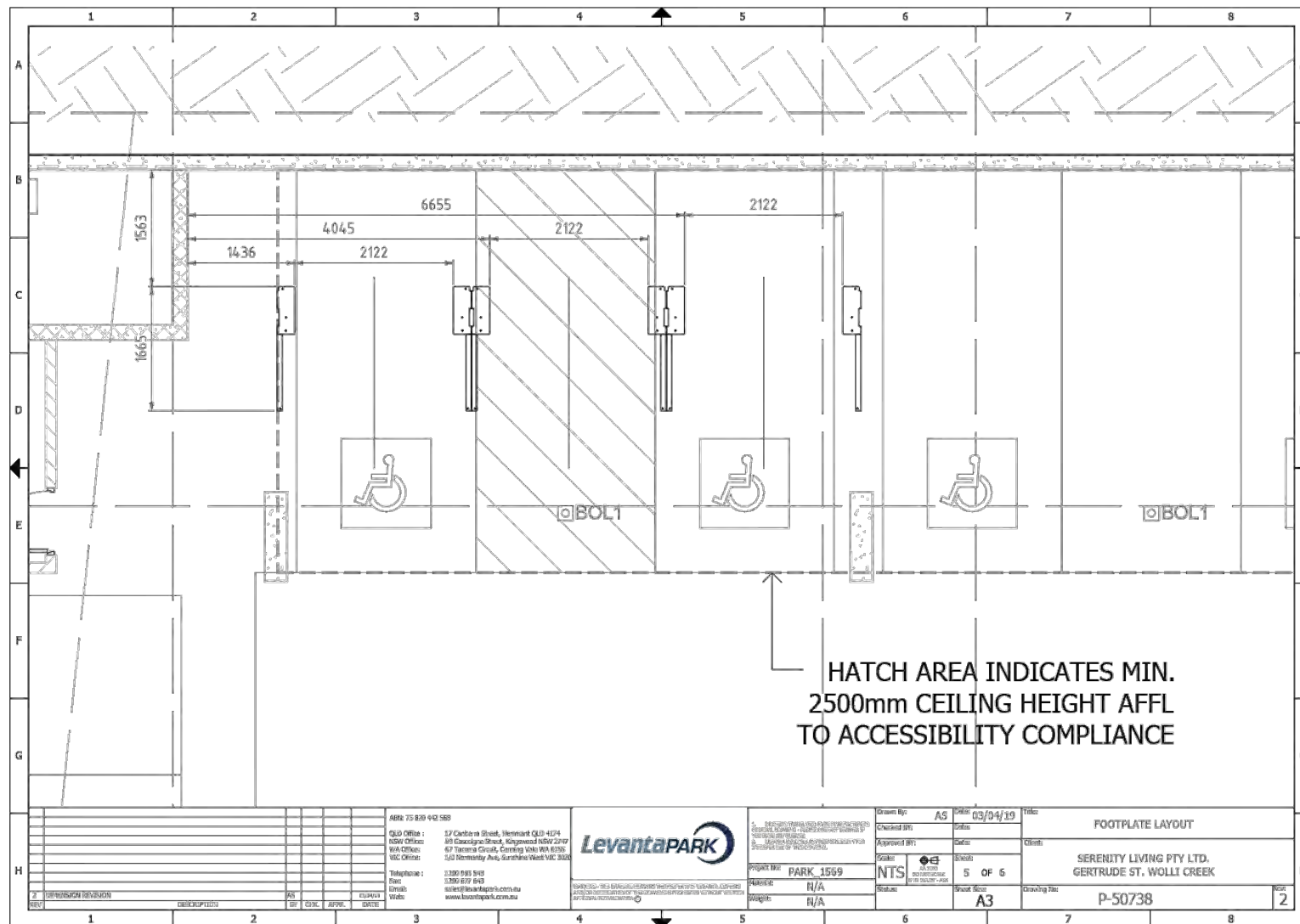




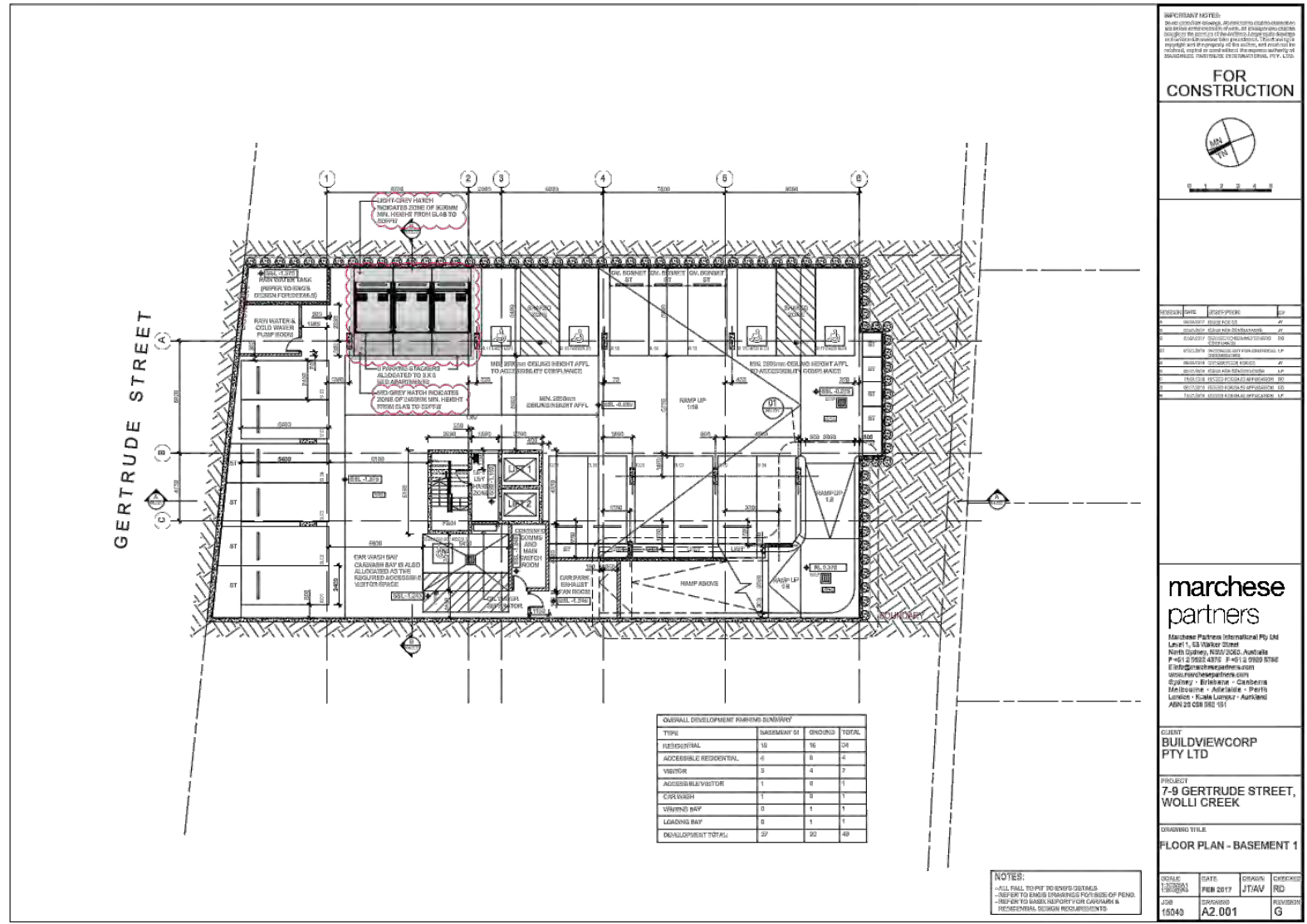


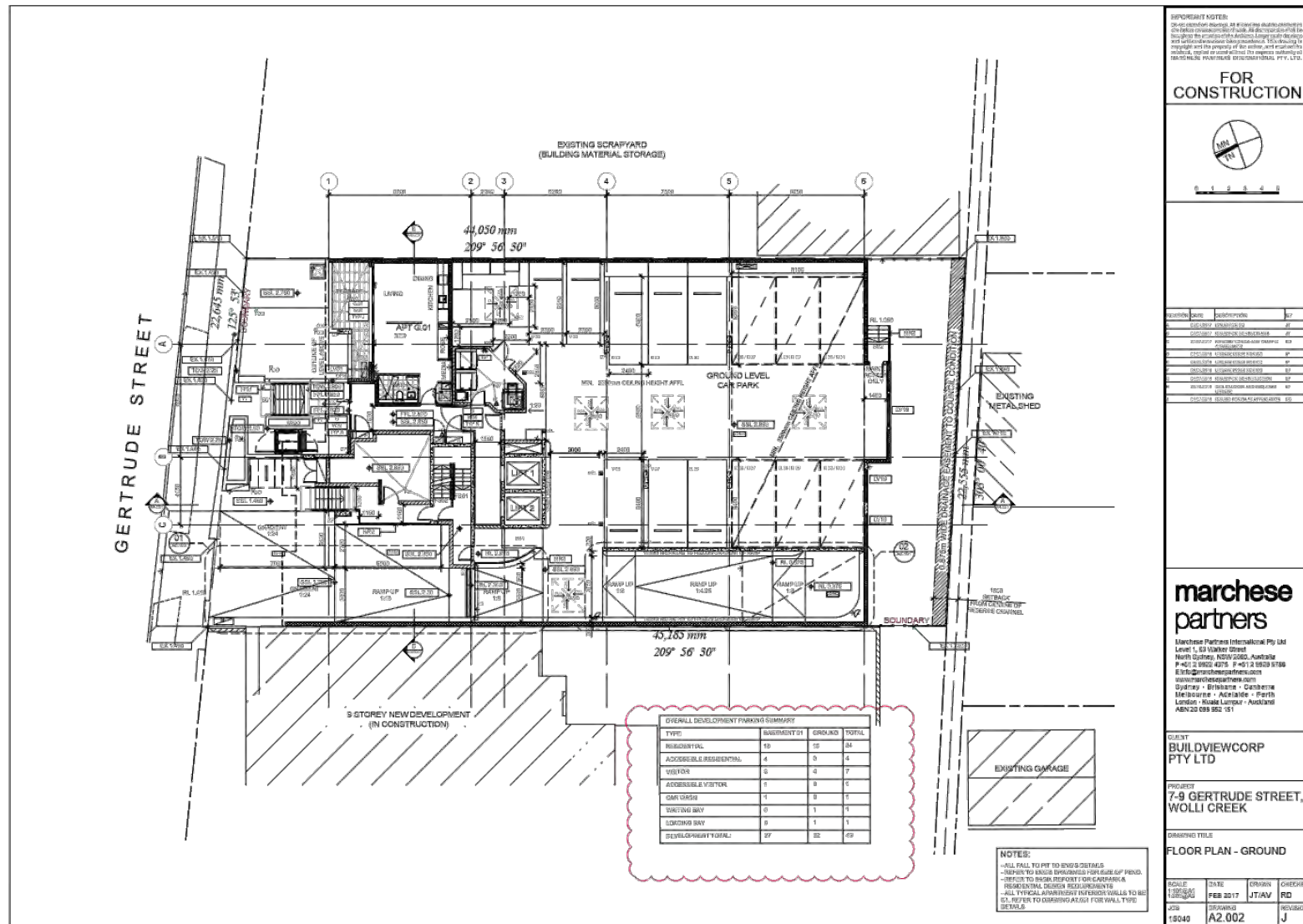






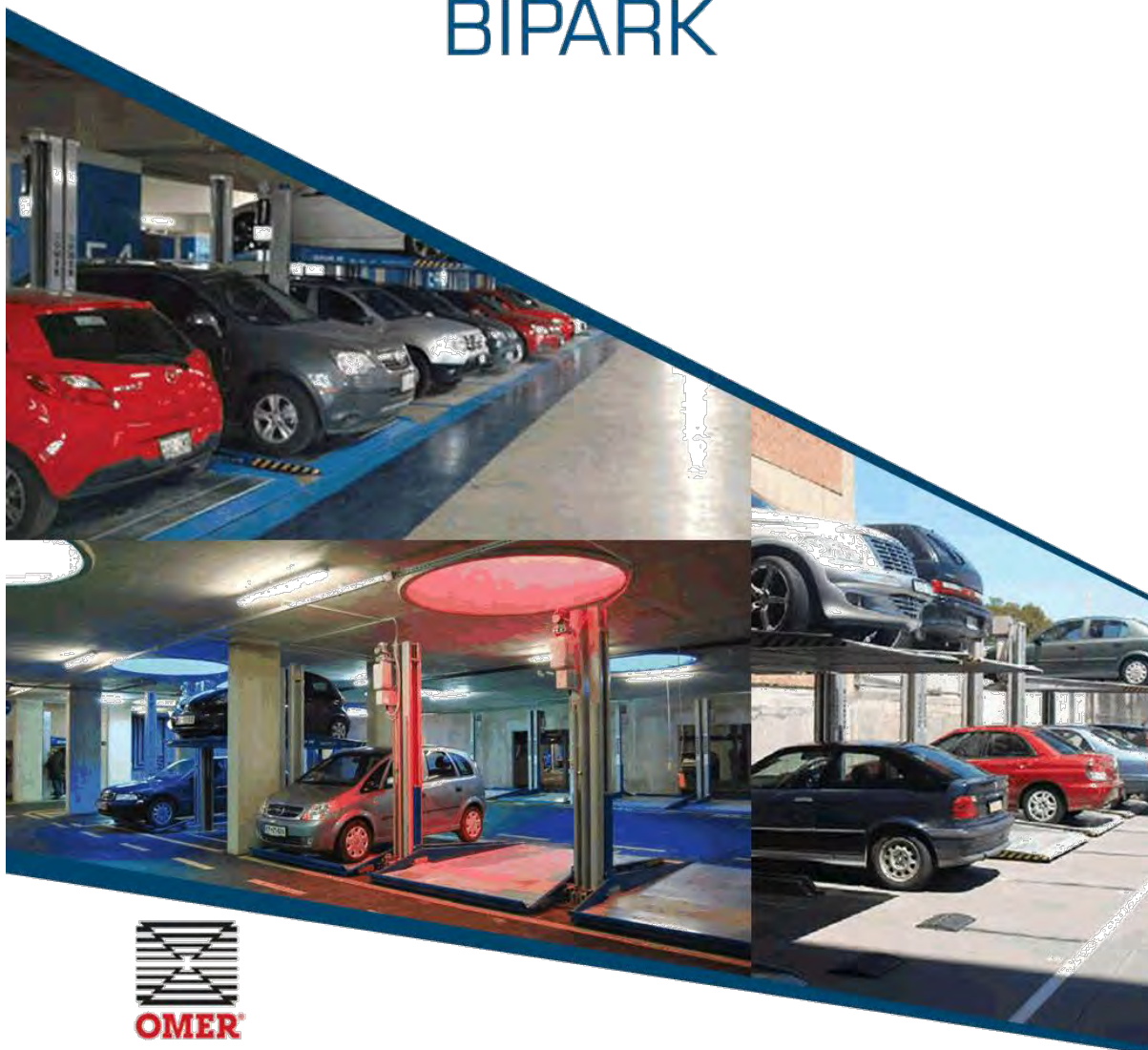








## TECHNICAL SPECIFICATION BIPARK



SMART SOLUTIONS FOR VEHICLE PARKING AND CAR STORAGE





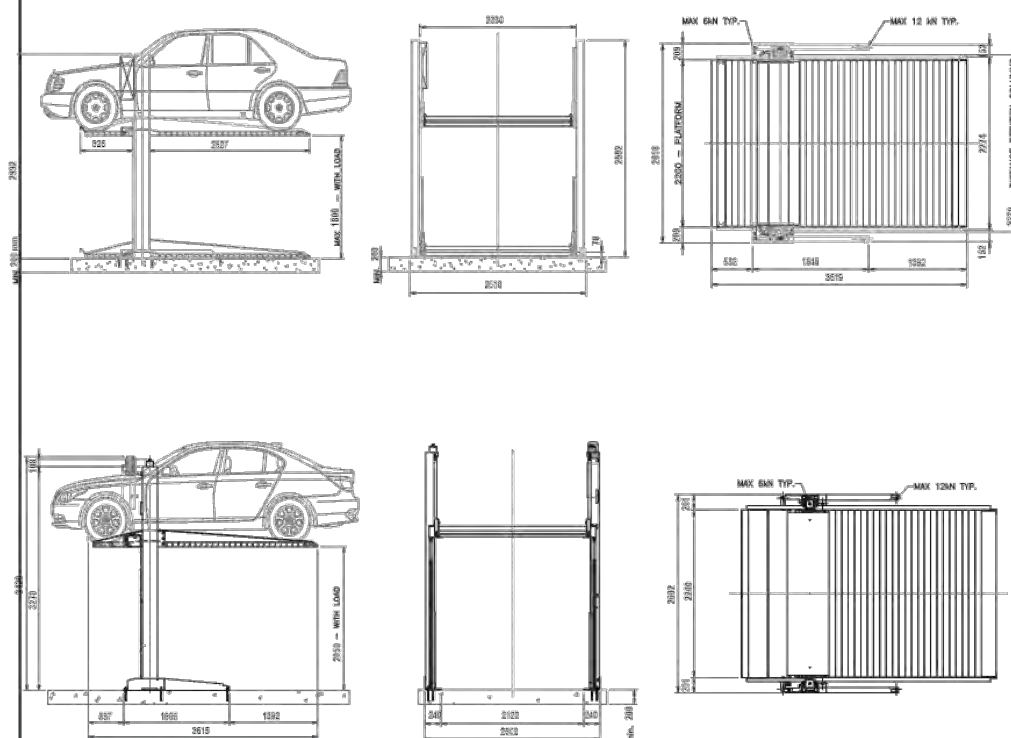
## TECHNICAL SPECIFICATION BIPARK

Bipark is a compact double car stacker that is engineered to lift vehicles smoothly and quickly into position.

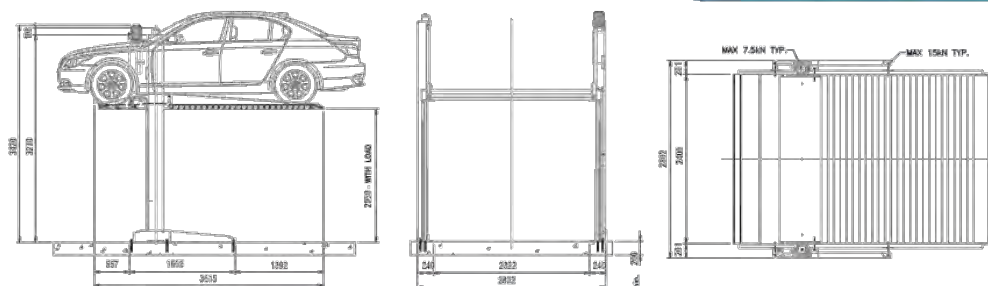
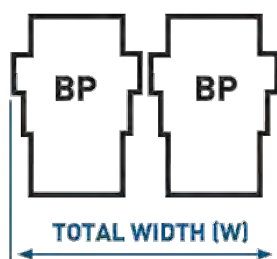
The platform has a lift capacity up to 3,200 kg and will accommodate the new generation SUV's, 4 wheel drive vehicles and low clearance sports cars.

Other aspects of the units like galvanised platform structure, front wheel stop bar, location of the unit's electro hydraulic system, unique torsion bar and locking mechanism, the toothed pinion all allow the unit to be operated smoothly, efficiently and safely in today's environment.

|                  | Capacity  | Standard Lifting Height | Max Lifting Height | Standard Platform | Net height | Pit | Power  | Speed    | Power supply  | Standard Weight | Notes |
|------------------|-----------|-------------------------|--------------------|-------------------|------------|-----|--------|----------|---------------|-----------------|-------|
| LIPARK LP BP2618 | 2,600 kg. | 1,850 mm                | 1,850 mm           | 2,200x3,619 mm    | 1,800 mm   | NA  | 1,5 kw | 0,04 m/s | 445 v / 50 hz | 1,050 kg.       |       |
| LIPARK LP BP2621 | 2,600 kg. | 2,100 mm                | 2,100 mm           | 2,200x3,619 mm    | 2,050 mm   | NA  | 1,5 kw | 0,03 m/s | 415 v / 50 hz | 1,100 kg.       |       |
| LIPARK LP BP3221 | 3,200 kg. | 2,100 mm                | 2,100 mm           | 2,400x3,619 mm    | 2,050 mm   | NA  | 1,5 kw | 0,03 m/s | 415 v / 50 hz | 1,270 kg.       |       |

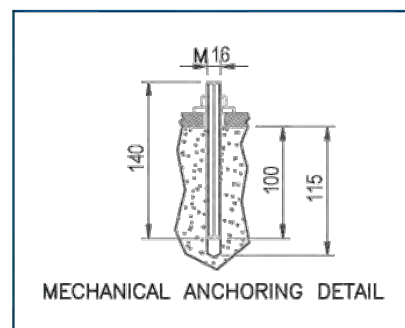
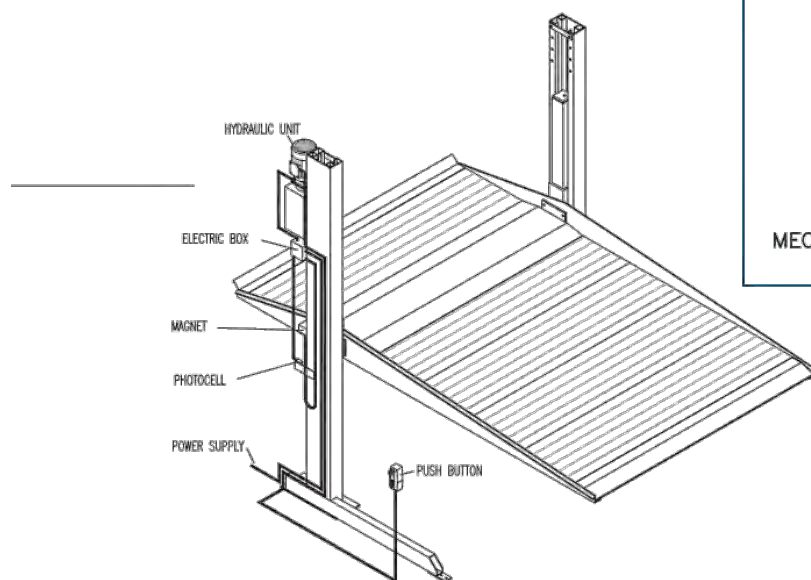


P: 1300 993 548 W: [levantapark.com.au](http://levantapark.com.au) E: [enquiries@levantapark.com.au](mailto:enquiries@levantapark.com.au)

**TECHNICAL SPECIFICATION BIPARK****BIPARK LP-BP3221****MULTIPLE CAR STACKERS – WIDTH REQUIREMENTS**

| No. of Bays | Minimum Width required in mm (W) | Total Cars Parked (S) |
|-------------|----------------------------------|-----------------------|
| 2           | 5250                             | 4                     |
| 3           | 7860                             | 6                     |
| 4           | 10480                            | 8                     |
| 5           | 13100                            | 10                    |
| 6           | 15720                            | 12                    |
| 7           | 18340                            | 14                    |
| 8           | 20960                            | 16                    |

\*Dimensions based on LP-BP2618

**CABLE CONNECTION LAYOUT**

**P:**1300 993 548 **W:** [levantapark.com.au](http://levantapark.com.au) **E:** [enquiries@levantapark.com.au](mailto:enquiries@levantapark.com.au)

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## TECHNICAL SPECIFICATION BIPARK

### ACCESSORIES

■ STANDARD □ OPTIONAL

| DESCRIPTION   | BIPARK 28 | BIPARK 26 H21 | BIPARK 32 | NOTES  |
|---|-----------|---------------|-----------|--|
| Standard colours: BLUE RAL 5005 and SILVER RAL 9006                   | ■         | ■             | ■         |  |
| 2 columns complete with lifting cylinders                             | ■         | ■             | ■         |  |
| 1 standard platform   | ■         | ■             | ■         | W 2200 mm x L 3619 mm.   |
| 1 torsion bar   | ■         | ■             | ■         |  |
| 1 front wheel stop bar  | ■         | ■             | ■         |  |
| 1 'dead man' push-button board  | ■         | ■             | ■         |  |
| 1 hydraulic control unit with motor 1,5KW                             | ■         | ■             | ■         |  |
| Power Supply: 416V/3Ph/50Hz   | ■         | ■             | ■         |  |
| Adjustable stopping height  | ■         | ■             | ■         |  |
| Mechanical and electrical safety devices                              | ■         | ■             | ■         |  |
| Nylon Package   | ■         | ■             | ■         |  |
| Push-button board support   | □         | □             | □         |  |
| Waterproof galvanised cover for control unit for outdoor installation | □         | □             | □         |  |
| Waterproof push-button board IP 65                                    | □         | □             | □         |  |
| Top Cover (nr. 2 pieces)  | □         | □             | □         |  |
| Flashing light  | □         | □             | □         |  |
| Audible warning kit   | □         | □             | □         |  |
| Emergency manual pump   | □         | □             | □         |  |
| Vehicle Presence Sensor under the Platform                            | □         | □             | □         |  |
| Vehicle Presence Sensor above the Platform                            | □         | □             | □         |  |
| Non standard power supply - 240V/1Ph/50Hz                             | □         | □             | □         |  |
| Identical Keys for a set of Biparks                                   | □         | □             | □         |  |
| Different keys for a set of Biparks                                   | □         | □             | □         | Max 10 different keys  |
| Hot Galvanised metal finish   | □         | □             | □         | Columns, guides, columns connection plate, platform profile, ramp and wheel stop |



**Designed for Australian site conditions**

**Engineered & Manufactured in Europe**

**BIPARK SYSTEMS CONFORM TO:**

- AS 3000
- AS Part 1601
- ISO 9001
- AS 60204
- AS1217.1
- EN14010

|     |                           |                 |     |      |
|-----|---------------------------|-----------------|-----|------|
| QLD | - 17 Canberra Street      | Hemmant         | QLD | 4174 |
| NSW | - 89 Gascoigne Street     | Kingswood       | NSW | 2747 |
| WA  | - 67 Tacoma Circuit       | Canning Vale    | WA  | 6155 |
| VIC | - 135 Northcorp Boulevard | Broadmeadows    | VIC | 3043 |
| SA  | - 6 Sheffield Street      | Woodville North | SA  | 5012 |



Smart Solutions for Vehicle Parking and Car Storage



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## Bayside Local Planning Panel

23/07/2019

|                     |   |
|---------------------|---|
| Item No             | 6.5   |
| Application Type    | Modification to a residential flat building   |
| Application No      | DA-2014/10214/D   |
| Lodgement Date      | 30/05/2019  |
| Property            | <b>5 Myrtle Street, Botany</b>  |
| Ward                | Ward 1  |
| Owner               | Agility Assets Holding Pty Ltd  |
| Applicant           | Agility Assets Holding Pty Ltd  |
| Proposal            | Section 4.55(1A) Application to modify Development Consent No. 2014/114 to amend Condition No. 37 and 106 |
| No. of Submissions  | N/A   |
| Cost of Development | N/A   |
| Report by           | Michael McCabe, Director City Futures   |

## Officer Recommendation

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
  - i is of minimal environmental impact;
  - ii is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - iii the application was not notified because not required; and
  - iv has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- 2 That the Bayside Local Planning Panel considers any submissions made concerning the proposed modification and take into account the reasons of the consent authority that granted the consent that is sought to be modified.
- 3 That modification application DA-2014/214/D seeking to modify Development Consent No. 2014/214 to amend Condition Nos. 37 and 106 relating to the stormwater system on the site at 5 Myrtle Street, Botany, be **APPROVED**. The proposal is modified in the following manner:
  - i By amending Condition No. 37 relating to stormwater system as follows:
 

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 (PCA) for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water

regulations and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:

- a) ~~The provisions made in the Stormwater Management Plans by ACOR, dated 18 July 2014 (DA 14/214/04)~~
  - b) ~~**The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm.**~~
  - e) ~~Any stormwater discharge to Council's Kerb and Gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to Council's pit and pipe system. **Maximum permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the State of Nature condition (i.e. the site is totally grassed/turfed), rather than pre-development condition.**~~
  - d) ~~No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,~~
  - e) ~~The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,~~
  - f) ~~**The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,**~~
  - g) ~~The water originating from the pump put system in the basement car park shall NOT be directed to the Rainwater Re-use Tank and must not be used as grey water under any circumstance.~~
  - h) ~~**All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council's drainage systems. As such, details of the pollution control device shall be shown on stormwater management plan and submitted to the PCA for approval prior to the issue of any construction certificate, and**~~
  - i) ~~Detail calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.~~
- ii By amending Condition No. 106 relating to stormwater system as follows:
- ~~**Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:**~~
-



- a) ~~Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and~~

~~Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.~~

~~The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.~~

~~**Prior to the issue of the Occupation Certificate, an appropriate instrument in accordance with Council Specification must be registered on the title of the property, concerning the presence and ongoing operation of the stormwater 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 stormwater 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. The terms of the 88E instruments are to be submitted to Council for review and approval and proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation**~~

- iii By amending Condition No. 118 relating to the subject application as follows: 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. 14(214) dated as 12 September 2014 and as further amended by Section 96(1A) Application No. 14(214).02 dated 2 October 2015 14(214).03 dated 22 January 2016 and as further amended by Section 4.55(2) Application No. 14/214/04 dated 20 April 2018 **and as further amended by Section 4.55(1A) Application No. 2014/214/D dated 30 May 2019** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. (DA-14/214/02) (DA-14/214/03) (DA-14/214/04)(**DA-2014/214/D**)

## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Stormwater Plan [↓](#)
- 3 Stormwater Design Certificate [↓](#)

## BAYSIDE COUNCIL

### Planning Assessment Report

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#### Application Details

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|                            |   |
|----------------------------|---|
| <b>Application Number:</b> | DA-2014/214/D   |
| <b>Date of Receipt:</b>    | 30 May 2019   |
| <b>Property:</b>           | 5 Myrtle Street, Botany<br>Lot B in DP 382442   |
| <b>Owners:</b>             | Agility Assets Holding Pty Ltd  |
| <b>Applicant:</b>          | Agility Assets Holding Pty Ltd  |
| <b>Proposal:</b>           | Section 4.55(1A) Modification Application to modify Development Consent No. 2014/214 to amend Condition Nos. 37 and 106 relating to the stormwater system on the site |
| <b>Recommendation:</b>     | Approval, subject to conditions of consent  |
| <b>Value:</b>              | N/A   |
| <b>No. of submissions:</b> | Nil   |
| <b>Author:</b>             | Angela Lazaridis, Senior Development Assessment Planner   |
| <b>Date of Report:</b>     | 28 June 2019  |

#### Key Issues

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Development Application No. 2014/214 was approved on 13 May 2015 by the Development Committee of the former City of Botany Bay Council for the demolition of all existing structures, excavation remediation, construction of three x three storey residential buildings comprising of two x townhouses and 8 apartments with a single level basement and car parking to provide 17 car parking spaces and stratum and strata title subdivision to create 3 stratum lots and 8 strata lots at 5 Myrtle Street, Botany.

On 30 May 2019, the applicant lodged the subject Section 4.55(1A) Application to modify Development Consent No. 2014/214 to amend Condition Nos. 37 and 106 relating to the stormwater system on the site.

Due to the scope of the works to be modified, the application was not required to be notified in accordance with Part 2 – Advertising and Notification of the Botany Bay Development Control Plan (BBDCP) 2013.

The application does not significantly alter the approved building. The modification is considered to be substantially the same development is not considered to create any likely impacts to the surrounding development.

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

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### Recommendation

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1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
  - i. is of minimal environmental impact;
  - ii. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
  - iii. the application was not notified because not required; and
  - iv. has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
2. That the Bayside Local Planning Panel consider any submissions made concerning the proposed modification and take into account the reasons of the consent authority that granted the consent that is sought to be modified.
3. That modification application DA-2014/214/D seeking to modify Development Consent No. 2014/214 to amend Condition Nos. 37 and 106 relating to the stormwater system on the site at 5 Myrtle Street, Botany, be APPROVED. The proposal is modified in the following manner:
  - i. By amending Condition No. 37 relating to stormwater system
  - ii. By amending Condition No. 106 relating to s.88E instrument
  - iii. By amending Condition No. 118 to reflect the subject application.

### Background

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#### Site Description

The subject site is legally known as Lot B in DP 382442. The site is situated on the southern side of Myrtle Street between Jasmine Street to the west and Sydenham Botany Goods Railway Line to the east. The site has a north-west to south-east orientation with north being the front of the site (Myrtle Street) and south being the rear of the site.

The site is trapezoidal in shape and is located in the R3 Medium Density Residential zone. The land is relatively flat with a slight fall of approximately 400mm from the southern to northern side of the site. The site has a splayed street frontage width of 13.525 metres, a rear boundary width of 13.43 metres, an eastern boundary length of 71.94 metres and western boundary length of 72.86 metres. It has a surveyed total area of 969.7sqm.

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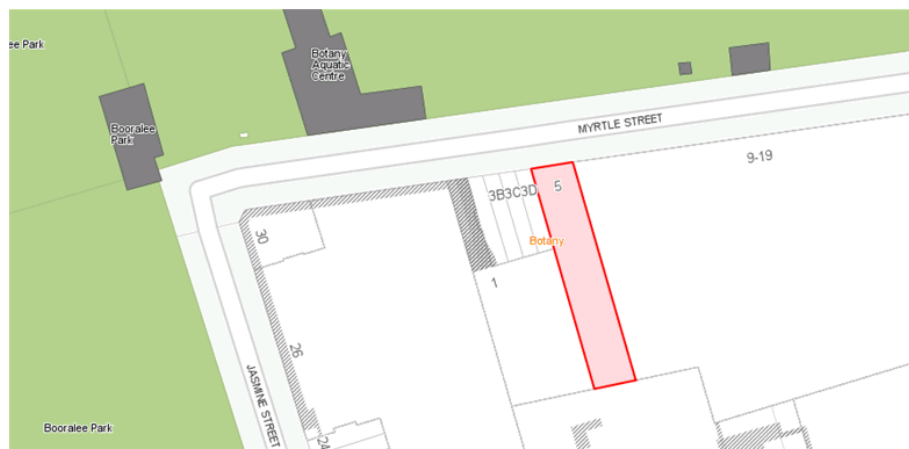


Figure 1. Locality Plan

The subject site is currently vacant however originally contained a two storey brick light industrial building with flat mental roof ancillary office component at the front of the site with a single storey brick warehouse/factory to its rear. The subject site is an isolated site being surrounded by residential development within the R3 Medium Density Residential zone.

The southern side of Myrtle Street supports a number of three storey residential apartments with basement car parking. The street frontage on the immediate adjoining properties to the east and west consists of two storey townhouses with a loft level and balconies facing the street. This is evident at 1-3 Myrtle Street in which the proposed development has been designed in a similar manner. 1-3 Myrtle Street consists of twelve townhouses with basement parking. Four of these townhouses are Torrens titled and face Myrtle Street while the remaining eight townhouses located behind, running parallel to the sites side boundaries. They have an east to west orientation with west being the front entries and east being their rear courtyards.

The adjoining property to the east is 9-19 Myrtle Street which comprises of sixty dwellings and basement car parking for 137 car spaces. There are seven separate buildings over the site with Buildings 1 to 6 containing two and three bedroom townhouses with attics in the roof space. Building 7 contains 28 apartments over six levels with the upper two storeys recessed so to present as a four level building with the two upper levels within the roof space. The building is located towards the centre of the site.

#### Approved Development

- **DA-2014/214-** Integrated development application for the demolition of all existing structures, excavation remediation, construction of three x three storey residential buildings comprising of two x townhouses and 8 apartments with a single level basement and car parking to provide 17 car parking spaces and stratum and strata title subdivision to create 3 stratum lots and 8 strata lots was approved on 13 May 2015 by Council's Development Committee.
- **DA-2014/214/02-** Section 4.55(1A) Application to modify Development Consent No. 2014/214 for minor internal reconfiguration to the two rear buildings (Units 5C, 5D, 5G and 5H) and to modify Condition Nos. 49 and 50 relating to the timing of a site validation

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report and site audit statement was approved under delegated authority on 22 February 2016.

- **DA-2014/214/03-** Section 4.55(1A) Application to modify Development Consent No. 2014/214 to amend the external finish from face brick to cement render and white paint finish was approved under delegated authority on 8 April 2016.
- **DA-2014/214/04-** Section 4.55(2) Application to modify Development Consent No. 2014/214 which approved a residential flat/townhouse development to modify floor levels, additional three units, reconfigure second floor as single bedroom apartments, window changes and basement parking to add four stackers was approved by the Bayside Local Planning Panel on 23 October 2018.

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

The proposed modification subject to this application seeks to amend two conditions. The two conditions are Condition No. 37 and 106. Both conditions relate to the stormwater system that is proposed on the site.

#### Condition No. 37

The applicant seeks to amend Condition No. 37 which relates to detailed stormwater system designs to be signed off by the PCA prior to the issue of the Construction Certificate. The applicant has stated that the wording of the condition currently appears to make detailed reference to a now outdated stormwater management plan that was prepared by ACOR and dated 18 July 2014. There has been a new stormwater management plan with a significantly different design which was submitted to Council as part of the post determination package for sign off however due to the nature of the new design, the new plans could not entirely satisfy Condition No. 37 hence the request to amend the condition.

The application was referred to Council's Development Engineer who provided the following response:

*"I have no issues with the proposed change in design for stormwater system, they are providing a large volume of rainwater tanks for the site to be used for stormwater re-use which improves the WSUD along with utilising the natural infiltration capacity of the soil in the discharge of stormwater that is directed to Council's infrastructure."*

Council's Development Engineer has recommended modifications to the plans with Condition No. 37 modified. The condition is to be amended as follows:

37. 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 (PCA) for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:
  - a) ~~The provisions made in the Stormwater Management Plans by ACOR, dated 18 July 2014 (DA-14/214/04)~~

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- ~~b) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100-year ARI storm.~~
- c) Any stormwater discharge to Council's Kerb and Gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to Council's pit and pipe system. ~~Maximum permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the State of Nature condition (i.e. the site is totally grassed/turfed), rather than pre-development condition.~~
- d) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- ~~f) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,~~
- g) The water originating from the pump put system in the basement car park shall NOT be directed to the Rainwater Re-use Tank and must not be used as grey water under any circumstance.
- ~~h) All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council's drainage systems. As such, details of the pollution control device shall be shown on stormwater management plan and submitted to the PCA for approval prior to the issue of any construction certificate, and~~
- i) Detail calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.

#### Condition No. 106

Similarly to above, the condition requires a positive covenant to be imposed onto the on-site detention system and stormwater quality improvement device prior to the issue of the Occupation Certificate. The applicant has requested that the condition either be deleted or amended to reflect the changes in Condition No. 37. The development engineer has reviewed the condition and has agreed to its deletion with a replacement condition imposed related to a s88E instrument being carried out and a works-as-executed plan submitted to Council at the completion of the works. The wording of the condition is now proposed as follows:

106. ~~Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:~~
- ~~a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and~~
  - ~~Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.~~

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~~The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.~~

Prior to the issue of the Occupation Certificate, an appropriate instrument in accordance with Council Specification must be registered on the title of the property, concerning the presence and ongoing operation of the stormwater 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 stormwater 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. The terms of the 88E instruments are to be submitted to Council for review and approval and proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation

#### Condition No. 118

Additionally Condition No. 118 relates makes reference to the revision of applications assessed. The condition has been modified to reflect the subject application.

### **Statutory Considerations**

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#### **SECTION 4.55(1A) CONSIDERATIONS**

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

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

The Section 4.55(1A) modification application relates to amendments to an approved residential flat building and town house development in modifying conditions relating to the stormwater system, and as such, the modifications will result in minimal environmental impact as approved under DA-2014/214 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

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The Section 4.55(1A) modification application relates to amendments to an approved residential flat building and town house development in modifying conditions relating to the stormwater system. Therefore the modification application is substantially the same development to which consent was originally granted.

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

Due to the scope of the works to be modified, the application was not required to be notified in accordance with Part 2 – Advertising and Notification of the Botany Bay Development Control Plan (BBDCP) 2013.

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

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

#### **SECTION 4.55(3) MODIFICATION CONSIDERATIONS**

*In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.*

The original development application as well as the previous modification were determined by the Council's Development Committee (DA) delegated authority and the Bayside Local Planning Panel (modification). The recent modification application was approved for the following reasons:

- The modified proposal is substantially the same as the approved proposal;
- The modified building has similar bulk and scale to the approved building.

Having reviewed the reasons for the decision of the previous modification, it could be considered that the proposal subject to this application could adopt the above reasons of approval.

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

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

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

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

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The proposed modification does not change the conclusions that were approved in the original DA or in the subsequent modifications. The proposal continues to satisfy SEPP No. 55.

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

The proposed modification does not change the conclusions that were approved in the original DA or in the subsequent modifications in regards to design quality and amenity. The proposal continues to satisfy SEPP No. 65.

Botany Bay Local Environmental Plan 2013

The application refers to modifications to conditions therefore there is no section within the Botany Bay Local Environmental Plan 2013 that is of relevance as part of this assessment. The previous conclusions that were approved with the parent DA and in subsequent modifications has not be altered as part of this application. The proposal continues to satisfy the objectives and clauses of the Botany Bay Local Environmental Plan 2013 and the R3 Medium Density Residential zone and therefore is acceptable in this case.

**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 modified proposal has been assessed against the relevant controls contained in the Botany Bay Development Control Plan 2013 (BBDCP 2013) and the following information has been provided:

*Part 3G – Stormwater Management*

The proposed modification seeks to amend conditions relating to the stormwater system on the site. The proposal adopts a new stormwater management plan which significantly differed from the one originally approved with the development application. As stated above in the assessment of the proposed modifications, the proposal was referred to Councils Development Engineer for comment and who had no issues subject to the condition to be modified (No. 37) and deleted and replaced with a new condition (No. 106). The conditions of consent have been updated based on the Development Engineer's recommendation.

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

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

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

The proposed modifications relates to amendments to an approved residential flat building and town house development in modifying conditions relating to the stormwater system and as such, it is considered that the proposed amendment will have no significant adverse

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environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2014/214.

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

The suitability of the site was addressed in the original approval of DA-2014/214.

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

Due to the scope of the works to be modified, the application was not required to be notified in accordance with Part 2 – Advertising and Notification of the Botany Bay Development Control Plan (BBDCP) 2013.

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

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

## Conclusion

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The Section 4.55(1A) Application seeking to modify DA-2014/214 to amend Condition Nos. 37 and 106 relating to the stormwater system on the site of an approved residential flat and townhouse development at 5 Myrtle Street, Botany, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The proposal is substantially the same development maintaining the approved residential apartment building and town house land use. The proposed modification will not alter the built form or character of the development and will continue to ensure the development is carried out in an orderly manner.

The modifications put forward for amendment by the applicant that relate to the current proposal, have been amended accordingly within the conditions of consent.

Therefore, the Section 4.55(1A) Modification Application is recommended for approval subject to the conditions (as amended) in the attached Schedule of Consent Conditions.

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## Attachment

### Schedule 1 – Conditions of Consent

Premises: 5 Myrtle Street, Botany

DA No: DA-2014/214/D

### GENERAL CONDITIONS

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

| Drawing N°   | Author                        | Dated Received   |
|--|-------------------------------|--|
| DA01 Rev E- Site Analysis/Roof Plan                        | Derek Raithby<br>Architecture | Dated May 2015;<br>Received 4 May 2015   |
| DA02 Rev E- Basement and Ground Floor Plans (DA-14/214/02) |                               |  |
| DA01- Site Analysis/Roof Plan Rev 8                        |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA02- Basement Floor Plan Rev 9                            |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA03- Ground Floor Plan Rev 9                              |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA04- First Floor Plan Rev 9                               |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA05- Second Floor Plan Rev 9                              |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA06- Elevations Rev 9                                     |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA07- Section A-A and East Elevations Rev 9                |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA13- Window/Door Schedule Rev 6                           |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA14- Diagram Adaptable Design Rev 6                       |                               | Dated July 2018;<br>Received 8 August 2018   |
| DA17- B85 (Realistic) Vehicle Turning Diagrams Rev 2       |                               | Dated August 2018;<br>Received 8 August 2018   |
| DA18- Sight Line Diagram Rev 1                             |                               | Dated August 2018;<br>Received 8 August 2018   |
| CC02- Ground Floor Plan (DA-14/214/02)                     |                               | Dated October 2015;<br>Received 10 November 2015 (DA-14/214/02)                          |
| DA03 Rev E- First and Second Floor Plans                   |                               | Dated May 2015;<br>Received 4 May 2015   |
| DA04 Rev E F- Elevations                                   |                               | Dated May 2015;<br>Received 4 May 2015<br>Dated January 2016<br>Received 22 January 2016 |
| DA05 Rev E F- East Elevation and Long Section              |                               | Dated May 2015;<br>Received 4 May 2015<br>Dated January 2016<br>Received 22 January 2016 |
| DA08 Rev E- External Finishes                              |                               | Dated May 2015;<br>Received 4 May 2015   |
| DA09 Rev E- Site Management Plan                           |                               | Dated May 2015;<br>Received 4 May 2015   |
| DA10 Rev E- Landscape Concept Plan                         |                               | Dated May 2015;<br>Received 4 May 2015   |
| DA13 Rev E- Calculations                                   |                               | Dated May 2015;<br>Received 4 May 2015   |

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|  |   |   |
|--|---|---|
| DA11 Rev D- Entry Detail<br>Pedestrian             |   | Dated July 2014;<br>Received 12 September<br>2014   |
| DA12- Driveway Profile                             |   |   |
| Survey Plan  | Bee & Lethbridge<br>Quality Surveying<br>& Development<br>Solutions | Dated 30 May 2014;<br>Received 12 September<br>2014 |
| Draft Plan of Subdivision of Lot<br>B in DP 382442 | Warren L Bee  | Dated 7 May 2015;<br>Received 7 May 2015            |

(DA-14/214/02) (DA-14/214/03)(DA-14/214/04)

| Reference Documents  | Author                                       | Date Received  |
|--|--|--|
| Statement of<br>Environmental Effects<br>(Clause 4.6 included) | Glendinning Minto &<br>Associates P/L        | Dated September 2014;<br>Received 26 September<br>2014   |
| Geotechnical<br>Investigation Report                           | Robert Sirasch                               | Dated 23 August 2014;<br>Received 12 September<br>2014   |
| Environmental Site<br>Assessment                               | Environmental<br>Investigations<br>Australia | Dated 18 July 2014;<br>Received 12 September<br>2014   |
| Traffic and Parking<br>Assessment                              | McLaren Traffic<br>Engineering               | Dated 30 July 2014;<br>Received 12 September<br>2014   |
| Swept Path Analysis  | McLaren Traffic<br>Engineering               | Dated 15 October 2018;<br>Received 15 October 2018   |
| Security Management<br>Plan                                    | Derek Raithby<br>Architecture                | Dated July 2014;<br>Received 12 September<br>2014  |
| SEPP 65 Design<br>Verification Statement                       | Derek Raithby<br>Architecture                | <del>Received 12 September<br/>2014</del><br>Received 8 August 2018  |
| Waste Management<br>Plan                                       | Derek Raithby<br>Architecture                | <del>Dated June 2014;<br/>Received 12 September<br/>2014</del><br>Dated March 2018;<br>Received 20 April 2018      |
| BASIX Certificate No.<br>556595M_03                            | Prepared by Partners<br>Energy Management    | <del>Dated 4 July 2014;<br/>Received 12 September<br/>2014</del><br>Dated 29 March 2018;<br>Received 20 April 2018 |
| Access and Adaptable<br>Housing Report                         | Accessibility Solutions<br>(NSW) Pty Ltd     | Dated 25 July 2014;<br>Received 12 September<br>2014   |
| Acoustic Report  | Sebastian Giglio<br>Acoustic Consultant      | Dated 18 July 2014;<br>Received 12 September<br>2014   |
| Nathers Certificate  | -  | Dated 4 July 2014;<br>Received 12 September<br>2014  |

(DA-14/214/04)

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2. This Consent relates to land Lot B in DP 382442, and as such, building works must not encroach on to adjoining lands or other public places, except as otherwise permitted by this consent.
3.
  - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
  - b) All plumbing stacks, vent pipes, stormwater downpipes including balcony drainage and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level;
  - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2; and
  - d) The basement of the building must be designed and built so that on completion, the basement is a "fully tanked" structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner parts of the basement car park.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 556595M\_03 dated 4 July 2014 29 March 2018 and received by Council on 12 September 2014 20 April 2018 for the development are fulfilled. (DA-14/214/04)
  - a) Relevant BASIX Certificate means:
    - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
    - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
  - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that: -
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
    - i) The consent authority; or,
    - ii) An accredited certifier; and,
  - b) The person having the benefit of the development consent: -
    - i) Has appointed a principal certifying authority; and,
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
    - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

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6. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
7. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
8. The public footpath in Myrtle Street shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Any pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).

**CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES.**

9. The following conditions imposed by Ausgrid are as follows:
  - a) In relation to the possible excavations within 2 metres of existing underground power cables the applicant should refer to Ausgrid Network Standard Working Near or Around Underground Cables NS156 available from Ausgrid web site.
  - b) Additionally the applicant should submit an Application for Connection to Ausgrid (if they have not already) to arrange the power supply to the development including temporary builders supply if required.
10. The following conditions imposed by Sydney Water are as follows:
  - a) The developer is required to obtain a Section 73 Compliance Certificate from Sydney Water prior to the issue of a Construction Certificate. Issuing of the Certificate will confirm that the proponent has met Sydney Water's detailed requirements, which include:
    - i) Correctly sized water and wastewater mains; extensions or amplifications to existing water and wastewater systems (if necessary);
    - ii) Building over/adjacent to Sydney Water's infrastructure;
    - iii) Payment of Sydney Water charges; and
    - iv) The completion of any other requirements.
  - b) Adjustments to existing Sydney Water systems resulting from developer activity will be charged to the particular development. Developers are advised to engage the services of a Water Servicing Coordinator (WSC) to obtain a Section 73 Certificate and manage the servicing aspects of their projects. Details are available from any Sydney Water Customer Centre on 13 20 92 or Sydney Water's website at [www.sydneywater.com.au](http://www.sydneywater.com.au).
  - c) Building Over/Adjacent to Sydney Water's Pipes and Structures;

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- i) A 225mm Sydney Water sewer main traverses the development site. Any development on site, which may impact on this asset, will be required to comply with Sydney Water's guidelines for building over or adjacent to Sydney Water's Assets, or relocated as indicated in the development application.
- d) In relation to any proposed landscaping, Sydney Water emphasises the potential for tree roots to cause damage to water and sewer pipes. There are a number of tree species that are of concern to Sydney Water because they have significant biomass and/or invasive root systems, which can cause cracking or blockage of Sydney Water assets. Pipe damage in turn may increase the risk of sewer overflows under certain weather conditions, and significantly increases maintenance costs to the water and sewer system.

Trade Waste

- i) A Trade waste Licence is required for the disposal of wastewater from any future industrial or commercial development. A trade waste permit to discharge must be obtained before discharge into the sewer can commence. This application can be made to Sydney Water at the Section 73 Certificate application stage. The applicant can contact Customer Services Division, Rockdale (Sales and Service South Unit) on 9551 4620 for assistance with applying for a trade waste permit.

Water Conservation Measures – BASIX

- ii) Installation of AAA (or higher) rated water conservation devices such as dual flush toilets, showerhead fittings and tap fittings; and
- iii) Connection to an appropriate recycled water supply (if available) or installation of rainwater tanks or an equivalent communal system (with a minimum specified volume), to meet a range of appropriate water needs, such as toilet flushing, cold water supply to washing machines, and irrigation.

11. The following conditions have been imposed by Sydney Airport Corporation Limited (SACL). The proposed development is to comply with the following requirements issued by (SACL) dated 13 October 2014. The conditions are as follows:

Height Restrictions

- a) The PROPERTY DEVELOPMENT at 5 MYRTLE STREET, BOTANY, lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulation, which limit the height of structures to 50 feet (15.24 metres) above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority;
- b) In this instance, Peter Bleasdale, an authorised person of the Civil Aviation Safety Authority (CASA), under Instrument Number: CASA 229/11 in the capacity as Airfield Design Manager has advised that he has "no objection to the erection of the proposed development to a maximum height of 17.09metres above Australian Height Datum (AHD)";
- c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc;
- d) Should you wish to exceed 24 metres above Australian Height Datum (AHD), a new application must be submitted;
- e) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must

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be sought in accordance with the *Civil Aviation (Buildings Control) Regulations Statutory Rules 1988*, No.161;

- f) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the *Airports (Protection of Airspace) Regulations*;
- g) SACL advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct;
- h) Information required by Sydney Airport prior to any approval is to include:
  - i) the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994;
  - ii) the swing circle of any temporary structure/equipment used during construction;
  - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
  - iv) the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- i) Any application for approval containing the above information, should be submitted to SACL at least 35 days prior to commencement of works in accordance with the *Airports (Protection of Airspace) Regulations Statutory Rules 1996*, No.293, which now apply to this Airport;
- j) Under Section 186 of the *Airports Act 1996*, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by up to 50 penalty units;
- k) The height of the prescribed airspace at the site is approximately 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the *Airports (Protection of Airspace) Regulations Statutory Rules 1996*, No. 293, "a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved."

Bird and Obstacle Hazard Management

- l) To minimise the potential for bird habitation and roosting, the applicant must ensure that non-bird attracting plant species are used in any landscape design;
- m) All trees to be planted shall not be capable of intruding in to the Obstacle Limitation Surface when mature.

12. The following conditions are imposed by the NSW Office of Water and must be complied with:

General

- a) An authorisation shall be obtained from NSW Office of Water for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified in the authorisation.

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- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonably foreseeable high water table elevations to prevent potential future inundation.
- c) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.

Prior to excavation

- d) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken. These measurements should be included in a report provided to the NSW Office of Water in support of the dewatering licence application, along with a schedule and indicative level predictions for the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
- e) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug-testing, pump-testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
- f) A copy of a valid development consent for the project shall be provided in the report to the NSW Office of Water.
- g) Groundwater quality testing shall be conducted on a suitable number of samples using a suitable suite of analytes and completed by a NATA-certified laboratory, with the results collated and certificates appended to a report supplied to the NSW Office of Water. Samples must be taken prior to the substantial commencement of dewatering, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
- h) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (sometimes referred to as "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- i) Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment Protection Authority (any such discharge would be regulated through a licence issued under the *Protection of the Environment Operations Act 1997* [POEO Act]). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

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- j) Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- k) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- l) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
- m) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- n) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- o) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
- p) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

- q) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.
13. The following conditions are imposed by the NSW Police and must be complied with. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:
- a) **Passive Surveillance**
    - i) As the proposed development may be exposed to Break Enter and Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit television system (CCTV) which complies with the Australian Standard — Closed Circuit Television System (CCTV) AS:4806:2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti-social or criminal behavior. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation.

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- ii) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.
  - 1 Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
  - 2 One or more cameras should be positioned at the entry and exit points to monitor these areas (underground car park, foyer entrance).
- iii) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE SUBDIVISION CERTIFICATE**

- 14. Where not already provided, a Section 73 Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of the Subdivision Certificate. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website as [www.sydneywater.com.au](http://www.sydneywater.com.au) then "e-develop" icon or telephone 132092.
  - 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 coordinator, since building of water/sewer extensions can be time 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.
- 15. 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.
- 16.
  - a) Positive Covenant and Restriction on Use of the land shall be created to all proposed lots to ensure that car parking for the residential part is not to be to sublet or used for any other purposes;
  - b) Additional Easements benefiting the proposed townhouse allotments shall be created pursuant to Section 88B of the Conveyancing Act 1919, that provide direct access to the basement lifts, garbage rooms, car wash bays, building services and fire exits.
- 17. In order to ensure that the required on-site detention system will be adequately maintained, Positive Covenant and Restriction on the Use of Land on the Title under Section 88B of the Conveyancing Act 1919 shall be created in favour of Council as the benefiting authority for the as-built on-site detention system on proposed Lots 1, 2 and 3.
- 18. A copy of the Building Management Statement and By-Laws for each of the proposed lots shall be submitted to Council for approval prior to the issue of the Subdivision Certificate. The Building Management Statement and By-Laws shall address all

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conditions associated with the ongoing use of the development within this consent and include:

Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under this Development Consent;

Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under this Development Consent;

Responsibilities regarding the maintenance of the car wash bay the Owners Corporation / building owner;

Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times;

Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;

The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;

Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;

The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 88B Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;

A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;

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;

CCTV surveillance of all public areas within the development site; and

Maintenance of inbuilt acoustic measures for aircraft noise.

The Owners Corporation/Executive Committee obligations to ensure the ongoing maintenance of traffic light system and any repair works needed will be required to be carried out as soon as possible.

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

19. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

20. The applicant must, prior to the release of the approved development plans, pay the following fees:

|                              |                                      |
|------------------------------|--------------------------------------|
| a) Builders Security Deposit | \$40,500.00;                         |
| b) Development Control       | \$5,000.00;                          |
| c) Waste Levy                | \$2,000.00;                          |
| d) Tree Preservation Bond    | \$2,500.00                           |
| e) Section 94 Contributions  | <del>\$200,000.00</del> \$260,000.00 |

(DA-14/214/04)

The applicant is to submit payment for a Tree Preservation Bond of \$2500 to ensure protection of two (2) Council street trees (*Eucalyptus* sp. and *Melaleuca* sp) in the nature strip and blister fronting the adjoining property to the north east of the site from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by a qualified Arborist and a report to Council. If a tree was found to be in decline, damaged (including roots), dead or pruned without Council permission or, if tree protection measures were not satisfied at any time during construction, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.

21. Prior to the issue of the Construction Certificate, any sub-surface OSD tank or infiltration trench is required to be partially or wholly located underneath the driveway or paved areas to maximize the area available for deep soil, effective and site responsive tree planting and landscaping on the property. If this cannot be achieved the OSD shall cover no more than 50% of the landscape area, be appropriately located to allow effective tree planting and be constructed so that the top of the structure is 1.2m below final surface levels.

22. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plans listed below a contribution of ~~\$200,000.00~~ \$260,000.00 is required to be paid to Council prior to the release of the Construction Certificate.

|                                 |              |
|---------------------------------|--------------|
| Community Facilities – Citywide | \$20,800.00  |
| Recreation Facilities- Citywide | \$218,400.00 |
| Transport Management- Citywide  | \$18,200.00  |
| Administration                  | \$2,600.00   |

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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 fees applicable at that time.

(DA-14/214/04)

23. Plans submitted with the Construction Certificate shall demonstrate compliance with the following:

- a) All residential unit sizes excluding balconies as a minimum must be as follows:
  - i) Studio = 60m<sup>2</sup> 35sqm
  - ii) 1 bedroom = 75m<sup>2</sup> 50sqm
  - iii) 2 bedroom = 100m<sup>2</sup> 70sqm
  - iv) 3 Bedroom = 130m<sup>2</sup> 90sqm

(DA-14/214/04)

24. All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view. This condition does not apply to the venting to atmosphere of the stack above roof level. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

25.

- a) Prior to the issue of any Construction Certificate, amended plans shall be submitted to the Principal Certifying Authority demonstrating that any front fence constructed shall have the overall height not higher than 1.5m and the height of the solid section of the fence shall be limited to 500mm. Minimum 50% opening shall be provided in the slats area of the fence to provide adequate sight distance.
- b) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary shall comply with sight distances stipulated in Australian Standard AS 2890.1. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.
- c) Fences and gates shall be designed to swing into the site only.

26.

- a) Prior to the issue of the Construction Certificate, amended plans shall be submitted to the Principal Certifying Authority demonstrating that the first floor windows along the western elevation of Building 2 and 3 are converted into highlight windows with a minimum sill height of 1.7m.
- b) Prior to the issue of the Construction Certificate, amended plans or documentation needs to be submitted to Council for approval to demonstrate that the proposed development is fully compliant with BCA provisions, particularly in relation to room heights. The proposed ground floor and first floor levels of the development are to have a minimum ceiling height of 2.7 metres and the second floor a minimum room height of 2.4 metres.
- c) Prior to the issue of the Construction Certificate, details or documentation shall be submitted to the Principal Certifying Authority demonstrating that storage areas in the dwellings and the basement car park are provided on the plans and are secured and have a minimum height of 1.5 metres.

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- d) Prior to the issue of the Construction Certificate, an amended landscape plan is to be submitted and approved by Council demonstrating a quality landscape setting and opportunity for communal open space within the site. (DA-14/214/04)
- 27. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$40,500.00 (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.
- 28. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
- 29. The proposed development will result in substantial excavation that has the potential to affect adjoining buildings and proposed public infrastructure.  
Prior to the issue of the Construction Certificate, the applicant shall:
  - a) seek independent advice from a Geotechnical Engineer on the impact of the proposed excavations on the adjoining properties;
  - b) detail what measures are to be taken to protect those properties from undermining during construction; and
  - c) provide Council with a certificate from the engineer on the necessity and adequacy of support for the adjoining properties.

All recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.
- 30. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:
  - a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
  - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
  - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
  - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,

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- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

31. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
  - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer, RMS or the Police, and
  - c) indicate the construction vehicle access points of the site,
  - d) indicate the frequency of truck movements,
  - e) assess anticipated traffic generation associated with the construction of the proposed development and its impact upon the surrounding road network, on-street parking and pedestrian movements,
  - f) ensure all traffic (including worker's vehicles) generated from the construction activities shall enter and leave the site in a forward direction, and
  - g) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

32. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:

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- a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements (including E-01, E-04, E-07 and E-16 of Council's Infrastructure Standard Drawings),
  - b) For developments with basement carparking, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure,
  - c) The applicant shall provide 16 resident car parking spaces that must be clearly linemarked and signposted,
  - d) The applicant shall provide one (1) visitor car parking spaces that must be linemarked and signposted, and
  - e) A minimum of one (1) 3.5m wide carwash bay with the appropriate drainage systems shall be provided for resident use.
33. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- a) One (1) disabled car parking space shall be provided and clearly marked as per Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
  - b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
34. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
35. 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.
36. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
  - b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
    - i) The additional load on the system, and

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- ii) 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, beneficiaries and Council are to be the responsibility of the developer.

37. 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 (PCA) for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:
- a) ~~The provisions made in the Stormwater Management Plans by ACOR, dated 18 July 2014 (DA-14/214/04)~~
  - b) ~~**The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm.**~~
  - c) Any stormwater discharge to Council's Kerb and Gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to Council's pit and pipe system. ~~**Maximum permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the State of Nature condition (i.e. the site is totally grassed/turfed), rather than pre-development condition.**~~
  - d) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
  - e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
  - f) ~~**The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,**~~
  - g) The water originating from the pump put system in the basement car park shall NOT be directed to the Rainwater Re-use Tank and must not be used as grey water under any circumstance.
  - h) ~~**All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council's drainage systems. As such, details of the pollution control device shall be shown on stormwater management plan and submitted to the PCA for approval prior to the issue of any construction certificate, and**~~
  - i) Detail calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.
- (DA-2014/214/D)**

38. Fire booster assemblies and electrical kiosks are to be housed within the building structure. All above-ground utilities must be appropriately sited and located in

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unobtrusive locations away from pedestrian entrances to the site and public spaces. These items reduce the visual amenity of the development, public spaces or the public domain. The location of these utilities is to be approved by Council's Landscape Architect prior to their installation.

39. A revised landscape plan ~~The Landscape Concept Plan by Derek Raithby Architecture~~ (Drawing number DA-10, Issue E, dated May 2015) shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments: (DA-14/214/04)
  - a) Substitute 2 x *Callistemon salignus* within deep soil garden beds at the front of the site for 2 x *Harpulia pendula* 200L pot size, to provide improved amelioration of the development and streetscape amenity.
  - b) Increase the deep soil planning bed on the western side of the driveway by 0.5m (reduce the western splay of the drive-way by 0.5m). This will provide a larger area to allow canopy trees to flourish and ameliorate the development.
  - c) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. Increase planting densities of ground covers and shrubs. Incorporate additional medium to large shrubs within landscape areas to ensure there is a dense layered planting scheme consisting of trees, shrubs and groundcovers in all landscape areas.
  - d) Along the western boundary substitute *Syzigium australe* for *Elaeocarpus eumundi* to provide a taller screen and privacy to residents whose patios back onto this boundary.
  - e) Along the southern boundary substitute *Eriostemon* sp. for *Syzigium austral*.
  - f) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium to large trees.
  - g) Indicate areas of paving, amenity/pedestrian lighting, furniture and fences. Include a schedule of materials.
  - h) Indicate the location of all basement structures relative to the landscape areas.
40. A Public Domain Landscape Plan is required for Myrtle Street. The plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Issue of Construction Certificate. The landscape plan shall include the following amendments:
  - a) Treatment of the nature strip and footpath to CoBB specification. Location of any above ground electrical pillars needs to be considered and shown on plan.
  - b) One (1) *Eucalyptus gummifera* (Red Bloodwood) tree, pot size 100 litre and minimum height of 1.8 metres, shall be installed in the Myrtle Street nature strip on the western side of the proposed driveway.
41. Prior to the issue of the Construction Certificate, planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
  - a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be

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screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.

- b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
- c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
- d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
- e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.

42. Prior to the issue of the Construction Certificate, a Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The RAP shall incorporate all findings and recommendations in the detailed site investigation '*View East Developments Pty Ltd – 5 Myrtle Street, Botany, NSW – Environmental Site Assessment*' (Report No. E22225) by Environmental Investigation Services dated 18 July 2014 for the site, it shall clearly state proposed clean-up objectives, and demonstrate how the site can be made suitable for the proposed residential use.

The RAP shall be submitted to Council prior to the commencement of any remedial action and prior to the issue of a construction certificate.

43. An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004) and submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.

44. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release

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of the construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.

45. The measures required in the acoustical assessment report prepared by Sebastian Giglio, Acoustic Consultant, dated 18 July 2014, Report Number 2542/DO2a, shall be undertaken in accordance with the provisions of AS 2021 – 2000: *Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building. The work detailed in the report includes:

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

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

46. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the basement car parking area to ensure any visitors to the site can gain access to the visitor parking located within the basement car park. The details of the intercom system shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.

47. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services;
- b) Negotiate with the utility authorities (eg. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
  - i) The additional load on the system; and
  - ii) The relocation and/or adjustment of the services affected by the construction.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities, beneficiaries and Council are to be the responsibility of the developer.

48. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:

- a) A minimum 1 disabled car parking space shall be provided and clearly marked as per Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements; and

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- b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
49. A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
- The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be ~~submitted after~~ prepared on completion of remediation works and a copy of the report is to be provided prior to the issue of the Construction Occupation Certificate.  
(DA-14/214/02)
50. To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act* 1997 shall be ~~submitted to Council~~ prepared on completion of remediation works clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of the Occupation Certificate. Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of the Construction Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions. (DA-14/214/02)
51. Prior to the issue of the Construction Certificate, construction plans shall be revised and submitted to Principal Certifying Authority. The revised construction plans shall address the following issues: -
- a) The minimum width of vehicle access ramp to the basement car parking area can be 3 metres wide subject to the following:
    - i) Traffic light system shall be designed and provided to the top and bottom of the ramp. Detailed location of traffic lights and vehicle waiting area shall be shown on the construction plans.
    - ii) The vehicular crossing in the proposed blister island on Myrtle Street shall be a minimum of 5.5metres wide and the distance between the pedestrian footpath and the blister island shall not be less than 6 metres in order to allow a vehicle to wait away from pedestrian and vehicle traffic.
- 51A. Prior to the issue of any Construction Certificate, a dilapidation survey shall be undertaken of all adjoining properties and Council infrastructure, including but not limited

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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 and Council prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million. (DA-14/214/04)

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

52. The Principal Certifying Authority must be satisfied that: -
  - a) In the case of work to be done by a licensee under the Home Building Act: -
    - i) Has been informed in writing of the licensee name and contractor licence number, and;
    - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
  - b) In the case of work to be done by any other person: -
    - i) Has been informed in writing of the persons name and owner-builder permit number, or;
    - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
53. Prior to the commencement of works, the applicant must inform Council, in writing, of:
  - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the owner-builder who intends to do the work;
  - c) The Council also must be informed if: -
    - i) A contract is entered into for the work to be done by a different licensee; or
    - ii) Arrangements for the doing of the work are otherwise changed.
54. 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.
55. Building plans must be lodged at a Sydney Water Quick Agent for approval prior to commencement of works.
56. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.

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57. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work on Council's road reserve and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect shall be lodged with Council before any works is commenced.
58. 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.
59. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -
  - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
  - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
  - c) Permit for roads and footways occupancy (long term/ short term)
  - d) Permit to place skip/waste bin on footpath and/or nature strip
  - e) Permit to use any part of Council's road reserve or other Council lands.
60. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
  - a) Written notice, indicating the date when demolition of the building is to commence.
  - b) This persons full name and address.
  - c) Details of Public Liability Insurance.
61. In order to ensure that two (2) Council street trees (*Eucalyptus* sp. and *Melaleuca* sp. ) in the nature strip and blister fronting the adjoining property to the north east of the site are retained and protected during construction, and their health and structural stability ensured, the following is required:
  - a) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
  - b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.

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

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then

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Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

62. All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4<sup>th</sup> Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.
63. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
64. Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
65. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

#### **DURING WORKS**

66. The proposed development shall comply with the following:
  - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
    - i) Stating that unauthorised entry to the work site is prohibited;
    - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
    - iii) The Development Approval number; and
    - iv) The name of the Principal Certifying Authority including an afterhours contact telephone number.
  - b) Any such sign is to be removed when the work has been completed.
67. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
68. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

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- 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.
69. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) Occupational Health and Safety Act, 2000;
  - b) Occupational Health and Safety Regulation 2001;
  - c) Protection Of the Environment Operations Act 1997 (NSW); and
  - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
70. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
  - e) No demolition materials shall be burnt or buried on the site.
71. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
- a) AS2601-2001 - Demolition of structure.
  - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings
72. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
73. No demolition materials shall be burnt or buried on the site.
74. 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.

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75. Adequate precautions must be taken to control the emission of dust from the site during construction work. These precautions could include minimizing soil disturbance, use of water sprays, erecting screens and not carrying out dusty work during windy conditions.
76. The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the site during construction. Any damaged or missing street signs as a consequence of the construction works associated with the development shall be replaced at full cost to the applicant.
77. During Construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- a) Approved Erosion and Sediment Control Plan;
  - b) Approved Construction Traffic Management Plan;
  - c) Approved Construction Management Plan; and
  - d) Approved Waste Management Plan.
78. 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.
79. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
  - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
  - c) Formwork inspection of Council's footpath prior to laying of concrete,
  - d) Final inspection of driveway layback and adjacent kerb and gutter,
  - e) Final inspection of Council's kerb and gutter, and
  - f) Final inspection of Council's footpath.
80. 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.
81. 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;

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- d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- e) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided where necessary, and
- f) Adequate provision must be made for drainage.

82. The following shall be complied with during construction and demolition:

- a) Construction Noise
 

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
- b) Level Restrictions
  - i) Construction period of 4 weeks and under:
 

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
  - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- c) Time Restrictions
  - i) Monday to Friday 07:00am to 05:00pm
  - ii) Saturday 07:00am 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.

83.

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or

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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.

84. 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.

85. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

86. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

87. Should the applicant encounter acid sulphate soils during the excavation works, work is to cease and an Acid Sulphate Soils Management Plan (prepared by a suitably qualified and experienced environmental/geotechnical consultant) shall be submitted to the Principal Certifying Authority prior to the continuance of works. This report shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The report shall provide details of the following:

- a) Site specific mitigation measures to both minimise the disturbance of acid sulphate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
- b) Management of ASS affected excavated material;
- c) Measures taken to neutralise the acidity of any ASS affected material; and
- d) Run-off control measures for the ASS affected soil.

A copy of the report shall be submitted to Council. All necessary recommendations of the report shall be implemented prior to the commencement of building works.

88. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos.

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- b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008.
  
- 89. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
  
- 90. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
  - a) The Erosion and Sediment Control Plan;
  - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
  - c) Protection of the Environment Operations Act 1997.
  
- 91. All remediation work must be carried out in accordance with:
  - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
  - d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
  
- 92. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
  - a) Office of Environment and Heritage (OEH) approved guidelines; and
  - b) Protection of the Environment Operations Act 1997; and
  - c) Protection of the Environment Operations (Waste) Regulation 2005.

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

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- 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
  - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

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

94. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
95. Prior to the issue of the Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.  
**Note:** Make an early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.  
Application must be made through an authorised Water Servicing Coordinator. For help visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
96. Prior to the issue of an Occupation Certificate, the fencing adjacent to the site vehicular entrance shall be designed and constructed to ensure there is adequate sight distance between the pedestrians and the vehicles leaving the site. In addition, it shall be ensured that all access gates swing into the site and not out onto the streets.
97. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the issue of an Occupation Certificate.
98. 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.
99. Prior to the issue of any Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
100. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works in Public Domain and Road Reserve areas:

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- a) Extend the existing street treatment on Myrtle Street at the front of the property. The works shall include but not limited to:
  - i) Construction of on street angle parking bays,
  - ii) Extension of existing traffic calming devices,
  - iii) Reconstruction of existing kerb and gutter, and
  - iv) Reconstruction of existing concrete footpath.

**Note:** To ensure satisfactory performance of the completed external public infrastructure works, a maintenance period of twelve (12) months shall apply to all public domain works completed in relation to this application. The performance period shall commence from the issue date of the Final Occupation Certificate.

101. Prior to the issue of any Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
102. Prior to the issue of the Occupation Certificate, the Principal Certifying Authority is to ensure that any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
103. Prior to the issue of the Occupation Certificate, new street tree at the pot size specified shall be installed in the accordance with the approved landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
104. Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
105. Prior to the issue of the Occupation Certificate, ~~seventeen~~ twenty-one (17-21) off-street car parking bays shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:

|                     |                             |
|---------------------|-----------------------------|
| a) 1 bedroom unit   | One (1) parking space/unit; |
| b) 2/3 bedroom unit | Two (2) parking space/unit; |
| c) Visitor parking  | One (1) parking spaces.     |

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(DA-14/214/04)

~~106. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:~~

- ~~a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and~~
- ~~b) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.~~

~~The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.~~

Prior to the issue of the Occupation Certificate, an appropriate instrument in accordance with Council Specification must be registered on the title of the property, concerning the presence and ongoing operation of the stormwater 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 stormwater 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. The terms of the 88E instruments are to be submitted to Council for review and approval and proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation. (DA-2014/214/D)

107. 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).

108.

- a) The property shall be serviced by underground supply of electricity, telecommunications and any other current above ground service supply from the appropriate authorities main street supply system.
- b) The following works shall be completed prior to the issuing of an Occupation Certificate:
  - i) The existing above ground electricity, telecommunications, and any other cables in the street adjoining the site shall be replaced at the applicant's expense by underground cables to the relevant Energy Australia and other standards. The applicant shall also be responsible for the replacement of existing street lights with new standards in accordance with Council's and Energy Australia's guidelines.

109. Prior to the issue of any Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the car

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parking areas, circulation roadway, vehicle access ramp, traffic light system and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1 requirements. The internal parking facilities shall be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standard.

109A.

- a) Prior to the issue of the relevant Occupation Certificate, signage shall be prominently displayed prior to entering the car stacker systems numbered U1, U3 and U4 detailing the following wording "reverse in only". Signage indicating the required vehicular movements (as shown in McLaren Engineering swept paths dated 11 October 2018) to access the off street mechanical parking spaces U1-4 needs to be displayed in a prominent location near the subject off street mechanical parking spaces.
- b) Prior to the issue of the relevant Occupation Certificate, maximum height signage shall be erected prominently prior to entering the car stacker systems, indicating the maximum height clearance the mechanical parking facility is designed to, detailed in the manufacturers specifications prepared by Klaus Multiparking Systems singlevario 2061-170. (DA-14/214/04)

109B. Prior to the issue of the relevant Occupation Certificate, a positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the mechanical parking facility to provide for the ongoing maintenance of the mechanical parking facility. Bayside Council must be provided with all relevant supporting information (such as installation certification and a maintenance plan) prior to Council endorsing the Instrument. (DA-14/214/04)

#### **CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE**

110.

- a) That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.

111. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.

112. Ongoing maintenance of the road verge, footpath and nature strip in Myrtle Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes

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mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.

113. 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.
114. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
115. 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*.
116. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
117.
  - a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
  - b) Noise from any air-conditioning units (measured as the  $L_{aeq\ 15\ minute}$ ) is not to exceed the background level (measured as the  $L_{a90\ 15\ minute}$ ) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

Note: In order to meet this condition, the compressors and any other noise generating part of the air conditioning unit, are to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.
118. 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

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No. 14(214) dated as 12 September 2014 and as further amended by Section 96(1A) Application No. 14(214).02 dated 2 October 2015 14(214).03 dated 22 January 2016 and as further amended by Section 4.55(2) Application No. 14/214/04 dated 20 April 2018 **and as further amended by Section 4.55(1A) Application No. 2014/214/D dated 30 May 2019** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. (DA-14/214/02) (DA-14/214/03) (DA-14/214/04)(**DA-2014/214/D**)

#### **ADVISORY NOTES**

119. The following advisory notes are imposed by the NSW Police

- i) Digital technology should be used to receive, store and process data recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.
- ii) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- iii) Any proposed landscaping and vegetation should adhere to the following principles:
  - 1 Shrubs, bushes, plants should remain under 900mm in height.
  - 2 Branches of large trees should start at a height of two (2) metres and higher. This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- iv) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- v) Any proposed seating area, playground or grass area should be positioned somewhere which can be viewed easily by the community. Consider whether the area will be used enough to warrant its development. Areas which are isolated, unused and maintained poorly become a breeding ground for anti social behaviour.
- vi) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- vii) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.
- viii) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.
- ix) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- x) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.

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- b) Lighting
  - i) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
  - ii) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.
  - iii) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
  - iv) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.
- c) Territorial Reinforcement
  - i) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
  - ii) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
    - 1 Warning, trespasser will be prosecuted
    - 2 Warning, these premises are under electronic surveillance
  - iii) Directional signage should be posted at decision making points (e.g. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
  - iv) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
  - v) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
  - vi) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
  - vii) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
  - viii) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
- d) Space Management

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- i) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
  - ii) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should not be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access.
- e) Access Control
- i) The door and door frames to these premises should be of solid construction.
  - ii) Doors should be fitted with locks that comply with the Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are recommended for residential units.
  - iii) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from inside that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
  - iv) Any sliding doors must be fitted with lockable bolts in the bottom and top of the door frame.
  - v) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard — Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such as wooden, glass or metal hinged swinging windows or sliding windows in residential

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and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).

- vi) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.
- vii) The main entry/egress doors to the development should have an electronically operated lock which require security swipe pass for entry. The lifts operating in the building should have the same security swipe pass technology. When an occupant buzzes in a visitor the lift should recognise the floor the occupant resides and only allow the visitor access to that floor in the lift

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Kozarovski and Partners  
14/52-54 Kingsway  
Cronulla NSW 2230  
Mobile: 0412 997767  
pavelk@optusnet.com.au  
Date: 12 April 2019

To whom it may concern

**Stormwater drainage design certificate for  
No. 5 Myrtle Street, Botany**

Pursuant to the provisions of Clause A 2.2 of the Building Code of Australia, I hereby certify that stormwater drainage design for the subject property is in accordance with the normal engineering practice and it satisfies the relevant requirements of the Building Code of Australia, ASS 3500.3, Australian Rainfall and Runoff (1987), Botany Council's SMTG and condition 37 of the DA consent.

The OSD volume is provided in a form of 5 KL rainwater tanks for each dwelling equating to 15 m<sup>3</sup> (50% of RWT volume can be deducted from the required OSD volume) plus 16 m<sup>3</sup> OSD storage under the driveway totalling 31 m<sup>3</sup>. The bottom of the absorption system is 400 mm above the measured water table which is slightly less than the minimum of 500 mm. In a case of a larger storm than the 1 in 100y storm the overflow would be directed to the street's kerb and gutter (as per Council's SMTG).

I am an appropriately qualified person being listed in the National Professional Engineers Register (NPER) and as such can certify that the design and the performance of the design system comply with the above and which are detailed on the Stormwater Drainage Plan C-3435-01 prepared by Kozarovski and Partners and dated 12<sup>th</sup> of April 2019.

I also advise that I possess appropriate professional indemnity insurance.



Signed.....

Pavel Kozarovski, MIEAust, CPEng, NPER-3

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| Item No             | 6.6  |
| Application Type    | Shop top housing development   |
| Application No      | DA-18/1172   |
| Lodgement Date      | 17/09/2018   |
| Property            | <b>106 Wilson Street, Botany</b>   |
| Ward                | Ward 1   |
| Owner               | 106 Wilson Street Pty Ltd  |
| Applicant           | Julian Dolk- Bureau SRH  |
| Proposal            | Demolition of existing structures and construction of a three (3) storey shop top housing development comprising of four (4) residential units, one (1) commercial tenancy and at grade car parking. |
| No. of Submissions  | Nine (9) objections  |
| Cost of Development | N/A  |
| Report by           | Michael McCabe, Director City Futures  |

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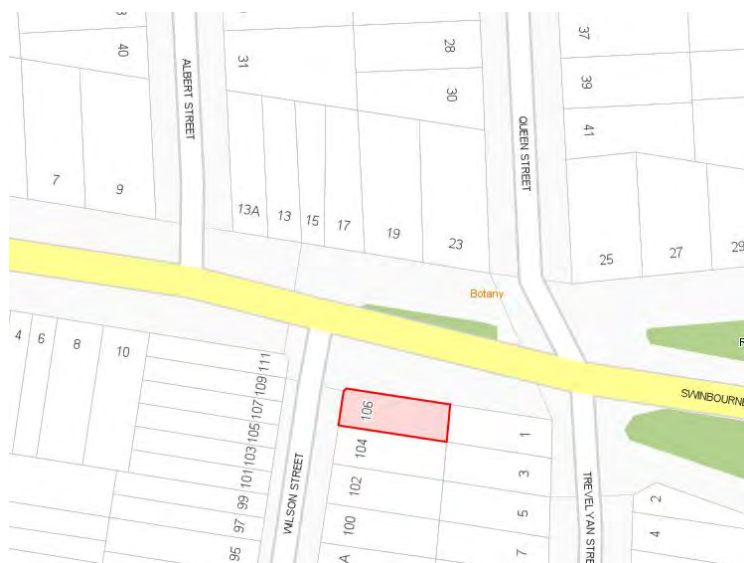
**Officer Recommendation**

- 1 That development application DA-2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street Botany be **REFUSED** pursuant to s4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* for the following reasons:
    - a The proposed development, pursuant to the provisions of Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:
      - i Part 2F – Building Separation
      - ii Part 4G – Storage
    - b The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the Design Quality Principles within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment. Additionally, the Design Verification Statement provided does not satisfy clause 50(1B) of the Environmental Planning and Assessment Regulation 2000.
    - 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 the objectives of the B1 – Neighbourhood Centre zone within Botany Bay Local Environmental Plan 2013.
-

- 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:
  - i Part 3A – Car Parking and Access
  - ii Part 3E – Subdivision and Amalgamation
  - iii Part 3N – Waste Management and Minimisation
  - iv Part 5 – Business Centres. The proposed development does not comply with the objectives and controls of Part 5.2.2.5- Swinbourne Street Neighbourhood Centre of the Botany Bay Development Control Plan 2013
  - v Part 8 – Character Precincts
- e 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.
- f 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 traffic and car parking departure, overshadowing, and inconsistent with local character and would adversely impact upon the amenity of the locality.
- g The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site.
- h Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

2 That the submitters be notified of the Bayside Local Planning Panel's decision.

## Location Plan



**Attachments**

- 1 Planning Assessment Report [↓](#)
- 2 Site Plan [↓](#)
- 3 Elevations [↓](#)
- 4 Shadow Studies [↓](#)
- 5 Traffic Report [↓](#)
- 6 Addendum to Traffic Report [↓](#)



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

|                            |  |
|----------------------------|--|
| <b>Application Number:</b> | 2018/1172  |
| <b>Date of Receipt:</b>    | 17 September 2018  |
| <b>Property:</b>           | 106 Wilson Street, Botany<br>Lot 25 Sec 1 in DP 1742   |
| <b>Owners:</b>             | 106 Wilson St Pty Ltd  |
| <b>Applicant:</b>          | Julian Dolk- SRH Bureau  |
| <b>Proposal:</b>           | Demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces |
| <b>Recommendation:</b>     | Refusal, subject to reasons of refusal in the attached schedule  |
| <b>Value:</b>              | \$1,913,239.00   |
| <b>No. of submissions:</b> | Round One: Nine (9) objections<br>Round Two: Nil   |
| <b>Author:</b>             | Angela Lazaridis, Senior Development Assessment Planner  |
| <b>Date of Report:</b>     | 2 July 2019  |

### Key Issues

Bayside Council received Development Application No. 2018/1172 on 17 September 2018 seeking consent for the demolition of the existing structures on site and construction of a three (3) storey shop top housing development comprising of four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street Botany.

The application was placed on public exhibition for a fourteen (14) day period from 3 October to 17 October 2018. Nine (9) objections were received during the notification period. Amended plans were further renotified for fourteen days between 29 April to 13 May 2019. No objections were received. The issues that were raised in the submissions have been discussed in the report below.

Key issues in the assessment of the development application include car parking departure, overshadowing, deep soil, building separation, storage, consistency with the objectives of the zone and the desired future character.

The development does not comply with a number of the controls prescribed within the apartment design guide. This includes building separation, deep soil, communal open space and storage. Each control has been discussed greater in the report below.

The proposal is also inconsistent with one of the objectives within the B1 Neighbourhood Centre zone with the BBLEP 2013. The objective states that development is not to adversely

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impact onto the residential amenity and is compatible with the existing streetscape. The proposal will provide a significant impact by overshadowing the southern property due to the limited building setbacks and three storey corner element as well as impact onto the existing traffic network by proposing on street car parking. This demonstrates that the site does not provide an economic and sustainable development and consideration of a larger site by amalgamating the site with the southern should be considered.

The proposal is deficient in the number of car parking spaces required for the site. The proposal generates a total of thirteen car spaces. This is broken down to six commercial car spaces, six residential spaces and one visitor space. The proposal provides two car parking space, one for each of the two bedroom units. This is a departure of eleven spaces. It is acknowledged that this is a constrained site and that a basement car park would not work. This is further demonstrated that the proposal seeks to rely on on-street car parking spaces. Council requested that the applicant revisit the car parking to comply with at least the residential component of the development with the recommendation of losing apartments or utilising other car parking methods, such as car stackers. This has not been taken into consideration and considering the impact onto the existing street network, it is not considered appropriate to allow for a large departure in the number of car spaces.

As stated briefly above, the proposal overshadows the southern development at 104 Wilson Street for the majority of the time during mid-winter to both the internal principal living areas as well as to the private rear yard which is unacceptable. This is discussed in greater detail in the report below.

Finally, an assessment against Part 5.2.2.5- Swinbourne Street Neighbourhood Centre has been assessed, in particular to the streetscape and desired future character of the area. The figure provided within this section requires the proposed development to have a maximum two storey built form. The proposal has a three storey element on the corner. While this was discussed in the pre-DA and DRP meetings as being acceptable and similar to development that was approved or under assessment on the northern side of Swinbourne Street, the impacts of the three storey component regarding overshadowing cannot be ignored.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning Assessment Act 1979* (EPA Act) and is recommended for refusal, subject to the reasons of refusal in the attached schedule.

### Recommendation

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1. That development application DA-2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street Botany be REFUSED pursuant to s4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* for the following reasons:
  - a) The proposed development, pursuant to the provisions of Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*, is not consistent with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:

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- i. Part 2F – Building Separation
  - ii. Part 4G – Storage
- b) The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the Design Quality Principles within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment. Additionally, the Design Verification Statement provided does not satisfy clause 50(1B) of the Environmental Planning and Assessment Regulation 2000.
- 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 the objectives of the B1 – Neighbourhood Centre zone within Botany Bay Local Environmental Plan 2013.
- 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:
- i. Part 3A – Car Parking and Access
  - ii. Part 3E – Subdivision and Amalgamation
  - iii. Part 3N – Waste Management and Minimisation
  - iv. Part 5 – Business Centres. The proposed development does not comply with the objectives and controls of Part 5.2.2.5- Swinbourne Street Neighbourhood Centre of the Botany Bay Development Control Plan 2013
  - v. Part 8 – Character Precincts
- e) 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.
- f) 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 traffic and car parking departure, overshadowing, and inconsistent with local character and would adversely impact upon the amenity of the locality.
- g) The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site.
- h) Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

2. That the submitter(s) be notified of the Bayside Local Planning Panel's decision.

### Background

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### History

There is no relevant town planning history for the site.

A pre-DA was carried out on 2 May 2018 for the current proposal which proposed four units and two car parking spaces over three levels. Slight modifications were carried out on the bulk of the development however car parking continued to be raised as an issue. The letter was sent on 5 June 2018.

### Development Application History

The development application has been assessed as follows:

- **17 September 2018** – Development Application was lodged with Council;
- **3 October to 17 October 2018** – The development application was placed on public notification where a number of submissions were received;
- **1 November 2018** – The application was presented to a Design Review Panel meeting and the design was favourably looked at with minor changes to the design of the building;
- **10 January 2019** – An additional information letter was sent out to the applicant to address issues relating to floor space ratio calculations, overshadowing, car parking, insufficient unit sizes, encroachments on council land, materiality, public domain upgrade and drainage;
- **6 March 2019** – Additional information was received by Council including amended architectural plans, stormwater plans, shadow studies, addendum to traffic report and report by planner of the changes;
- **29 April to 13 May 2019** – The amended plans were renotified for fourteen days in which additional submissions were received;
- **19 June 2019** – Informal plans were submitted to Council showing two options in car parking. Both options presented problems with the first option removing the majority of the active street frontage along Swinbourne Street and the second option continuing to have a residential and commercial car parking shortage; and
- **28 June 2019** – Council advised the applicant that the proposal would not be supported due to the outstanding number of issues present including car parking departures and overshadowing.

### Proposal

The development application, in its amended form, seeks consent for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces.

The proposed development is described in detail below:

### Ground Floor:

|      |                                   |
|------|-----------------------------------|
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- Commercial tenancy with an area of 134.5sqm is proposed on the corner of Swinbourne Street and Wilson Street. The space includes three separate entries from Swinbourne Street and one bathroom. Two internal ramps are included in the space;
- Residential foyer with access from Swinbourne Street and from the side entrance off Wilson Street;
- Two car parking spaces within a garage are provided with one space for Unit 01 and the second space for Unit 02. Each space has associated storage in close proximity;
- Six bicycle spaces are proposed adjoining the landscaped area and residential lobby;
- An enclosed residential and commercial bin storage area is provided at the south-eastern corner of the site and is accessed through a mesh door;
- A 7sqm of landscaping is provided along the southern boundary adjoining the bicycle parking; and
- A 2.4 metre boundary wall is proposed along the southern boundary of the site between the subject site and 104 Wilson Street.

First Floor:

- The first floor contains the ground floor level of the four units proposed within the development. The proposal provides two x two unit bedrooms and two x one bedroom units;
- The two bedroom units contain an open plan living, kitchen and dining area with access to a 10sqm north-facing balcony, powder room and stairs leading up to the floor above;
- The one bedroom units contain an open plan living, kitchen and dining room with access to an 8sqm north-facing balcony, laundry room and stairs to the level above.

First Floor:

- The second floor contains the upper level of the four units within the development.
- The two bedroom units comprise of two bedrooms with one containing a walk in robe and ensuite, separate bathroom, laundry area and stair landing with void for services;
- The one bedroom units are encompassed within an attic style roof with dormer windows fronting the street. The level contains one bedroom with robe and ensuite and the stair landing.

The following figures demonstrate the proposed development as amended:

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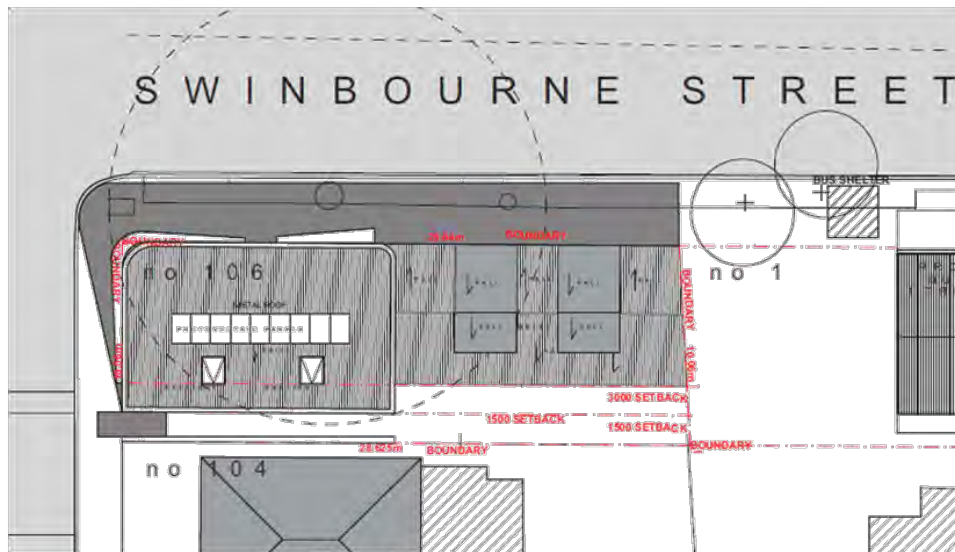


Figure 1. Proposed Site Plan

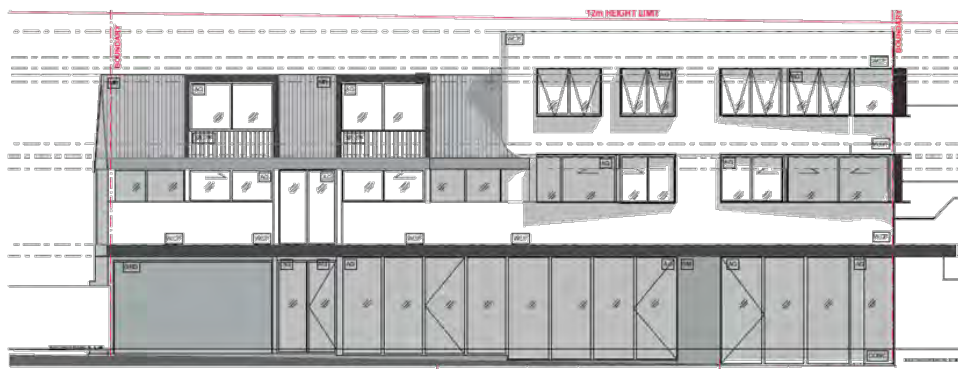


Figure 2. Proposed Northern Elevation

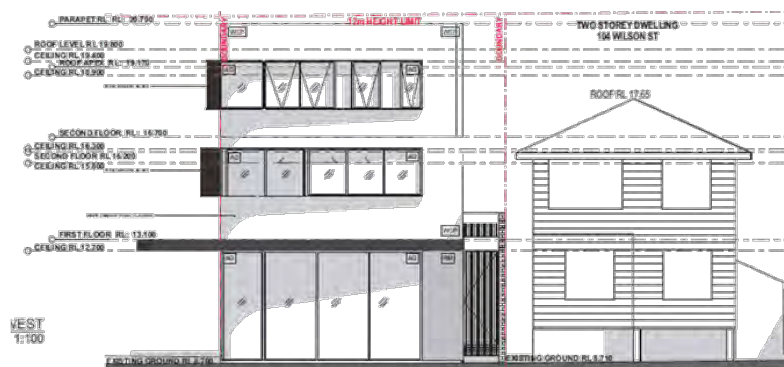


Figure 3. Proposed Western Elevation

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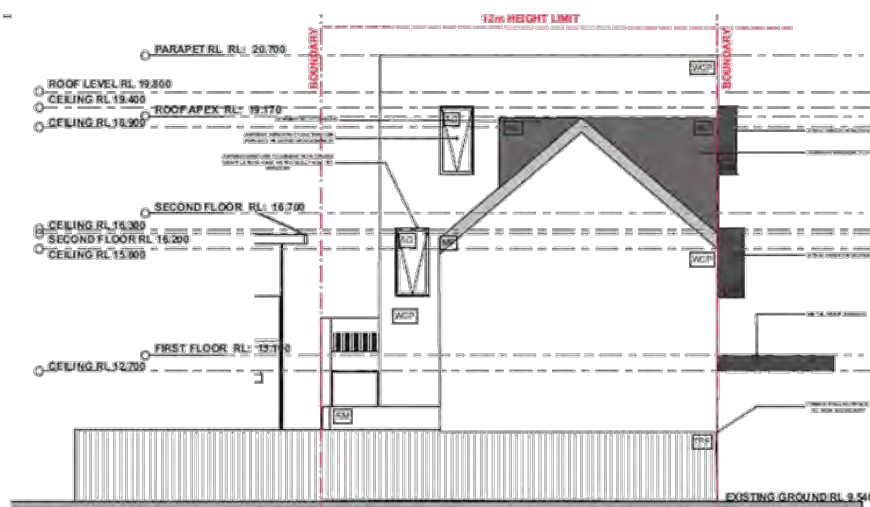


Figure 4. Proposed Eastern Elevation

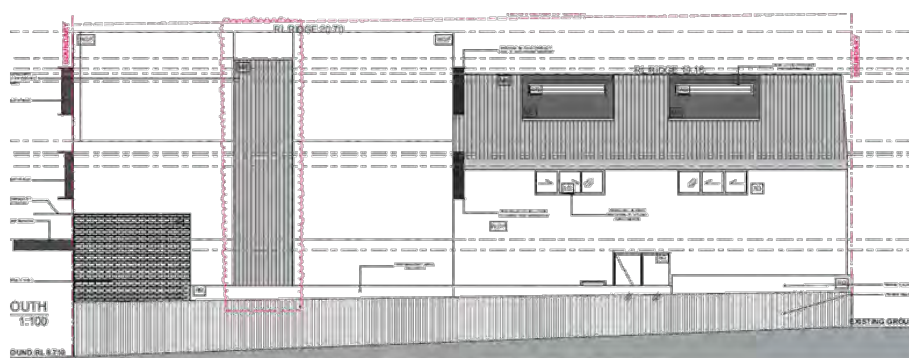


Figure 5. Proposed Southern Elevation

### Site Description

The subject site is legally known as Lot 25 Sec 1 in DP 1742 and is identified as 106 Wilson Street Botany. The site is located on the south-eastern corner of the intersection of Swinbourne Street and Wilson Street. The site has an east-west orientation with west being the front of the site and east being the rear of the site.

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Figure 6. Site Locality



Figure 7. Aerial Map of the site

The subject site is rectangular in shape and has a site area of 284.7sqm. The site has a street frontage width along Swinbourne Street of 28.04 metres, a street frontage width along Wilson Street of 10.06 metres, an eastern boundary width of 10.06 metres and a southern boundary length of 28.625 metres. The site has a slight fall of 700mm from the eastern side of the site to the western side of the site.

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The site currently comprises of a single storey rendered brick building that was originally a shop front however has been utilised as a dwelling for years. The rear of the dwelling contains a garden area which includes a garage, carport and two metal sheds. There are two street trees located along Swinbourne Street outside the site.



**Figure 8. Existing building on the site with street trees along Swinbourne Street**

Development surrounding the site includes a mix of low density residential development in addition to shop fronts along Swinbourne Avenue. The adjoining site to the south at 104 Wilson Street contains a detached two storey dwelling house with rear garage. The development to the east at 1 Trevelyan Street comprises of a single storey shop and residence however approval has been granted for shop top housing development with two units. Opposite the site on the other side of Swinbourne Street contains two single storey shop fronts with residences behind at 19 and 23 Swinbourne Street. Approval has been granted at 23 Swinbourne Street for a three storey shop top housing development with six units.

The site is located within the B1- Neighbourhood Centre zone as well as the Swinbourne Street Neighbourhood Centre. The site is in close proximity to a heritage item (Item 158 'Streetscape- Verge Plantings Canary Island Date Palm') which is adjacent to the site to the north. Additionally the site is located within a 15-20 ANEF Contour. A bus stop is located outside the site along Swinbourne Street.

### **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 (Vegetation in Non-Rural Areas) 2017**

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The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle metropolitan areas. The aims of the policy are (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP.

The proposal seeks to retain the two pepper street trees that are located along Swinbourne Street however the plans demonstrate an awning to be proposed which may impact onto the canopy of the trees. The application was referred to Council's Landscape Architect, Tree Management Officer as well as to the major project landscape architect within the public domain team. Council's landscape officer has no objection to the proposal however no response has been provided by Council's public domain team and tree management officer.

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

The site falls within land that is adjacent to a pipeline corridor therefore Division 12A Pipelines and pipeline corridors applies to the site. The development does not propose significant excavation however as there are four dwellings located on the site, the application was referred to the APA Group. No response has been received as of yet.

#### **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. 941309M dated 4 July 2018 prepared by Sustainability-Z Pty Ltd. As the proposal is recommended for refusal, the BASIX Certificate is not conditioned.

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

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The application was referred to Council's Environmental Scientist who provided the following commentary:

*"The Statement of Environmental Effects advised that there is a long history of residential use and no known historical contaminating uses. There is no significant excavation with the building to be constructed at ground level, there will be no interception of groundwater or acid sulfate soils. Therefore there is no objection to the proposed development."*

Based on the information provided above and the limited amount of excavation provided with the proposal, the site is suitable for development in relation to SEPP No. 55.

#### **State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building**

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The provisions of State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Building' have been considered in the assessment of the Development Application.

During the development application process, the applicant submitted the proposal to the DRP for consideration. The meeting was held on 1 November 2018. The Design Review Panel supported the design in principle with minimal changes proposed such as location of mail boxes and air conditioning units, additional ESD measures, ceiling heights within the bedrooms on the second floor, separation of residential and commercial waste collection, location of internal laundry, provision of ducting for commercial tenancies and option of separate tenancies with own bathrooms.

#### Apartment Design Guide

A Design Verification Statement has been prepared by Bureau SRH Architecture and was submitted with the development application.

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has not demonstrated that adequate regard has been given to the design quality principles and objectives specified in the ADG for the relevant design criteria. An assessment against the significant non-compliances is provided in detail below.

Clause 30(1) of SEPP 65 states that if a development application satisfies the following design criteria, the consent authority cannot refuse an application because of those matters. These are deep soil, communal open space, overshadowing, storage and building separation.

The key points of non-compliance with the ADG are discussed below:

| SEPP 65 – ADG         |  |   |            |
|-----------------------|--|---|------------|
| Control               | Requirement  | Proposed  | Complies   |
| <b>Dwelling Size</b>  | Minimum internal areas as follows:<br>Studio: 35sqm<br>1 bed unit: 50sqm<br>2 bed unit: 70sqm<br>2 bed unit with 2 <sup>nd</sup> bathroom: 75sqm<br>3 bed unit: 90sqm<br>3 bed unit with 2 <sup>nd</sup> bathroom: 95sqm | 1 bedroom units: 50sqm<br>2 bedroom units: 90sqm                                  | Yes<br>Yes |
| <b>Ceiling Height</b> | Habitable Rooms: 2.7m<br>Non-habitable: 2.4m<br>Mixed Use: 3.3m for ground and first floor   | Habitable rooms: 2.7 metres<br>Ground floor commercial: 3.4 metres to 3.88 metres | Yes<br>Yes |

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|                            |   |   |                                   |
|----------------------------|---|---|-----------------------------------|
| <b>Deep Soil</b>           | Objective 3E-1 requires 7% of the site (for sites less than 650sqm) as deep soil area (requires 20sqm)  | 7.1sqm (2.5%)   | <b>No – Refer to Note 1 below</b> |
| <b>Communal Open Space</b> | 25% of site (71.2sqm)   | No communal open space provided   | <b>No – Refer to Note 2 below</b> |
| <b>Solar Access</b>        | 50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter<br>Note: Part 4C requires that COS receives 3 hours in winter. | The application does not provide any COS.   | <b>No – Refer to Note 2</b>       |
|                            | Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm  | All units are north-facing therefore 100% receive minimum 2 hours of sunlight   | Yes                               |
| <b>Building Depth</b>      | Use a range of appropriate maximum apartment depths of 12-18 metres   | The building/apartments has a depth between less than 12 metres   | Yes                               |
| <b>Building Separation</b> | Up to 4 storeys (approx. 12m):<br>3m from non-habitable rooms to site boundary<br>6m from habitable rooms/balconies to site boundary                                  | <u>Northern Setback:</u><br>Nil (Ground to level 2)<br><br><u>Southern Setback:</u><br>1.25m- Ground floor<br>1.5m- Level 1<br>1.5m- Level 2<br><br><u>Eastern Setback:</u><br>Nil- Ground Floor and Level 1<br>2.7m- Level 2<br><br><u>Western Setback:</u><br>Nil (Ground to Level 2) | <b>No – Refer to Note 3 below</b> |
| <b>Balcony Sizes</b>       | Studios: 6sqm<br>1 bed: 8sqm<br>2 bed: 10sqm<br>3 bed: 12sqm<br>Ground Floor: 15sqm   | 1 bedroom units: 8sqm<br><br>2 bedroom units: 10sqm   | Yes<br><br>Yes                    |
| <b>Cross Ventilation</b>   | 60%   | 4 out of 4 (100%)   | Yes                               |

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|                |  |  |                                   |
|----------------|--|--|-----------------------------------|
|                |  |  |                                   |
| <b>Storage</b> | Studio: 4m3<br>1 bed: 6m3<br>2 bed: 8m3<br>3 bed: 10m3 | 1 bed unit: Not shown<br><br>2 bed unit: 1.75m3 for Units 1 and 2 in car parking area<br><br>Internal storage for the two bedroom units has not been shown | <b>No – Refer to Note 4 below</b> |

#### Note 1 – Deep Soil

Part 3E of the ADG requires development to have a minimum of 7% deep soil area. This equates to a minimum amount 20sqm to be provided on the site. The proposal provides a total of 7.1sqm of deep soil which equates to 2.5% of the site. This is a non-compliance to the control.

The size of the site limits additional landscaping to be provided within the rear setbacks without comprising the path of entry from the side door. The landscaping proposed is not considered to provide appropriate landscape buffer to the southern property however as the proposal is relying on a 2.4 metre high boundary wall to provide privacy, the justification for a landscaped buffer is unjustified. However the ADG states that should a site be located within a high density area or within a business centre, the likelihood of achieving compliance with the required amount of deep soil may not be possible. Therefore the departure in this instance is substantiated.

#### Note 2 – Communal Open Space

Part 3D of the ADG requires development to have a minimum of 25% communal open space. The communal open space is required to achieve 50% of its area at least 2 hours of sunlight between 9am to 3pm in mid-winter. The development does not provide any communal open space area. This was originally raised at the pre-DA meeting for the proposal and the applicant had stated that due to the size of the site and the number of units proposed being 4, the requirement in providing a separate area is unreasonable.

When assessing the controls within the ADG, there is a design guidance control which states that where development is unable to achieve the design criteria, such as on small lots, sites within a business zones, or in a dense urban area, they should provide communal spaces elsewhere such as landscaped roof terrace or common room, provide larger balconies or increased private open space for apartments or demonstrate good proximity to open space and facilities and/or provide contributions to public open space. The development does not provide a communal room or terrace and does not provide balconies that are greater than the ADG minimum requirement. The only benefit of the developments' location is that the site is located within 200 metres of Garnet Jackson Reserve which is located to the north-east of the site. It can be argued that in this case, the lack of communal open space is accepted.

#### Note 3 – Building Separation

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Part 2F of the ADG requires development to have minimum separation distances from neighbouring properties. The proposal seeks the following building separation distances from the side, front and rear boundaries for a height of up to 4 storeys:

- Northern (Front) setback: Nil (Ground to level 2)
- Southern (Rear) setback: 1.25m- Ground floor, 1.5m- Level 1 and 1.5m- Level 2
- Eastern (Side) setback: Nil- Ground Floor and Level 1 and 2.7m- Level 2
- Nil (Ground to Level 2)

It is also key to note that the site borders an R2 Low Density Residential zone which requires a greater transitional setback of 9 metres from the boundary. As stated above, the setbacks proposed are significantly less than the setbacks required on the site. The setbacks that are stipulated within the ADG are also further supported within Part 5.2.2.5 of the BBDCP 2013 which requires the upper levels to be set away from the rear boundary.

The reduced setbacks create issues in regards to bulk when viewed from the street and the neighbouring site as well as significant overshadowing. The rear setbacks proposed to the three storey component on the western corner are considered insufficient and are predominantly the cause of the overshadowing and bulk presented along the streetscape. Should the applicant consider consolidating the site with the adjoining property, this will allow for the practical development of the land

#### **Note 4 - Storage**

Part 4G of the ADG requires the units to provide storage based on 4sqm for studios, 6sqm for one bedroom units, 8sqm for two bedroom units and 10sqm for three bedroom units. The proposal has not demonstrated any storage within the units and the only location where storage has been accommodated is within the garage for Units 1 and 2. The amount of storage that has been provided is 3.5m<sup>3</sup> for these two units. The one bedroom unit has not been provided with storage. Storage is to be provided for each unit and is to comply with the minimum requirements under the ADG. In addition to the deficient parking, deficient storage is indicative that the number and/or size of units, needs reduction in order for appropriate provision being made for each unit.

#### **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 B1 Neighbourhood Centre zone under the Botany Bay Local Environmental Plan 2013.   |
| Is the proposed use/works permitted with development consent?                     | Yes               | The proposed use as shop top housing development is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013. |

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| Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013   | Compliance Yes/No                 | Comment  |
|---|-----------------------------------|--|
| Does the proposed use/works meet the objectives of the zone?  | <b>No – Refer to Note 5 below</b> | <p>The proposed development is not consistent with the following objectives of the B1 Neighbourhood Centre:</p> <ul style="list-style-type: none"> <li>To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.</li> <li><b>To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.</b></li> </ul>   |
| <p>What is the height of the building?</p> <p>Does the height of the building comply with the maximum building height?</p>                  | <p>-</p> <p>Yes</p>               | <p>A maximum height of 12 metres applies to the subject site.</p> <p>Top of the parapet: 11.99 metres</p> <p>The distance of the building was measured between the existing ground level (RL 8.71) and the proposed top of the parapet (RL 20.7)</p> <p>The maximum building height of the development complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.</p>  |
| <p>What is the proposed Floor Space Ratio?</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p> | <p>-</p> <p>Yes</p>               | <p>A maximum FSR of 1.5:1 applies to the subject site.</p> <p>The site has a total area of 284.7sqm.</p> <p><u>Applicants calculations:</u></p> <p>GFA: 426.76sqm<br/>FSR: 1.5:1</p> <p>(This calculation included part of the stair landing on the two bedroom cross over units but excluded the garbage holding rooms)</p> <p><u>Council's calculations:</u></p> <p>GFA: 428.6sqm<br/>FSR: 1.5:1</p> <p>(This calculation included the garbage holding room however did not include the upper floor stair landing in the cross over units)</p> |

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| Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013   | Compliance Yes/No                           | Comment   |
|---|---|---|
|   |   | The maximum FSR of the development complies with the requirements under the Botany Bay Local Environmental Plan 2013.   |
| Is the site within land marked "Area 3" on the Floor Space Ratio Map?<br><br>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?   | N/A   | The site is not located in an Area 3 zone.  |
| Is the land affected by road widening?  | N/A   | The land is not impacted by road widening.  |
| Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?   | Yes   | The subject site is not a heritage item and is not located within a heritage conservation area however the site is in close proximity to Item 158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site to the north. The proposed development is not considered to impact onto the heritage items.  |
| The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–<br><br><ul style="list-style-type: none"> <li>6.1 – Acid Sulfate Soils</li> <li>6.2 – Earthworks</li> <li>6.3 – Stormwater Management</li> <li>6.9 – Development in areas subject to aircraft noise</li> </ul> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> | <p>The site is located within a Class 4 ASS zone. The proposed development does not seek to excavate greater than 2 metres below ground as the development is proposed on slab.</p> <p>Minimal excavation and fill are proposed to level the development however this is minimal and not considered to be impactful.</p> <p>The proposal provides for an below ground OSD which is located underneath the rear footpath adjoining the residential lobby. Additionally the proposal provides for a 10,000L rainwater tank that is located underneath the two ground floor car parking spaces on the eastern side of the site.</p> <p>The site is located within a 15-20 ANEF Contour. The applicant provided an acoustic report with the development application which is considered appropriate and conditional</p> |

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| Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013 | Compliance Yes/No | Comment   |
|---|-------------------|---|
| <ul style="list-style-type: none"> <li>6.15 – Active Street frontage</li> </ul>   | Yes               | <p>however as the report is recommended for refusal, this is not applicable.</p> <p>The site requires active street frontage to be provided along Swinbourne Street. The proposal provides activation along the northern ground floor elevation with commercial tenancy proposed for the majority of the length and residential entry directly adjoining to the east.</p> |

#### Note 5 – Consistency with the objectives of the zone

The B1 Neighbourhood Centre zoning has two objectives within the land use table of the Botany Bay Local Environmental Plan 2013. These two objectives are:

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

While the development complies and is consistent with the first point relating to providing small scale retail/commercial business for the surrounding neighbourhood, the proposal is not consistent with the second point. The proposed development demonstrates significant impact onto the surrounding low density residential surroundings around the Swinbourne Street Neighbourhood Centre. Firstly, the non-compliance in car parking provided on the site will create greater stress onto the existing on-street car parking found in close proximity to the site, in particular along Wilson Street. Additionally, the scale and size of the site and development will have significant impact onto the dwelling to the south regarding to overshadowing. Finally, it may be construed that the site is too small to accommodate the number of units that are proposed and that the proposal does not provide an economic and sustainable development for the site. Further discussion relating to each point presented is further elaborated on in the report below.

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

There are no current Draft EPIs applicable to this development

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

##### Botany Bay Development Control Plan 2013

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

**Part 3A –Parking and Access**

| Part   | Control  | Proposed  | Complies                     |
|--|--|---|------------------------------|
| <b>3A.2.</b> Parking Provisions of Specific Uses | <p><u>Residential</u></p> <p>1 space/studio and 1 bedroom= 2 spaces</p> <p>2 space/ 2 + bedrooms = 4 spaces</p> <p>1 visitor space/ 5 units = 1 space</p> <p>Total: 7 car spaces required</p> <p><u>Commercial (shop)</u></p> <p>1 space / 25sqm (6 req.)</p> <p><b>Total car parking required: 13 car parking spaces</b></p>  | <p>The proposal provides a total of two car parking spaces within a garage. One space is allocated for each of the two bedroom units. Therefore there is a departure of 11 car spaces.</p>  | <b>No – See Note 6 below</b> |
| <b>3A.3.1 – Car Park Design</b>                  | <p><b>C13</b> Pedestrian entrances and exits shall be separated from vehicular access paths.</p>   | The pedestrian and vehicle access points are separated.   | Yes                          |
|  | <p><b>C15</b> Vehicle access points of the property should not be located:</p> <ul style="list-style-type: none"> <li>a) In places with high traffic volumes, such as classified or arterial roads;</li> <li>b) Close to intersections as outlined in Section 3.2.3 of AS2890.1;</li> <li>c) Where there is heavy or constant pedestrian movements along the footpath;</li> <li>d) Opposite to other traffic generating developments;</li> <li>e) Where traffic using the driveways interferes with or blocks the operations of bus stops, taxi ranks, loading zones or pedestrian crossings;</li> <li>f) Adjacent to or at the sag point of the street; and</li> <li>g) In places where sight distance requirements outlined in Section 3.2.4 of AS2890.1 cannot be complied with.</li> </ul> | <p>The vehicle access point is located on the eastern side of the site. Due to the width of the site, it is likely that the vehicles will enter in a forward direction and leave in a reverse direction. This will have implications on the safety of pedestrians which would access the commercial space. Additionally, the car parking area and driveway is located in close proximity to a bus stop which is to the east of the site therefore not acceptable.</p> | <b>No – See Note 6 below</b> |

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| Part  | Control  | Proposed   | Complies                     |
|---|--|--|------------------------------|
|   | <b>C28</b> The minimum width of the access driveway at the property boundary shall be:- <ul style="list-style-type: none"> <li>For other residential developments: 5.5 metres (two way);</li> <li>The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary.</li> </ul>   | The width of the driveway provided is at least 5.5 metres.   | Yes                          |
|   | <b>C40</b> The waste collection point shall be designed to: <ol style="list-style-type: none"> <li>Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and</li> <li>Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.</li> </ol> | Waste collection is proposed from the street. All waste is stored in separate waste collection rooms on the south eastern side of the site.  | Yes                          |
| <b>3A.3.2</b> Bicycle Parking               | <b>C1-C5</b> To comply with AS2890.3 and AUSTROADS (i.e. 10% of the required amount of car parking = 1 req.)   | The proposal provides for 6 bicycle spaces.  | Yes                          |
| <b>3A.3.4</b> On-site Loading and Unloading | <b>C1-C11</b> 1 service bay/50 dwellings   | As the proposal has less than 20 units, on site loading and unloading for residential is not required. There is no space for loading or unloading provided for the commercial component. | <b>No – See Note 6 below</b> |

#### Note 6 – Car Parking and Loading Bay Departure

Table 1 of Part 3A.2 of the BBDCP 2013 requires that the development provide six car parking spaces for the residential component, one visitor space and six commercial spaces which equates to a total of 13 spaces within the site. The proposed development provides two car parking spaces within a garage located on the eastern side of the site. Each space is allocated to one of the two bedroom units. This results in a car parking departure of 11 spaces.

The applicant had submitted a traffic report prepared by TEF Consulting which assessed the existing traffic network in the area and the impact of the proposed development. However the report did not provide sufficient information regarding to the justification in the large non-complying number of spaces. The report relied on results from a parking accumulation survey

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which demonstrated that there is an abundance of vacant parking during the peak periods of parking demand from the proposed development. Additionally, the report has stated that due to the size of the site, it is impractical to provide more car parking within the development. The report further elaborates that there are two bus stops that are located in very close proximity to the site and provide access to high frequency services to the Sydney CBD and to major shopping centre, reducing the need to travel by private car for work and shopping.

Council was not satisfied with the above justification and required the applicant to provide greater justification for the shortfall in car parking spaces. The applicant provided an addendum to the report to demonstrate greater emphasis on the peak period of traffic and car parking usage of the subject site and surrounding commercial premises. The following excerpt is provided from this addendum:

*"A further traffic study has been undertaken for Saturday 26th January and Sunday 27th January 2019 and is attached to this correspondence. The study confirms that on Saturday and Sunday there are at least 41 and 57 vacant kerbside spaces within 150m of the site, respectively.*

*It should also be noted that the adjoining zoning pattern provides for limited B1 land surrounded by R2 Low Density Residential. While there is currently excess kerbside capacity for any overflow parking demand from this development, there is also limited development capacity in the adjoining land to significantly erode that capacity.*

*The 13 on-site car spaces considered full compliance with the applicable controls would not be physically able to be accommodated on this site. The B1 zoned land on this side of Swinbourne Street is 2 narrow sites. It is a reasonable consequence of this zoning pattern that development in accordance with the zone on these sites will provide for development with nil or low car parking provision.*

*The proposed building is a small mixed-use building and the modest under provisions of car parking has no real parking impacts. The level of car parking provision (2 spaces, 1 for each 2-bedroom unit) is reasonable on traffic planning and zoning grounds."*

Further to the addendum report, the applicants planner has provided a response to the car parking departure as follows:

*"A further traffic study has been undertaken for Saturday 26th January and Sunday 27th January 2019 and is attached to this correspondence.*

*The study confirms that on Saturday and Sunday there are at least 41 and 57 vacant kerbside spaces within 150m of the site, respectively.*

*It should also be noted that the adjoining zoning pattern provides for limited B1 land surrounded by R2 Low Density Residential.*

*While there is currently excess kerbside capacity for any overflow parking demand from this development, there is also limited development capacity in the adjoining land to significantly erode that capacity.*

*The 13 on-site car spaces considered full compliance with the applicable controls would not be physically able to be accommodated on this site. The B1 zoned land on this side of*

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*Swinbourne Street is 2 narrow sites. It is a reasonable consequence of this zoning pattern that development in accordance with the zone on these sites will provide for development with nil or low car parking provision.*

*The proposed building is a small mixed-use building and the modest under provisions of car parking has no real parking impacts.*

*The level of car parking provision (2 spaces, 1 for each 2-bedroom unit) is reasonable on traffic planning and zoning grounds."*

Council has considered both report and addendum and continue to not support the departure in car parking, in particular the shortfall in the number of residential spaces which are required to comply. The approach in complying with the residential component has been carried out in the other surrounding developments which have been approved in recent years to the east and north therefore compliance has been consistently applied. Additionally, there are safety concerns relating to movements of cars to and from the spaces, particularly as it is anticipated that the vehicles would be entering the spaces in a forward direction and exiting in reverse. This will have implications on the safety of pedestrian movements along the commercial active street frontage as well as onto the bus stop which is located directly to the east along Swinbourne Street. It is acknowledged that the site is constrained in nature and as the width of the site is less than 11 metres, the practicality in having a basement provided would not work particularly when considering ramping. The site is too small to contain all spaces required for the development as proposed.

The applicant provided Council with two draft options showing how more car parking spaces could be provided on the site. Option A had six car parking spaces provided side by side within the garage with access off Swinbourne Street. This would considerably reduce the amount of active street frontage provided along Swinbourne Street and would not meet the objectives and controls of the BBLEP and BBDCP 2013. While this provided compliance with the number of residential car parking spaces required on site, it presented more issues with the development. Option B presented four car parking spaces provided side by side with access off Swinbourne Street. The allowed for one car parking space provided for each unit. This also resulted in a departure of one space within the two bedroom units and continued to not comply with the car parking required for the residential spaces. Both options were unsuitable for the site. Council had made recommendations that the applicant amend their plans to reduce the number of units provided on the site or change the unit or alternatively consider car stacker arrangements. Neither option was accepted by Council and are not relied upon for assessment in this report.

In regards to loading and unloading bays, the development provides four units therefore there is no requirement for a space to be provided for the residential component. However one space is required for the commercial component of the development. As stated above, the site is constrained, without the capacity to provide on-site loading areas. Consequently loading and unloading would be carried out from the street which is unacceptable and not supported.

#### *Part 3B – Heritage*

The subject site is not a heritage item and is not located within a heritage conservation area however the site is in close proximity to Item 158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site to the north. The application was referred to Council's Heritage Advisor who had no objections to the proposal from a heritage point of view.

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*Part 3C – Access and Mobility*

The proposal was accompanied by an access report prepared by Accessible Public Domain which demonstrated that the outcomes for accessibility. The proposal provides level entry from both street frontages into the commercial tenancy. Internal to the commercial tenancy there are two ramps which run with the slope of the land. In regards to access to the residential component above, there is no disabled access to these areas with the only method of access through stairs. Additionally, there is no disabled car parking space provided for either the residential or the commercial component to the development. As the development provides less than 10 units, there is no requirement for the development to provide adaptable housing as required in Table within Part 3C.2 of the BBDCP 2013.

*Part 3E – Subdivision and Amalgamation*

The proposed development does not propose Torrens Title Subdivision or stratum title subdivision at this current stage however it is key to note that the size of the subject site is small in nature and present constraints to the development particularly relating to car parking provisions and manoeuvring in and out of the site. It is considered that for the economic and sustainable development of the site, the applicant consider to consolidate with the site to the south at 104 Wilson Street in providing a larger site which would present a more appropriate development which would comply with the controls of the ADG, BBLEP and BBDCP 2013. This has not been considered by the applicant.

*Part 3G- Stormwater Management*

The development application was accompanied by amended stormwater plans prepared by ING Consulting Engineers Pty Ltd. The plans demonstrated that the development provides for an below ground OSD which is located underneath the rear footpath adjoining the residential lobby. Additionally the proposal provides for a 10,000L rainwater tank that is located underneath the two ground floor car parking spaces on the eastern side of the site. Originally the application was reviewed by Council's Development Engineer for comment which raised concerns relating to the proposal however no issues have been raised from the amended plans. Appropriate conditions of consent have been provided however as the proposal is recommended for refusal, the conditions do not apply.

*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 25-30 ANEF contour. Residential development in these areas is considered acceptable under Table 2.1 of Australian Standard AS2021-2000. Regardless, the applicant submitted an acoustic report prepared by Acoustic Logic which has addressed both aircraft and traffic noise. Appropriate conditions would generally have been imposed in the consent however as the report is recommended for refusal, the conditions do not apply.

*Part 3K – Contamination*

Refer to SEPP No. 55 discussion above for further information relating to the suitability of the site.

*Part 3L – Landscaping and Tree Management*

The proposal provides 7.1sqm of landscaped area along the rear of the site. Additionally the proposal states that the existing pepper trees that are located on the Swinbourne Street street

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verge are to be retained. It is not sure how the trees are to be retained should an awning be incorporated as part of the design and what kind of impact that would have on the existing trees. The application was referred to Council's Landscape Architect who considered the size of the development and the amount of deep soil provided on the site and found the proposal to be appropriate in regards to landscaping.

#### *Part 3N – Waste Minimisation and Management*

The development proposes on-street garbage collection for both the residential and commercial component. As the development proposes less than 20 units, on street garbage collection is acceptable for the residences. In regards to the commercial component, it is required that off-street garbage collection be carried out. As discussed in Part 3A above, the site does not provide a loading/unloading space on the site therefore the proposal does not comply.

#### *Part 4C – High Density Residential*

The subject development is identified as a high density development with residential and commercial proposed. Part 5 of the BBDCP 2013 is more applicable to the development however there are some controls which relate to the site which are not included within Part 5 but rather in Part 4C. This is predominantly around family friendly controls as identified below.

| <b>4C.4.1 Dwelling Mix and Layout</b>  |   |     |
|--|---|-----|
| <b>C2</b> For developments with 10 or more units, the combined total number of one-bedroom dwellings shall not exceed 25% of the total number of dwellings within any single site area in residential zones. | The proposal provides four units therefore this control is not applicable. Regardless, the proposal provides 50% one bedroom units and 50% two bedroom units. | N/A |
| All 2 and 3 bedroom apartments are to satisfy the family friendly controls.  | Similarly to the above, the family friendly controls do not apply in this instance as the number of units is considerably less than 10.                       |     |

#### *Part 5 – Business Centre*

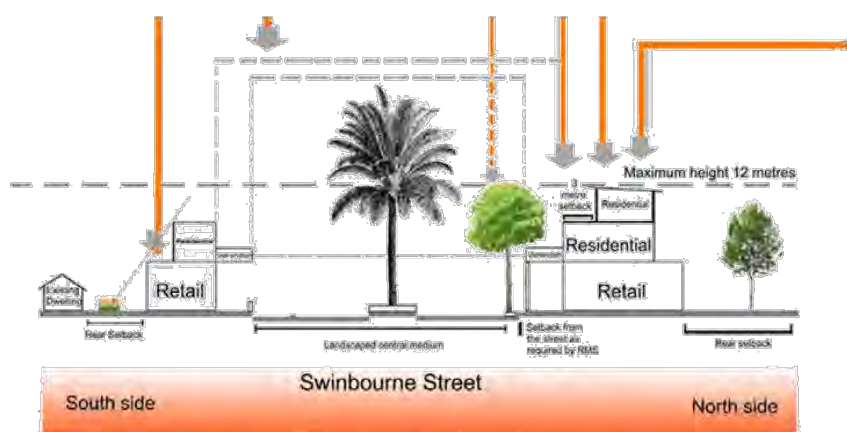
The site is located within the Swinbourne Street Neighbourhood Centre. The objectives of the Centre that apply to the site under Part 5.2.2.5 of the BBDCP is as follows:

| Objective  | Response   |
|--|--|
| <b>O1</b> To promote a viable and attractive Neighbourhood Centre with an improved and safer public domain   | The design is contemporary in nature and provides for an active street frontage along Swinbourne Street.   |
| <b>O2</b> To ensure that development recognises predominant streetscape qualities (i.e. setbacks & design features);   | The proposal provides for a nil boundary street setback which is consistent with the zone however is inconsistent with the number of stories envisaged for the southern side of Swinbourne Street. |
| <b>O3</b> To ensure development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character; | The development is not consistent with the number of stories within the desired future character of the area which is two. The proposal provides a maximum of three stories.                       |

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|   |  |
|---|--|
|   |  |
| <b>O4</b> To retain existing heritage trees and supplement existing landscaping within the streetscape;   | The heritage trees are not to be impacted as part of this proposal.  |
| <b>O5</b> To allow reasonable redevelopment and to improve the architectural quality of building stock;   | The materials and colour scheme proposed for this contemporary building is appropriate and consistent with the materials approved in the surrounding developments. |
| <b>O6</b> To retain a coherent streetscape with a consistent street wall and parapet line   | Street wall differs from the desired future character and the setbacks and number of stories approved at 1 Trevelyan Street to the east.                           |
| <b>O7</b> To ensure that access driveways do not dominate the streetscape; and  | The driveway does not dominate the streetscape.  |
| <b>O8</b> To ensure that shop top housing provides passive surveillance, resident interaction and addresses the street. To encourage development of awnings as balconies for residential and commercial units above (to improve amenity for unit dwellers and promote passive surveillance of streets). | All balconies front onto Swinbourne Street and provide passive surveillance.   |



**Figure 9. Reproduction of Figure 20 from Part 5 of the BBDCP 2013**

The following controls apply to the Swinbourne Street Neighbourhood Centre and are as follows:

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| Control  | Proposed  | Complies                           |
|--|---|------------------------------------|
| <b>5.2.2.5 Swinbourne Street Neighbourhood Centre</b>  |   |                                    |
| <b>C1</b> Development must provide landscaping, street trees, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with <b>Figure 20</b> .   | Council's major project department has stated that public domain improvements are to be carried out along Swinbourne Street. The proposal does not seek to provide any seating however seeks to retain street trees and landscaping along the street verge.   | Yes                                |
| <b>C2</b> Pedestrian amenity and connectivity must be enhanced in conjunction with new development.  | The active street frontage would allow for appropriate pedestrianisation however concerns are raised in regards to the safety of pedestrians with vehicles entering and exiting the site.   | <b>No – Refer to Note 6 above</b>  |
| <b>C3</b> Redevelopment is encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.  | The proposed development does not seek to consolidate lots and is only subject to the current lot which has an area less than 300sqm. It is considered that the site is too small to accommodate four units, commercial and car parking compliance. The applicant has not considered or assessed possible consolidation with the southern site. | <b>No – Refer to Part 3E above</b> |
| <b>C4</b> The design of development must be generally consistent with the Desired Future Character of the centre identified in Figure 20   | The design is inconsistent with the figure which requires developments on the southern side of Swinbourne Street to have a two storey built form.   | <b>No – Refer to Note 7 below</b>  |
| <b>C5</b> A maximum height of 12 metres applies under BBLEP 2013. Notwithstanding the 12 metre height limit, a maximum height of two stories applies along the street frontage with a third level permitted which is setback from the street frontages and the rear. The setback from the rear is 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 at development application stage that impacts on the residential area are minimised. | The development proposes a height of 11.99 metres which complies with the BBLEP 2013 requirement.   | Yes                                |
| <b>C6</b> With redevelopment of the shops, landscape planting must be provided along the rear boundary where a site adjoins a residential property, to provide a visual  | The proposal provides 7.1sqm of landscaped area to a portion of the southern boundary however the landscaping proposed does not extend for the full length of the boundary due to the side access path as well as the landscaping   | <b>No – Refer to Note 1 above</b>  |

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|  |   |                         |
|--|---|-------------------------|
| separation between the shops and the residential area.   | proposed will not provide an adequate landscape buffer between the two sites.   |                         |
| <b>C7</b> New development is to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character.  | The proposal has been designed to incorporate elements that have been approved in the shop top housing developments on the eastern and northern side of the site. This includes dormer windows and attic style roof form which was approved at 1 Trevelyan Street and similar colour and materials used at 13-17 Swinbourne Street. While the existing streetscape is of single storey shops and dwellings, the emerging character is of a two and three storey form. | Yes                     |
| <b>C8</b> Alterations and additions are to reflect the architectural design of the existing building. Materials and finishes are to be compatible with the existing building.  | No alterations and additions are proposed.  | N/A                     |
| <b>C9</b> Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the suburb. | The proposal provides a three storey corner element on the western corner of the site. Additionally the proposal is of a contemporary nature with box windows, curved edges and balconies facing the street. As stated above, there is an emerging character in the street with the recent approvals of the adjoining sites.  | <b>See Note 7 below</b> |
| <b>C10</b> Shop top housing must be provided in any redevelopment of the existing shops.   | Shop top housing is proposed.   | Yes                     |
| <b>C11</b> The design must improve the residential amenity for the housing above the shops by providing direct access to balconies and private open space; and provide for passive surveillance of the surrounding streets and pedestrian walkways.  | The units above ground level are north facing and provide balconies that look onto Swinbourne Street. The corner unit also has large windows to provide surveillance onto Wilson Street. All units would receive appropriate sunlight.  | Yes                     |
| <b>C12</b> All development must address the street frontage  | The proposal addresses both street frontages.   | Yes                     |

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|   |   |                                   |
|---|---|-----------------------------------|
| <b>C13</b> All designs must provide awnings above the footpath on the Swinbourne Street frontage  | The proposal demonstrates a street awning.  | Yes                               |
| <b>C14</b> Awnings above the footpath are encouraged as trafficable verandahs for the use of residents on the first floor. If the verandah is built over the street then a lease fee is payable to Council. The fee is set out in <b>Council's Fees and Charges</b> . | No trafficable verandahs are proposed with all private open space provided within the site.                   | Yes                               |
| <b>C16</b> The design must encourage active street life while providing a high residential amenity and provide for small scale shops that will serve the local community.   | The proposal provides a commercial tenancy at ground level and is considered to activate the street frontage. | Yes                               |
| <b>C17</b> A street number for the property is to be clearly identifiable from the street.  | Street numbering has been provided.   | Yes                               |
| <b>C18</b> Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.   | An awning has been provided on the development.   | Yes                               |
| <b>C19</b> Air conditioners must not be installed on street awnings or the front façade of buildings.   | The plans do not demonstrate the location of air conditioning units.  | N/A                               |
| <b>C20</b> Development must comply with Council's sustainable development requirements as identified in <b>Part 3H - Sustainable Design</b> .   | The proposal provides a 10,000L rainwater tank.   | Yes                               |
| <b>C21</b> Development must comply with <b>Part 3A - Car Parking</b> .  | The development proposes two car parking spaces. This is a shortfall of 11 car spaces.                        | <b>No – Refer to Note 5 above</b> |
| <b>C22</b> Maintain limited advertisements and business signage to minimise visual impact on the surrounding residential area.  | Signage is not proposed as part of this proposal.   | N//A                              |
| <b>C23</b> Restrict signage to the awning fascia, under the awning or behind the shop window at street level  | Signage is not proposed as part of this proposal.   | N//A                              |
| <b>C24</b> Development must comply with <b>Part 3D - Signage</b>  | Signage is not proposed as part of this proposal.   | N/A                               |

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|   |  |   |                                  |
|---|--|---|----------------------------------|
| <b>C25</b> A Stormwater Management System is to be provided in accordance with <b>Part 3G - Stormwater Management</b> . |  | A below ground OSD in addition to a 10,000L rainwater tank has been proposed within the development.  | Yes                              |
| <b>5.3 General Controls</b>   |  |   |                                  |
| 5.3.1.1 Floor Space Ratio   | <b>C2</b> In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse impacts on adjoining dwellings or the streetscape in terms of loss of privacy, overshadowing, loss of views, visual amenity and increased traffic generation.  | The development proposes an FSR of 1.5:1 which complies with the BBLEP 2013. However based on the control, while the proposal is compliant the bulk of the development contributes to adverse impacts to the southern property in regards to overshadowing. | <b>See Note 8 below</b>          |
| 5.3.1.2 Height  | <b>C1</b> The maximum height of buildings must comply with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.   | The development proposes a height of 11.99 metres which is compliant with the BBLEP 2013.   | Yes                              |
|   | <b>C2 &amp; C3</b> In addition to C1, new buildings must also consider and respond to the predominant and characteristic height of buildings within the Centre; and consider the topography and shape of the site. In this regard, the maximum number of storeys must not exceed the maximum number of storeys identified in the relevant character statement for each Business Centre as set out in Part 5.2 - Character Statements for the Business Centres. If the maximum number of storeys is not identified in the Character Precinct, the maximum number of storeys must be consistent with the characteristic building height. | The proposal provides a three storey corner element which departs from the desired future character which is demonstrated in Figure 20 of Part 5.2.2.5. The figure requires the development to have a two storey built form.                                | <b>No – See Note 7 below</b>     |
| 5.3.1.3 Street Setbacks   | <b>C1</b> Buildings are to be aligned along the street frontage to create a consistent street wall no higher than two storeys. A variation to the two storey street wall height along the  | The proposal has a nil setback along the streetscape. The proposal has a three storey street wall along the corner.   | <b>No- Refer to Note 7 below</b> |

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|  | street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys. In this instance, the applicant is to submit a written justification to Council for this variation and will be considered by Council on its merits. |   |                                   |
| 5.3.1.4 Side and Rear Setbacks and Building Separation | C1 Where a site adjoins residential development appropriate rear or side setbacks must be provided to ensure that potential impacts on adjoining or surrounding residential properties are minimised in terms of loss of privacy, sunlight and daylight access and visual amenity.             | The proposal proposes a setback of 1.5 metres to 4.5 metres along the rear setback, The site adjoins a low density residential zone therefore the bulk of the development does provide unacceptable overshadowing onto 104 Wilson Street. | <b>No – Refer to Note 8 below</b> |
|  | C2 Development to which SEPP 65 applies are to adhere to the Apartment Design Guide for building separation.   | A SEPP No 65 verification has been provided with the application. An assessment of the ADG has been carried out in the report above.  | <b>Refer to ADG section above</b> |
| 5.3.1.5 Built Form and Streetscape                     | C2 Building must have a consistent street wall height and provide a continuous street frontage and awning height along the street frontage where appropriate.  | The proposal has a three storey street wall height on the corner with the eastern part of the site containing a two storey street wall with dormers for the third floor.  | <b>No – Refer to Note 7 below</b> |
| 5.3.2.1 Design Excellence                              | C2 The Development Application must identify how design excellence will be achieved in the proposed development.   | The proposal was presented to a DRP meeting where the Panel had no objections to the proposal subject to minor design amendments.   | Yes                               |
| 5.3.2.2 Building Design                                | C2 All development applications that contain residential development or are adjacent to residential development must provide a design statement addressing privacy and overshadowing of residential dwellings from the business component.   | A design statement has been provided with the development application.  | Yes                               |
|  | C4 If residential dwellings are proposed as part of a mixed use development, balconies, private open space area and communal open space areas must be screened to address any  | All private open space areas are orientated to the north away from adjoining low density residential properties.  | Yes                               |

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|   | privacy impacts on adjoining residential properties.   |  |                                   |
|   | C7 A schedule of external finishes and materials must be submitted at development application stage to articulate the building's design complements the Business Centre.   | A schedule of colours, finishes and materials has been provided with the development application. The materials and colours shown are consistent with approved developments to the north and east of the site. | Yes                               |
| 5.3.2.3 Reflectivity                            | C3 The solar reflectance value of building materials must not exceed 20%.  | The proposal does not provide materials that are reflective.   | N/A                               |
| 5.3.2.4 Awnings and Verandahs                   | C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.  | Awnings are proposed along the street frontages.   | Yes                               |
| 5.3.2.5 Public Domain Interface at Ground Level | C1 Development must comply with the Desired Future Character objectives and controls identified in Part 5.2 - Character Statements for the Business Centres.   | The proposal does not comply with the desired future character controls in the Swinbourne Street Neighbourhood Centre.   | <b>No – Refer to Note 7 below</b> |
|   | C2 Development must be designed so that it has a clearly definable entry and addresses the street.   | The residential and commercial entries are clearly definable.  | Yes                               |
|   | C3 For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.                                | There is no ground floor private open space areas. All POS are in the form of first floor balconies.   | Yes                               |
|   | C4 The visual and physical connection between the building frontage and the public domain must be considered in all development applications to ensure that the interface at ground level promotes a high level of pedestrian amenity. | This has been considered as part of the proposal.  | Yes                               |
| 5.3.2.6 Active Street Frontages                 | C1 Development is to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street  | Active street frontage has been provided along Swinbourne and Wilson Streets.  | Yes                               |

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|   | Frontages under BBLEP 2013.  |   |                                   |
| 5.3.2.8 Interface between Business Zones and Adjoining Landuses | C1 Clear boundaries between the public and private domain must be created to enhance security, privacy and safety.   | This has been demonstrated within the plans particularly along Swinbourne Street.   | Yes                               |
|   | C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and 3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable. | Shadow diagrams have been provided with the development application. The plans demonstrate significant overshadowing onto the southern property at 104 Wilson Street. | <b>No – Refer to Note 8 below</b> |
| 5.3.2.9 Landscaped Area   | C1 Residential setbacks from streets and parks are to support planting, at a scale that allows passive surveillance of the public domain. This requirement may vary with each block  | There is no landscaping proposed along the street frontage however this is acceptable in this case.   | Yes                               |
|   | C3 Provide a sufficient depth of soil on podium areas in accordance with the Councils Technical Guideline for Landscape in Development Sites.  | No podiums are proposed as part of this application.  | N/A                               |
| 5.3.2.10 Private Open Space and Communal Open Space             | C1 The primary area of outdoor private open space must not be located at grade on the street frontage.   | All private open space areas are located on first floor balconies.  | Yes                               |
|   | C2 Communal open space can be provided at grade or on podiums and roof tops. The space must be appropriately landscaped and provided with a recreational facilities or features, for example BBQ area, seating, children's play area, landscape features or the like and must include pedestrian scale lighting, to be shown in the detailed landscape plan. | There is no communal open space proposed.   | Refer to Note 2 above.            |

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|                                 | C3 More than 70% of the communal open space area must be capable of growing plants, grasses and trees.   | As above.  | N/A                               |
| 5.3.2.11 Materials and Finishes | C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade is to accompany all Development Applications involving building works   | A schedule of colours and finishes has been provided with the development application and the colours and materials proposed are acceptable. | Yes                               |
| 5.3.2.12 Servicing              | C1 New commercial or mixed use buildings must provide a loading dock on-site. Where this is not viable loading and unloading may be permitted from to a rear lane or side street subject to Council's engineer approval.   | There is no loading dock or space proposed within the development for the loading and unloading associated with the commercial tenancy.      | <b>No – Refer to Note 6 above</b> |
| 5.3.2.14 Access and Mobility    | <p>C1 Development must comply with Part 3C – Access and Mobility</p> <ul style="list-style-type: none"> <li>▪ Residential flat buildings (RFB), conversion of non-residential buildings into RFBs, shop top housing, multi dwelling housing and live/work buildings – Statement of consistency lodged.</li> <li>▪ In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B. Refer to AS4299 Class B.</li> <li>▪ Appropriate access for all persons through the principal entrance of a building and access to all common facilities. Refer to BCA and AS1428.1.</li> <li>▪ In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings with a preference for AS4299 designs for at least 80% of the accessible spaces and a maximum of 20% of</li> </ul> | Refer to Part 3C above.  | Yes                               |

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|                               | spaces complying with AS2890.6.  |  |                                   |
| 5.3.3.1 Acoustic Privacy      | C1 Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.  | An acoustic report prepared by Acoustic Logic has been provided with the development application and assesses traffic and aircraft noise.  | Yes                               |
| 5.3.3.2 Visual Privacy        | C1 In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures:<br><br>(i) Fixed screens of a reasonable density (min 75% block out);<br>(ii) Fixed windows with translucent glazing (providing natural ventilation is not compromised);<br>(iii) Appropriate screen planting or planter boxes. | The majority of window are fronting with the western and northern elevations with limited windows proposed along the southern elevation to prevent any direct overlooking of the southern property.                    | Yes                               |
| 5.3.3.5 Solar Access & Shadow | C1 Development must demonstrate:<br>(i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and<br>(ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.                                       | The application provided a solar study on the impact of the development onto the southern property. The adjoining site will be completely overshadowed in mid-winter to both the principal living areas and rear yard. | <b>No – Refer to Note 8 below</b> |

#### Note 7 – Desired Future Character

The site is located within the Swinbourne Street Neighbourhood Centre which is characterised by nine sites that are centralised near intersections and contain, until recently, a number of single storey shops that would cater for the everyday needs of residents.

Part 5.2.2.5 of the BBDCP 2013 provides controls and objectives for this area which have been addressed in the tables above. Figure 20 within this section outlines the desired future character that was envisaged by Council when the BBDCP 2013 was being written. The

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subject site has been designed to incorporate a two storey street wall with nil street boundary setback and large rear setbacks with a greater setback proposed on the upper level so that an appropriate transition between the business zone and residential zone is provided.

The development proposes a two and three storey built form with the eastern portion of the site containing a two storey built form with a third storey attic bedroom with dormer windows while the western side of the site has a three storey built form. The three storey built form is built to the northern and western boundary however has a setback of 1.5 metres from the southern boundary for its entire height. The two storey plus attic built form has a three metre to 4.5 metre setback with the upper level set in further away from the rear setback.

The proposal was discussed at a pre-DA in particular to the three storey nature of the corner element. Council would consider a slight departure to the desired future character as long as the additional bulk was within the height limit and did not contribute to any adverse impact to the residential amenity of the neighbouring site to the south. The three storey element was proposed to reflect the approved developments and developments under assessment on the northern side of the street. While it is acknowledged that there is a different character envisaged for the development opposite the site, the proposal was designed to encapsulate the materials and colour schemes previously approved. The two storey plus attic portion of the site is consistent with the built form that was approved at 1 Trevelyan Street.

Further assessment of the proposal as a whole has resulted in a number of issues arising particularly relating to car parking and overshadowing. As will be further discussed below, the three storey component creates significant overshadowing onto the southern neighbour. While from a visual perspective, the proposal is consistent and appropriate for the neighbourhood centre as it aligns with the adjoining approved development, the impact onto the residential amenity of the neighbouring properties results in inconsistencies with the objectives of the B1 Neighbourhood Centre zone as well as numerous ADG and DCP controls.

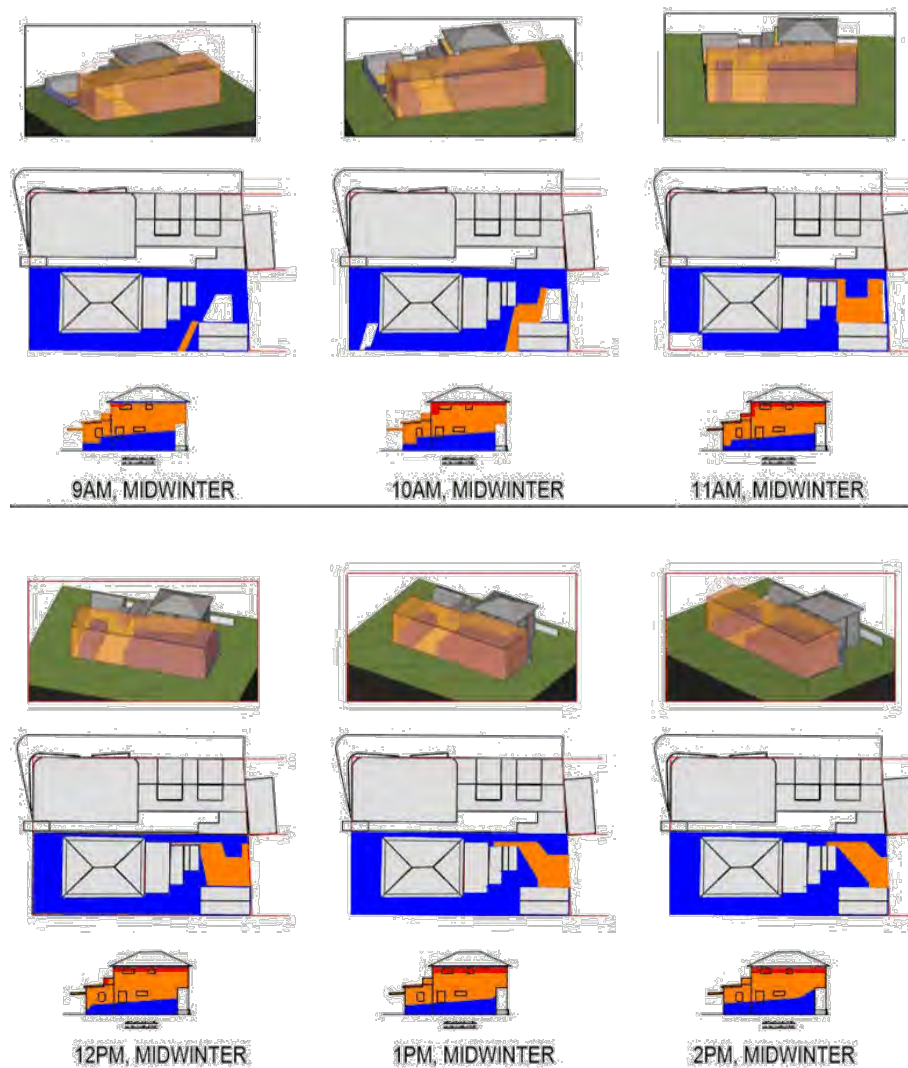
#### **Note 8 – Overshadowing/Solar Assessment**

Part 5.3.3.3- *Solar Access and Shadow* of the BDDCP 2013 requires neighbouring developments to receive at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms as well as the subject site receiving 2 hours of sunlight to 30% of its communal open space as required within the apartment design guide. It has been established above that there is no communal open space provided on the site therefore the proposal does not comply with the amount of sunlight to this space.

The site has an east-west orientation therefore any overshadowing would fall onto the south. The applicant has provided shadow diagrams, both aerial and elevational, with the development application. Further solar studies were requested by Council to demonstrate the impact onto the southern property at 104 Wilson Street. In assessing the shadow diagrams, it is demonstrated that during mid-winter, the northern elevation of the southern adjoining neighbour would be completely overshadowed. This applies to the rear yard as well as limited amount of sunlight is provided. The below figures demonstrate the amount of sunlight existing and received by the neighbouring site:

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**Figure 10. Solar studies provided demonstrating existing shadow (blue), proposed two storey envelope (orange) and proposed overshadowing from the development (red)**

The applicant provided the following justification for the solar impact onto the southern property:

*"The proposed development has the following impacts on this site:*

- *at mid-winter the rear yard of 104 Wilson Street receives approximately 1.5 hours solar access between 9.00am to 11.00am;*
- *at equinox the rear yard and elevation of 104 Wilson Street receive 50% + solar access from 9.00am to 3.00pm; and*
- *the 3-storey element of the building has solar impacts on roof forms and the street.*

*The relevant controls for neighbour impact are at Part 5.3.3.3 Solar Access and Shadows of the DCP, provided below:*

*"Controls*

*C1 Development must demonstrate:*

*(i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; "*

*The relevant neighbour impact standard makes a general, no date specified, requirement for neighbouring development to receive 2 hours direct sun to 50% of the primary private open space and 50% of windows to habitable rooms.*

*The impacts on the rear yard and elevation of 104 Wilson Street are well within this standard – noting that from equinox (Autumn to Spring) well over 50% of the rear yards and*

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*likely more of the rear elevation (noting its 2-storey) receives full sun and during mid-winter approximately 20% of the rear yard receives 1.5 hours sun and again more of the rear elevation. Over the course of the year this dwelling receives considerably more than 2 hours solar access with a slight dip in solar access over the midwinter period (which is in reality a few weeks only).*

*The north facing side windows to 104 Wilson Street fail the 50% test. The east (rear) facing windows to 104 Wilson Street would comply. The impact on the side windows is a reasonable and expected impact, given the setback of this dwelling from B1 Neighbourhood Centre zoned land. These windows are also likely secondary windows or to corridor/bathroom areas. This impact is also driven by zoning and urban design considerations, that require the bulkier parts of this building in the established building zone on Wilson Street and on the corner. The less bulky part of this building is located adjacent to the rear yard of 104 Wilson Street. The area where solar access should be maintained, and compliance achieved is to the rear yard of 104 Wilson Street. The proposal achieves this.*

*It should also be noted that the proposed building is compliant with the LEP FSR control and well under the 12m building height control. The maximum height of the proposed building is 11.5m to the 3-storey element and to the 2-storey and attic element 9.77m. The proposed building's compliance with the core LEP bulk and scale controls, supports the planning argument that its solar impacts are a reasonable consequence of undertaking development in accordance with the intent of the zoning.*

*The solar impacts of the proposed building reasonably comply with relevant controls and provide for expected and reasonable impacts."*

A detailed assessment is provided against the Land and Environment Court planning principle on the impact on solar access of neighbours (Parsonage V Ku-ring-gai (2004) NSWLEC 347) and (The Benevolent Society V Waverley Council (2010) NSWLEC 1082) as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The site has an east-west orientation therefore the property to the south will be directly impacted by the proposal. The site falls within the B1 Neighbourhood Centre which allows for a greater height however the site is bound to the rear by the R2 Low Density Residential zone. Therefore the site should provide a transitioning bulk and scale down to the low density area as well as greater setbacks. Additionally the site forms part of the Swinbourne Street Neighbourhood Centre which has provided a figure demonstrating the desired future character of the area. The site requires a two storey street form with the upper level setback further away from the rear setback. The proposed development proposes a part three storey built form with the remainder of the building contained within a two storey plus attic form. The height of the development is slightly less than the maximum LEP height of 12 metres however the desired future character figure makes provisions that buildings may not achieve 12 metre height limit due to overshadowing or privacy impacts on the residential properties.

- *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.*

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Comment: The two storey component with attic space which are bedrooms are an appropriate built form as it restricts the height of the development and is predominantly consistent with Figure 20. The built form is also consistent with the development approved at 1 Trevelyan Street to the east. The three storey built form on the western side of the site is inconsistent with the desired future character for the southern side of the street and while it has been well designed, would contribute to additional bulk and overshadowing onto 104 Wilson Street, particularly in the afternoon.

- *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 portions of the glazed area.*

Comment: The elevation shadow diagrams demonstrate that at mid-winter, all windows on the northern elevation of 104 Wilson Street will be overshadowed by the proposal. The applicant has provided a solar analysis of the existing shadow, a compliant two storey development and the subject proposal. It is evident that there is no glazed area that will receive sunlight during mid-winter. The applicant has also provided shadow diagrams for spring equinox which show a small portion of the first floor windows receive some sunlight however it is considered that the impact is still considerable.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment: The private open space area of the neighbouring site is located on the eastern side of the site which adjoins the two storey plus attic portion of the development. It is demonstrated within the aerial plans that the development will completely overshadow the neighbouring POS. The spring equinox drawings show that there is some portions of the rear yard receiving sunlight however this is inappropriate.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: The development proposes a 2.4 metre high boundary fence which would contribute to additional overshadowing to the ground floor windows and rear yard. There is no existing vegetation within the subject site or significant vegetation in the adjoining properties rear yard which would create further solar obstruction.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment: It is not considered that the R2 zone to the south be changed and is likely to be retained as low density. While it is acknowledged that the B1 zone is undergoing transition, the controls within Part 5.2.2.5 of the BBDCP have restricted development to a two storey

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height with larger rear setbacks. It is considered that the site is too small to accommodate the proposed development and therefore the resultant overshadowing issues are evident.

Considering the above, the proposal has been assessed accordingly in regards to solar amenity and is not acceptable in this instance.

#### *Part 8 – Botany Character Precinct*

While Part 8 contains general objectives for the future character of the Botany Area, Part 5 of the BBDCP contained specific controls and objectives for the desired future character of the Swinbourne Street Neighbourhood Centre which has been addressed in detail above.

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

The proposed development is inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have significant adverse environmental, social or economic impacts in the locality.

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

The site is not impacted by aircraft noise, flooding or contamination.

In regards to the size of the site, the proposed development is considered to be significant and is not an economic and sustainable development of the land. As stated throughout the report, the proposal contributes to a negative impact on the residential amenity of the neighbouring properties. Additionally, the proposal is inconsistent with the objectives of the B1 Neighbourhood Centre zone and is therefore not suitable for the site.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a fourteen (14) day period from 3 October to 17 October 2018. Nine (9) objections were received during this period. The amended plans were re-notified for a fourteen (14) day period between 29 April to 13 May 2019. Nil submissions were received and a summary of the issues is as below:

- Visual Privacy and overlooking
- Adverse impact due to the bulk and scale of the development
- Overshadowing
- Overdevelopment
- Not in character with the area
- Unnecessary commercial premises
- Traffic danger due to visual obstruction
- Departure in car parking and increased traffic to the area
- Lack of landscaping
- Inconsistent building height

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- Site too small

The proposed issues raised within the submissions have been summarised in different notes in the report above. Council agrees with the submissions received and recommends refusal based on the majority of these issues.

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

It is considered that granting approval to the proposed development will have significant adverse impact on the public interest.

#### **Section 7.11 Contributions**

The proposed development would generate Section 7.11 Contributions however as the proposal is recommended for refusal, the contributions have not been calculated.

#### **Conclusion**

---

Development Application No. 2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street, Botany, has been assessed against the requirements of the Environmental Planning and Assessment Act 1979.

The non-compliances as listed above relating to SEPP No. 65 and the BBDCP 2013, specifically car parking, overshadowing, building separation and the economic development of the land are not supported and it is considered that the proposed development is not suitable for the site due to its size and incapability to comply with the controls.

The number of submissions that were received with the development application demonstrate that the proposal is not in the public interest and will create significant impacts onto the surrounding environment. Therefore, the proposed development is recommended for refusal subject to the reasons in the attached schedule.

---

#### **Attachment**

##### **Schedule 1 – Reasons for refusal**

**Premises: 106 Wilson Street Botany**

**Da No.: DA-2018/1172**

#### **REASONS FOR REFUSAL**

1. The proposed development, pursuant to the provisions of Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the

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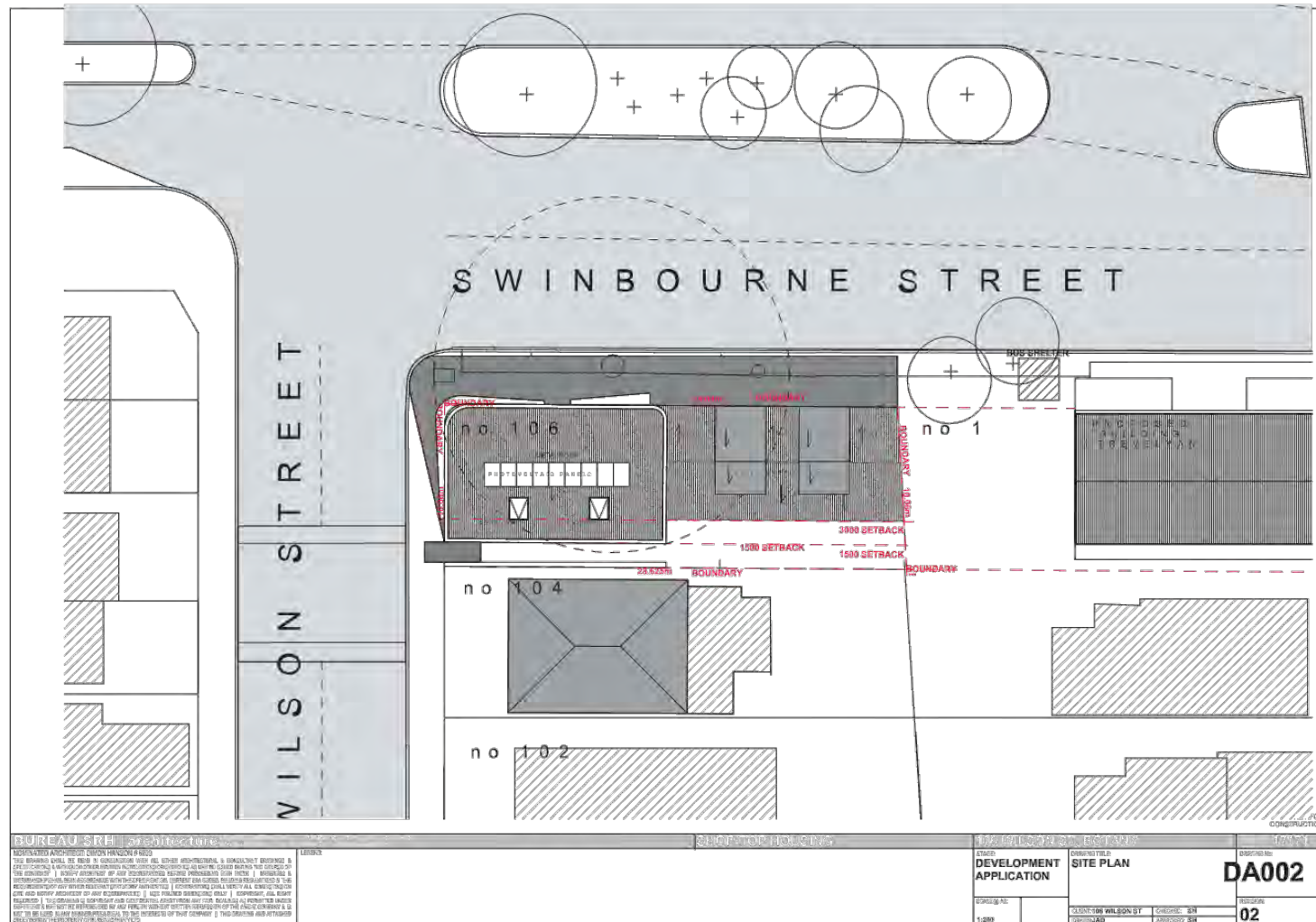


design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:

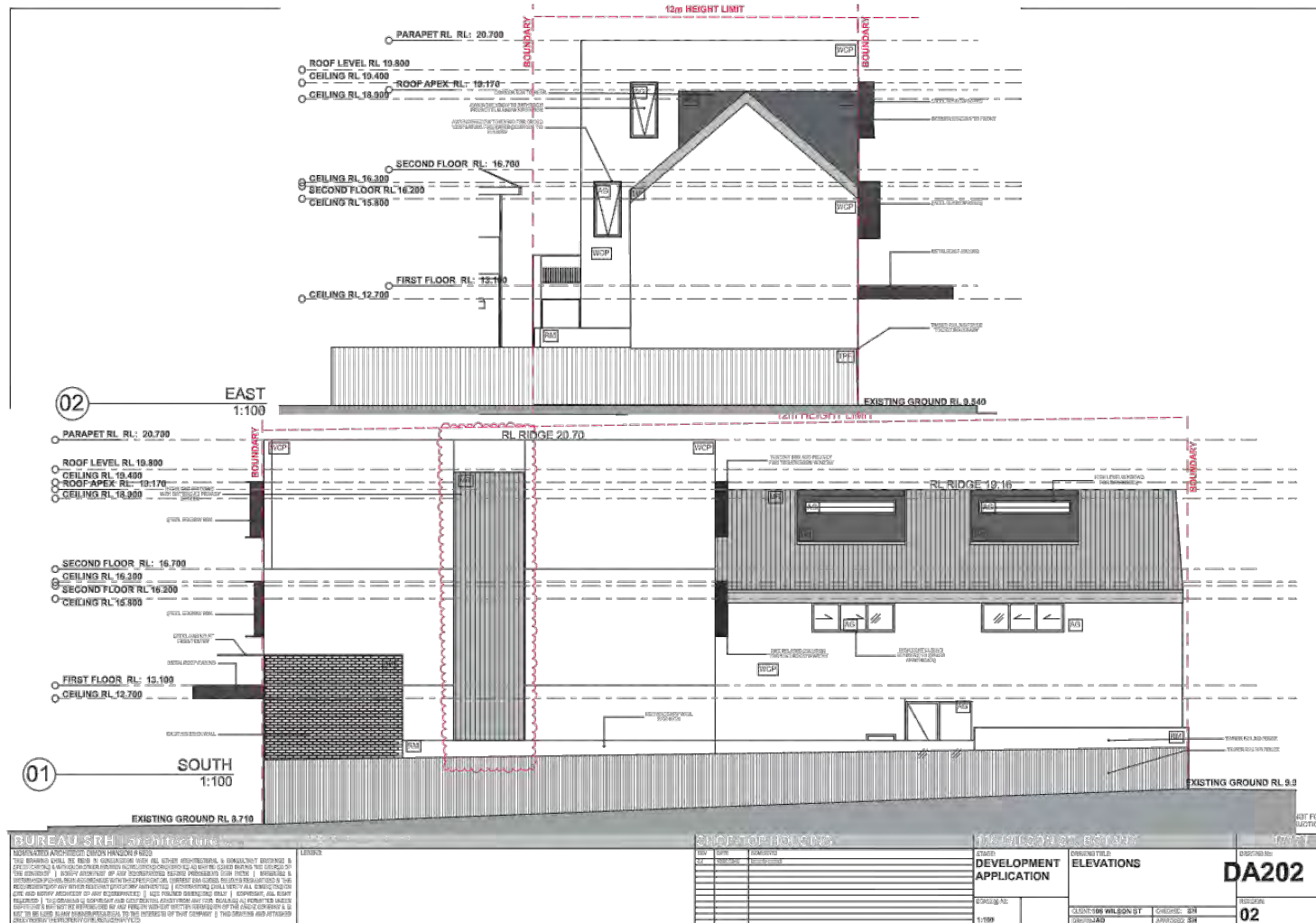
- a) Part 2F – Building Separation
  - b) Part 4G – Storage
2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the Design Quality Principles within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment. Additionally, the Design Verification Statement provided does not satisfy clause 50(1B) of the Environmental Planning and Assessment Regulation 2000.
  3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of the B1 – Neighbourhood Centre zone within Botany Bay Local Environmental Plan 2013.
  4. 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:
    - a) Part 3A – Car Parking and Access
    - b) Part 3E – Subdivision and Amalgamation
    - c) Part 3N – Waste Management and Minimisation
    - d) Part 5 – Business Centres. The proposed development does not comply with the objectives and controls of Part 5.2.2.5- Swinbourne Street Neighbourhood Centre of the Botany Bay Development Control Plan 2013;
    - e) Part 8 – Character Precincts
  5. 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.
  6. 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 traffic and car parking departure, overshadowing, and inconsistent with local character and would adversely impact upon the amenity of the locality.
  7. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site.
  8. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

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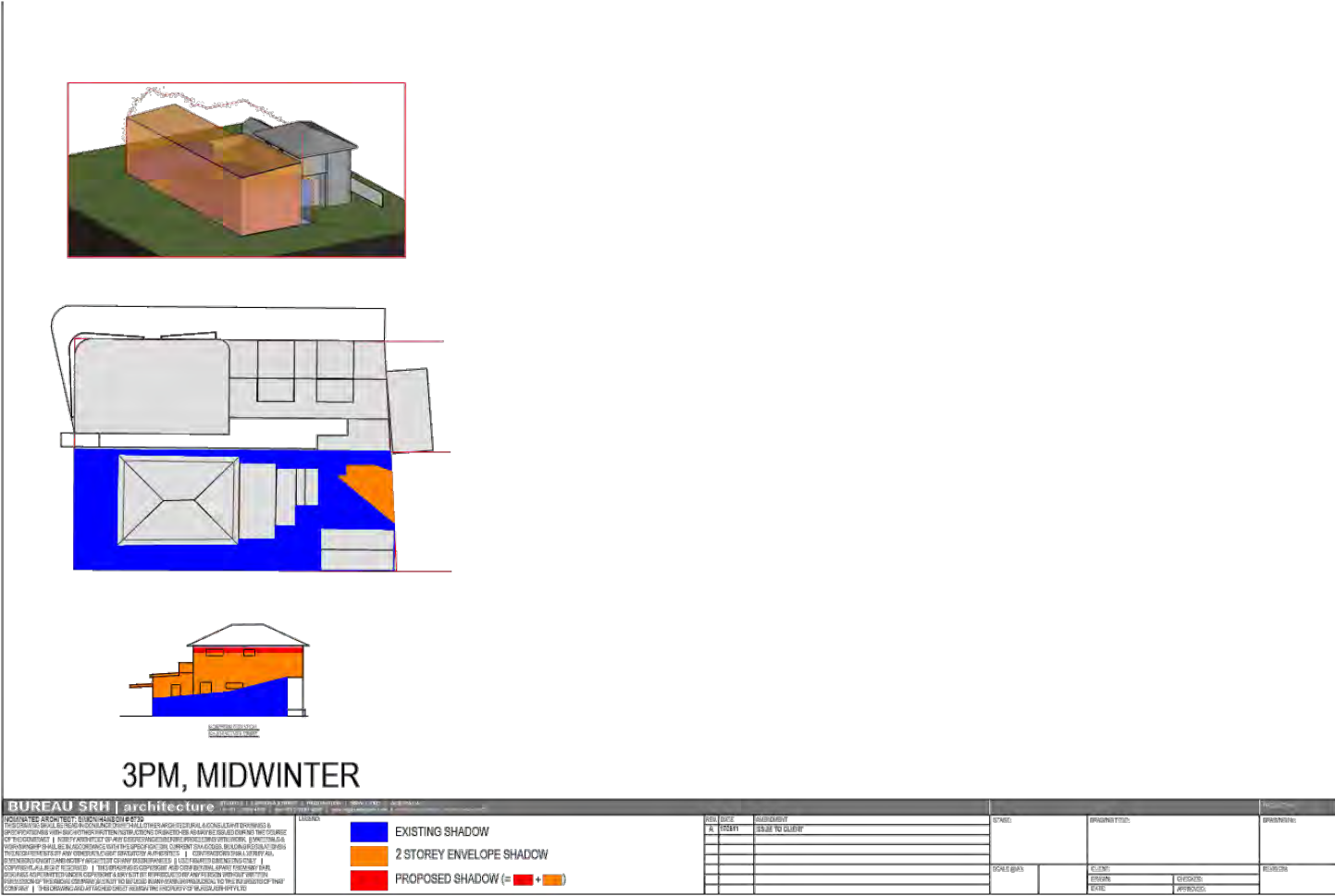






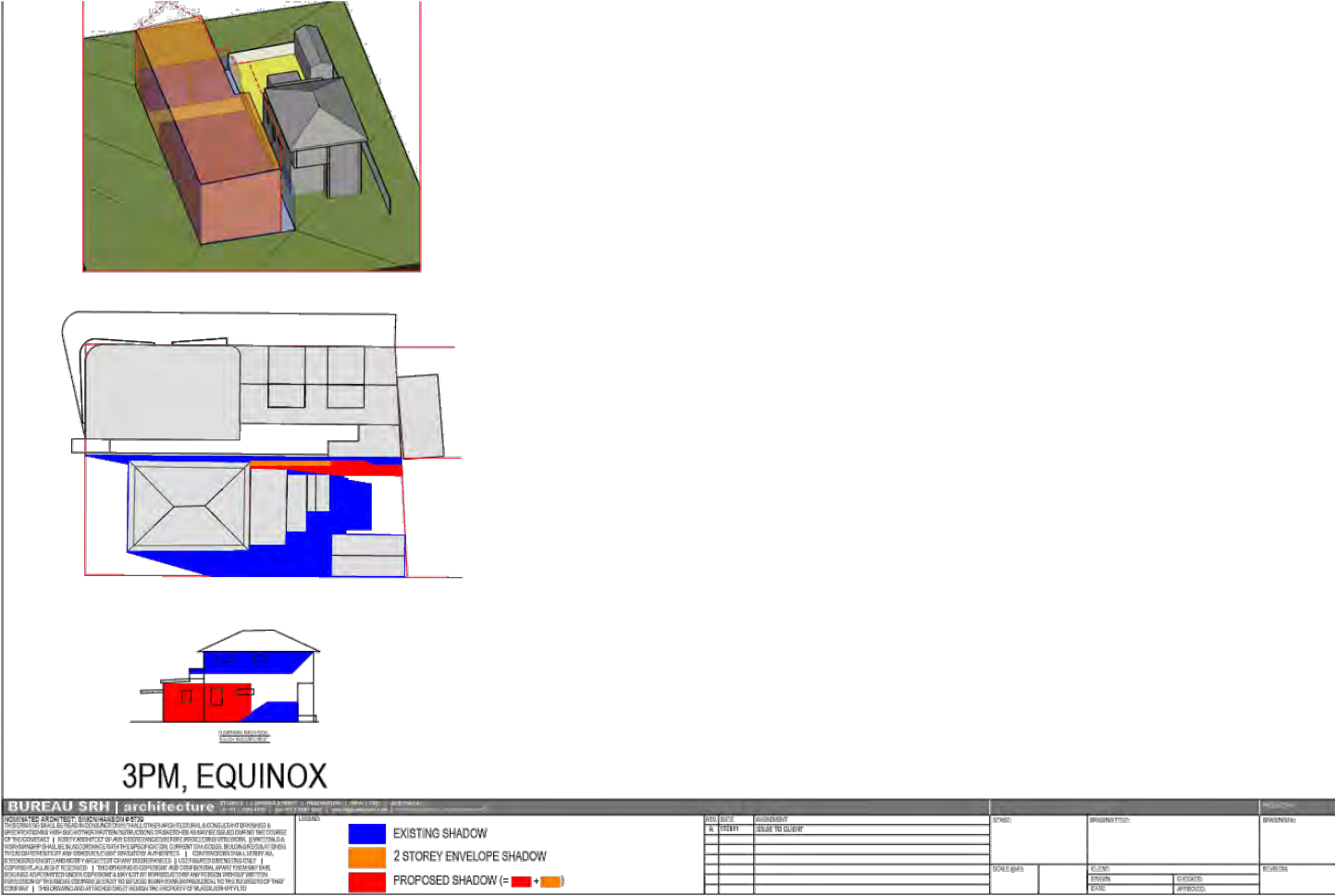
















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**TRAFFIC AND PARKING IMPACTS REPORT  
FOR A DEVELOPMENT APPLICATION  
FOR A COMMERCIAL AND RESIDENTIAL BUILDING  
AT NO. 106 WILSON STREET, BOTANY, NSW 2019**

|                         |  |
|-------------------------|--|
| <b>Property address</b> | No. 106 Wilson street, Botany, NSW 2019                          |
| <b>Client</b>           | Bureau SRH   |
| <b>Prepared by</b>      | O. Sannikov, MEngSc (Traffic Engineering), MIEAust, PEng, FAITPM |
| <b>Date</b>             | 27/06/2018   |
| <b>Job No.</b>          | 18070  |
| <b>Report No.</b>       | 18070 - 01   |

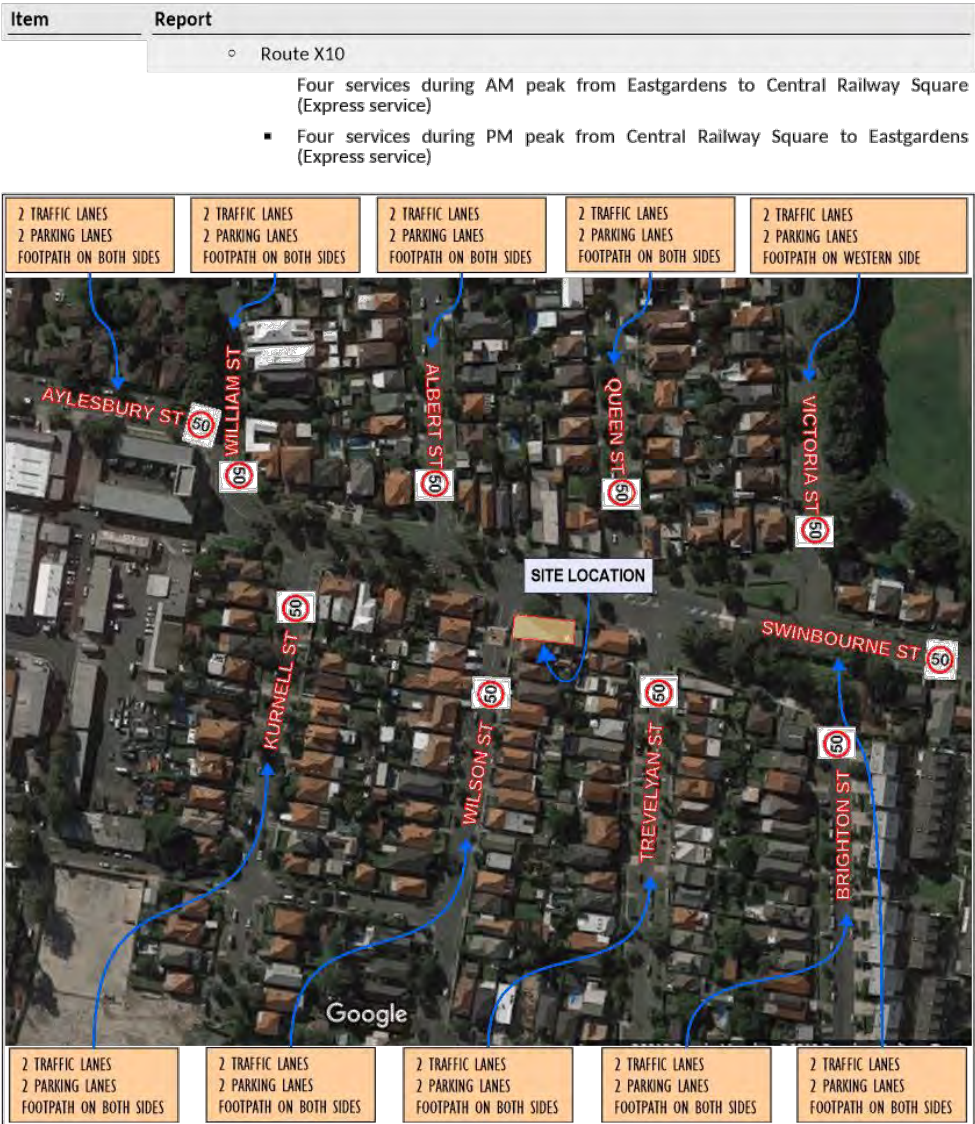
| Item                        | Report  |
|-----------------------------|---|
| <b>Site location</b>        | <ul style="list-style-type: none"> <li>Refer to <b>Figure 1</b>.</li> </ul>   |
| <b>Existing land use</b>    | <ul style="list-style-type: none"> <li>A single storey residential dwelling</li> </ul>  |
| <b>Proposed development</b> | <ul style="list-style-type: none"> <li>Commercial and residential building           <ul style="list-style-type: none"> <li>Residential building               <ul style="list-style-type: none"> <li>4 Residential units                   <ul style="list-style-type: none"> <li>Two 2-bedroom units and two studios</li> </ul> </li> </ul> </li> <li>Commercial space               <ul style="list-style-type: none"> <li>135.99 m<sup>2</sup></li> </ul> </li> </ul> </li> </ul> |



Figure 1. Site location.



| Item                   | Report  |
|------------------------|---|
| Street characteristics | <b>Existing traffic and parking situation</b> <ul style="list-style-type: none"> <li>Refer to <b>Figure 2</b>.</li> <li>The key roads around the proposed development are described below. <ul style="list-style-type: none"> <li>Swinbourne Street <ul style="list-style-type: none"> <li>Local collector</li> <li>2 travel lanes and 2 parking lanes</li> <li>A wide median</li> </ul> </li> <li>Wilson Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> <li>William Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> <li>Albert Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> <li>Queen Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> <li>Victoria Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> <li>Kurnell Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> <li>Aylesbury Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 traffic lanes and 2 parking lanes</li> </ul> </li> <li>Trevelyan Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> <li>Brighton Street <ul style="list-style-type: none"> <li>Local road</li> <li>2 travel lanes and 2 parking lanes</li> </ul> </li> </ul> </li> </ul> |
|                        | <b>Public Transport</b> <ul style="list-style-type: none"> <li>Refer to <b>Figure 3</b>.</li> </ul>   |
| Bus                    | <ul style="list-style-type: none"> <li>The closest bus stop is located on Swinbourne street (approximately 30 m walking distance from site location). <ul style="list-style-type: none"> <li>Both stops are well within the standard catchment area of 400 metres radius for bus services.</li> </ul> </li> <li>There are 2 bus routes within walking range. <ul style="list-style-type: none"> <li>Route 310 <ul style="list-style-type: none"> <li>Services every 10-20 minutes during AM and PM peak from Eastgardens to Central Railway Square via Botany Road.</li> <li>Services every 10-20 minutes during AM and PM peak from Central Railway Square to Eastgardens via Botany Road.</li> </ul> </li> </ul> </li> </ul>  |





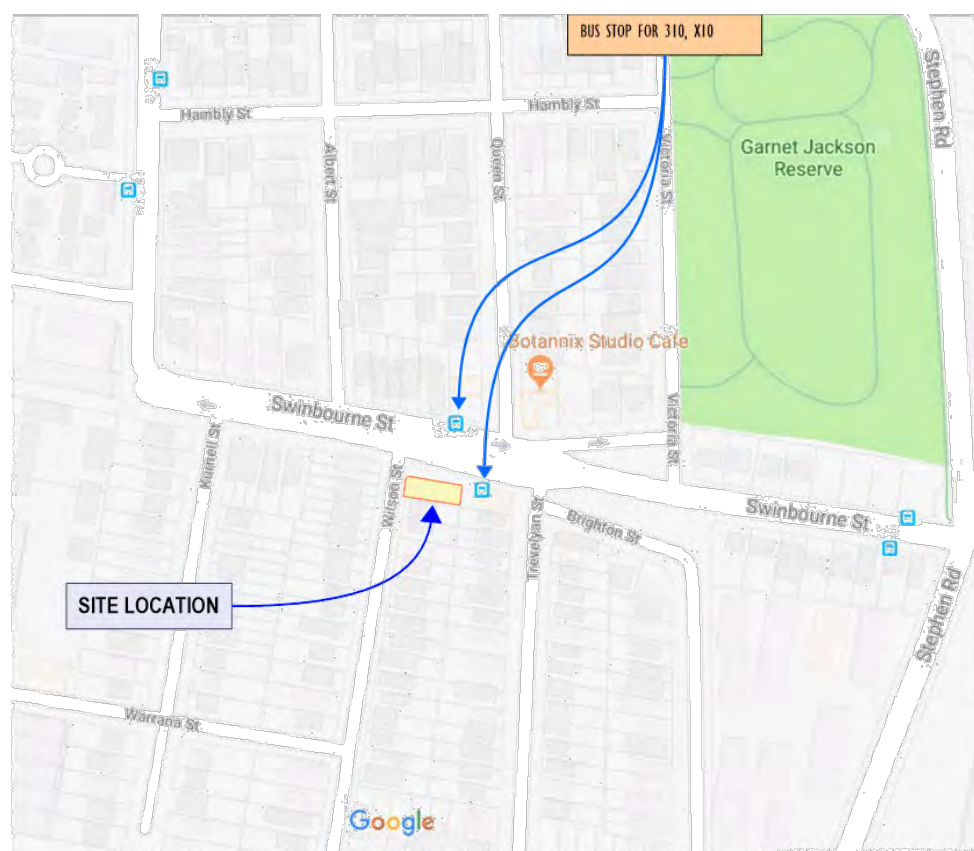


Figure 3. Public transport.





| Item                              | Report  |
|-----------------------------------|---|
| <b>Surveys and survey results</b> |   |
| <b>Parking survey</b>             | <ul style="list-style-type: none"> <li>An on-street parking accumulation survey was conducted on Monday 25<sup>th</sup> of June 2018 from 2:00 p.m. to 10:00 p.m. (to cover typical peak hours for commercial and residential land uses). <ul style="list-style-type: none"> <li>Refer to <b>Figure 4</b> for survey locations.</li> <li>Refer to <b>Table 1</b> for survey results</li> </ul> </li> </ul>  |
| <b>Survey results</b>             | <ul style="list-style-type: none"> <li>The survey results indicated that there were at least 40 spaces vacant during the peak demand period (66 spaces on average) in the survey area. <ul style="list-style-type: none"> <li>In the nearest zones alone (1a to 2e) there were at least 18 spaces vacant during the peak demand period (26 spaces on average).</li> </ul> </li> <li>There are substantial on-street parking opportunities near the site.</li> </ul> |

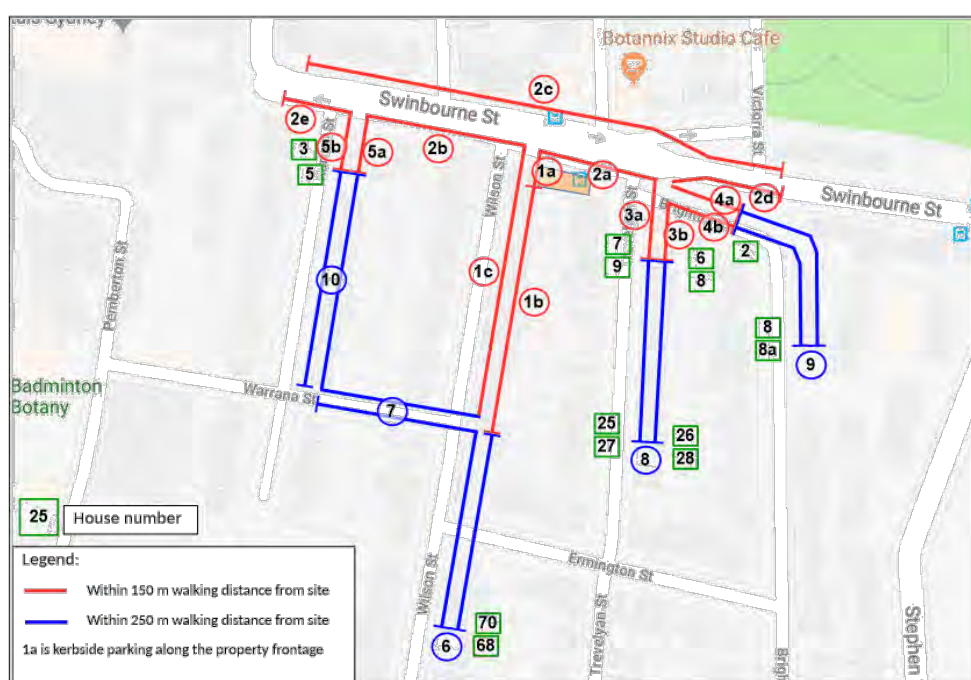


Figure 4. Parking survey zones.



Table 1. Parking survey results.

|              | Number of parked cars |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |   |    |       |
|--------------|-----------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|---|----|-------|
|              | Parking Location      |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |   |    |       |
| Time         | 1a                    | 1b | 1c | 2a | 2b | 2c | 2d | 2e | 3a | 3b | 4a | 4b | 5a | 5b | 6  | 7  | 8  | 9 | 10 | Total |
| 14:00        | 0                     | 10 | 4  | 3  | 1  | 5  | 3  | 0  | 2  | 0  | 1  | 0  | 1  | 0  | 17 | 5  | 18 | 6 | 14 | 90    |
| 14:30        | 0                     | 9  | 5  | 3  | 1  | 6  | 3  | 0  | 3  | 0  | 2  | 0  | 1  | 0  | 17 | 3  | 19 | 6 | 14 | 92    |
| 15:00        | 1                     | 9  | 5  | 3  | 2  | 6  | 3  | 0  | 3  | 0  | 2  | 0  | 2  | 1  | 16 | 2  | 22 | 6 | 15 | 98    |
| 15:30        | 2                     | 12 | 4  | 3  | 3  | 4  | 3  | 0  | 3  | 0  | 2  | 0  | 2  | 1  | 17 | 3  | 25 | 6 | 17 | 107   |
| 16:00        | 2                     | 12 | 5  | 3  | 3  | 4  | 3  | 0  | 2  | 0  | 2  | 0  | 2  | 1  | 19 | 3  | 26 | 7 | 17 | 111   |
| 16:30        | 2                     | 12 | 7  | 3  | 2  | 4  | 3  | 0  | 2  | 1  | 2  | 0  | 2  | 1  | 20 | 4  | 27 | 7 | 17 | 116   |
| 17:00        | 2                     | 11 | 7  | 3  | 3  | 3  | 3  | 1  | 2  | 0  | 2  | 0  | 3  | 1  | 16 | 6  | 28 | 6 | 19 | 116   |
| 17:30        | 2                     | 12 | 6  | 3  | 3  | 3  | 3  | 1  | 2  | 1  | 2  | 0  | 2  | 1  | 16 | 6  | 28 | 6 | 20 | 117   |
| 18:00        | 2                     | 13 | 8  | 3  | 3  | 4  | 3  | 2  | 2  | 2  | 2  | 0  | 3  | 1  | 16 | 8  | 28 | 6 | 20 | 126   |
| 18:30        | 2                     | 15 | 9  | 3  | 3  | 4  | 3  | 2  | 3  | 3  | 2  | 0  | 3  | 1  | 16 | 9  | 30 | 5 | 22 | 135   |
| 19:00        | 2                     | 15 | 9  | 3  | 3  | 4  | 3  | 2  | 3  | 3  | 2  | 0  | 3  | 1  | 16 | 9  | 30 | 5 | 21 | 134   |
| 19:30        | 2                     | 15 | 10 | 3  | 4  | 5  | 3  | 2  | 3  | 2  | 2  | 0  | 3  | 1  | 18 | 10 | 34 | 9 | 23 | 149   |
| 20:00        | 2                     | 15 | 1  | 3  | 4  | 5  | 3  | 2  | 3  | 2  | 2  | 0  | 3  | 1  | 18 | 10 | 36 | 9 | 24 | 143   |
| 20:30        | 2                     | 16 | 10 | 3  | 4  | 4  | 3  | 2  | 3  | 2  | 2  | 0  | 3  | 1  | 18 | 10 | 36 | 9 | 24 | 152   |
| 21:00        | 2                     | 16 | 10 | 3  | 4  | 4  | 3  | 2  | 3  | 2  | 2  | 0  | 3  | 1  | 18 | 9  | 36 | 9 | 22 | 149   |
| 21:30        | 2                     | 16 | 11 | 3  | 2  | 3  | 3  | 3  | 3  | 2  | 2  | 0  | 3  | 1  | 19 | 9  | 36 | 9 | 22 | 149   |
| 22:00        | 2                     | 16 | 11 | 3  | 2  | 3  | 3  | 3  | 3  | 2  | 2  | 0  | 3  | 1  | 20 | 9  | 36 | 9 | 22 | 150   |
| No of spaces | 2                     | 17 | 12 | 3  | 6  | 14 | 5  | 3  | 3  | 3  | 3  | 0  | 3  | 2  | 23 | 18 | 42 | 9 | 24 | 192   |

| Time  | Number of vacant parking spaces |    |    |    |    |    |    |    |    |    |    |    |    |    |   |    |    |   |    | Total |
|-------|---------------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|---|----|----|---|----|-------|
|       | Parking Location                |    |    |    |    |    |    |    |    |    |    |    |    |    |   |    |    |   |    |       |
|       | 1a                              | 1b | 1c | 2a | 2b | 2c | 2d | 2e | 3a | 3b | 4a | 4b | 5a | 5b | 6 | 7  | 8  | 9 | 10 |       |
| 14:00 | 2                               | 7  | 8  | 0  | 5  | 9  | 2  | 3  | 1  | 3  | 2  | 0  | 2  | 2  | 6 | 13 | 24 | 3 | 10 | 102   |
| 14:30 | 2                               | 8  | 7  | 0  | 5  | 8  | 2  | 3  | 0  | 3  | 1  | 0  | 2  | 2  | 6 | 15 | 23 | 3 | 10 | 100   |
| 15:00 | 1                               | 8  | 7  | 0  | 4  | 8  | 2  | 3  | 0  | 3  | 1  | 0  | 1  | 1  | 7 | 16 | 20 | 3 | 9  | 94    |
| 15:30 | 0                               | 5  | 8  | 0  | 3  | 10 | 2  | 3  | 0  | 3  | 1  | 0  | 1  | 1  | 6 | 15 | 17 | 3 | 7  | 85    |
| 16:00 | 0                               | 5  | 7  | 0  | 3  | 10 | 2  | 3  | 1  | 3  | 1  | 0  | 1  | 1  | 4 | 15 | 16 | 2 | 7  | 81    |
| 16:30 | 0                               | 5  | 5  | 0  | 4  | 10 | 2  | 3  | 1  | 2  | 1  | 0  | 1  | 1  | 3 | 14 | 15 | 2 | 7  | 76    |
| 17:00 | 0                               | 6  | 5  | 0  | 3  | 11 | 2  | 2  | 1  | 3  | 1  | 0  | 0  | 1  | 7 | 12 | 14 | 3 | 5  | 76    |
| 17:30 | 0                               | 5  | 6  | 0  | 3  | 11 | 2  | 2  | 1  | 2  | 1  | 0  | 1  | 1  | 7 | 12 | 14 | 3 | 4  | 75    |
| 18:00 | 0                               | 4  | 4  | 0  | 3  | 10 | 2  | 1  | 1  | 1  | 1  | 0  | 0  | 1  | 7 | 10 | 14 | 3 | 4  | 66    |
| 18:30 | 0                               | 2  | 3  | 0  | 3  | 10 | 2  | 1  | 0  | 0  | 1  | 0  | 0  | 1  | 7 | 9  | 12 | 4 | 2  | 57    |
| 19:00 | 0                               | 2  | 3  | 0  | 3  | 10 | 2  | 1  | 0  | 0  | 1  | 0  | 0  | 1  | 7 | 9  | 12 | 4 | 3  | 58    |
| 19:30 | 0                               | 2  | 2  | 0  | 2  | 9  | 2  | 1  | 0  | 1  | 1  | 0  | 0  | 1  | 5 | 8  | 8  | 0 | 1  | 43    |
| 20:00 | 0                               | 2  | 11 | 0  | 2  | 9  | 2  | 1  | 0  | 1  | 1  | 0  | 0  | 1  | 5 | 8  | 6  | 0 | 0  | 49    |
| 20:30 | 0                               | 1  | 2  | 0  | 2  | 10 | 2  | 1  | 0  | 1  | 1  | 0  | 0  | 1  | 5 | 8  | 6  | 0 | 0  | 40    |
| 21:00 | 0                               | 1  | 2  | 0  | 2  | 10 | 2  | 1  | 0  | 1  | 1  | 0  | 0  | 1  | 5 | 9  | 6  | 0 | 2  | 43    |
| 21:30 | 0                               | 1  | 1  | 0  | 4  | 11 | 2  | 0  | 0  | 1  | 1  | 0  | 0  | 1  | 4 | 9  | 6  | 0 | 2  | 43    |
| 22:00 | 0                               | 1  | 1  | 0  | 4  | 11 | 2  | 0  | 0  | 1  | 1  | 0  | 0  | 1  | 3 | 9  | 6  | 0 | 2  | 42    |



| Item   | Report  |          |   |                                  |  |                        |  |                   |                                |
|--|---|----------|---|----------------------------------|--|------------------------|--|-------------------|--------------------------------|
| Planning control document  | <ul style="list-style-type: none"> <li>City of Botany Bay <ul style="list-style-type: none"> <li>Botany Bay Development Control Plan 2013 (Amendment 8) <ul style="list-style-type: none"> <li>Enforced 05/09/2017</li> </ul> </li> </ul> </li> </ul>                               |          |   |                                  |  |                        |  |                   |                                |
| <b>Requirement</b>   | <b>Compliance</b>   |          |   |                                  |  |                        |  |                   |                                |
| <b>Part 3A - Car Parking</b>   |   |          |   |                                  |  |                        |  |                   |                                |
| <b>3A.2. Parking Provisions of Specific Uses</b>   |   |          |   |                                  |  |                        |  |                   |                                |
| C2 Car parking provision shall be provided in accordance with Table 1.   |   |          |   |                                  |  |                        |  |                   |                                |
| <p align="center"><b>Table 1 - Car Parking Provisions by Land Use</b></p> <table> <tr> <th>Land Use</th><th>Minimum Car Parking Spaces Required<br/>(GFA refers to gross floor area)</th></tr> <tr> <td colspan="2"><b>Residential Accommodation</b></td></tr> <tr> <td>Multi dwelling housing</td><td>1 space/ studio or one (1) bedroom dwelling;<br/>2 spaces / two (2) or more bedrooms dwelling;<br/>1 designated visitor space / 5 dwellings; and<br/>1 car wash bay (visitor parking may be equipped with cold water tap and sewer connection and used as a car wash bay)</td></tr> <tr> <td>Business premises</td><td>1 space / 40m<sup>2</sup> GFA</td></tr> </table> |   | Land Use | Minimum Car Parking Spaces Required<br>(GFA refers to gross floor area) | <b>Residential Accommodation</b> |  | Multi dwelling housing | 1 space/ studio or one (1) bedroom dwelling;<br>2 spaces / two (2) or more bedrooms dwelling;<br>1 designated visitor space / 5 dwellings; and<br>1 car wash bay (visitor parking may be equipped with cold water tap and sewer connection and used as a car wash bay) | Business premises | 1 space / 40m <sup>2</sup> GFA |
| Land Use   | Minimum Car Parking Spaces Required<br>(GFA refers to gross floor area)   |          |   |                                  |  |                        |  |                   |                                |
| <b>Residential Accommodation</b>   |   |          |   |                                  |  |                        |  |                   |                                |
| Multi dwelling housing   | 1 space/ studio or one (1) bedroom dwelling;<br>2 spaces / two (2) or more bedrooms dwelling;<br>1 designated visitor space / 5 dwellings; and<br>1 car wash bay (visitor parking may be equipped with cold water tap and sewer connection and used as a car wash bay)              |          |   |                                  |  |                        |  |                   |                                |
| Business premises  | 1 space / 40m <sup>2</sup> GFA  |          |   |                                  |  |                        |  |                   |                                |
| <b>Car parking required:</b>   | <b>Car parking proposed:</b>  |          |   |                                  |  |                        |  |                   |                                |
| 2 car spaces for each 2-bedroom unit <ul style="list-style-type: none"> <li>2 x 2 = 4 spaces</li> </ul>  | 2 spaces provided (one for each 2-bedroom unit)   |          |   |                                  |  |                        |  |                   |                                |
| 1 car space for each studio <ul style="list-style-type: none"> <li>1 x 2 = 2 spaces</li> </ul>   | The proposed development is shot of 8 spaces.   |          |   |                                  |  |                        |  |                   |                                |
| 1 car space per 40 m <sup>2</sup> GFA <ul style="list-style-type: none"> <li>135.99 / 40 = 3.4, say 4 spaces</li> </ul>  |   |          |   |                                  |  |                        |  |                   |                                |
| Total car parking required <ul style="list-style-type: none"> <li>4 + 2 + 4 = 10 car parking spaces required</li> </ul>  |   |          |   |                                  |  |                        |  |                   |                                |
| <b>C2 Note</b>   |   |          |   |                                  |  |                        |  |                   |                                |
| Council may reduce carparking provision in certain circumstances, as follows:  | These notes apply to the proposed development as described below.   |          |   |                                  |  |                        |  |                   |                                |
| 1. Peak parking and traffic activity occurs during periods where surrounding parking demand is lowest;   | As demonstrated by parking accumulation survey results provided earlier in this report, there is abundance of vacant parking during the peak periods of parking demand from the proposed development.   |          |   |                                  |  |                        |  |                   |                                |
| 2. Existing site and building constraints make provision of car parking impractical;   | It is indeed impractical to provide more parking on site due its limited size.  |          |   |                                  |  |                        |  |                   |                                |
| 3. Located adjacent to high-frequency public transport services and/or urban services ;  | As demonstrated earlier in this report, bus stops are located very close to the site and provide access to high frequency services to the Sydney CBD and to a major shopping centre, reducing the need to travel by private car for two most important reasons – work and shopping. |          |   |                                  |  |                        |  |                   |                                |
|  | The proposed reduced car parking provision is supportable based on the above considerations.  |          |   |                                  |  |                        |  |                   |                                |



| Item   | Report  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
|--|---|-------------|------------|-----------------|--|---|--|--|--|-------------------------------|--|--|----------|---|---|--|----------|--|----------|--|----------|--------------------------|--|------------|--|--|--|--|--|---|--|--|----------|
|  | <table> <tr> <th>Requirement</th><th>Compliance</th></tr> <tr> <td>Bicycle Parking</td><td>Not applicable, less than 600 m<sup>2</sup> GFA</td></tr> <tr> <td>C7 In every new building, where the floor space exceeds 600m<sup>2</sup> GFA (except for houses and multi-unit housing) bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.</td><td></td></tr> <tr> <td>C8 Residential flat buildings where the floor space exceeds 600m<sup>2</sup> GFA shall provide secure bicycle storage as per AS 2890.3.</td><td>Not applicable, less than 600 m<sup>2</sup> GFA</td></tr> <tr> <td colspan="2"><b>3A.3.1 Car Park Design</b></td></tr> <tr> <td>C1 All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off-street commercial vehicles facilities (including parking) shall be in accordance with AS2890.2.</td><td>Complies</td></tr> <tr> <td>C2 Vehicle access points, loading/unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction (except for dwelling houses).</td><td>Complies<br/>The proposed double garage is designated to two dwellings and will have the same access arrangements as the existing garage plus car port on site (with a slight improvement in that the proposed car spaces will have independent access whereas currently it is a tandem arrangement)</td></tr> <tr> <td>C13 Pedestrian entrances and exits shall be separated from vehicular access paths.</td><td>Complies</td></tr> <tr> <td>C14 A maximum of one vehicle access point is permitted per property. Council may consider additional vehicle access points for large scale developments.</td><td>Complies</td></tr> <tr> <td>C28 The minimum width of the access driveway at the property boundary shall be:-</td><td>Complies</td></tr> <tr> <td>(i) For dwelling houses:</td><td>The proposed double garage will be accessed via the existing driveway widened to</td></tr> <tr> <td>• 3 metres</td><td></td></tr> <tr> <td>(ii) For other residential developments:</td><td></td></tr> <tr> <td>• 3 metres (one-way) and 5.5 metres (two-way); and</td><td></td></tr> <tr> <td>• The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary.</td><td></td></tr> <tr> <td>The potential for on-street queuing should be eliminated by the provision of sufficient standing area for vehicles entering the carpark and loading areas.</td><td>Complies</td></tr> </table> | Requirement | Compliance | Bicycle Parking | Not applicable, less than 600 m <sup>2</sup> GFA | C7 In every new building, where the floor space exceeds 600m <sup>2</sup> GFA (except for houses and multi-unit housing) bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided. |  | C8 Residential flat buildings where the floor space exceeds 600m <sup>2</sup> GFA shall provide secure bicycle storage as per AS 2890.3. | Not applicable, less than 600 m <sup>2</sup> GFA | <b>3A.3.1 Car Park Design</b> |  | C1 All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off-street commercial vehicles facilities (including parking) shall be in accordance with AS2890.2. | Complies | C2 Vehicle access points, loading/unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction (except for dwelling houses). | Complies<br>The proposed double garage is designated to two dwellings and will have the same access arrangements as the existing garage plus car port on site (with a slight improvement in that the proposed car spaces will have independent access whereas currently it is a tandem arrangement) | C13 Pedestrian entrances and exits shall be separated from vehicular access paths. | Complies | C14 A maximum of one vehicle access point is permitted per property. Council may consider additional vehicle access points for large scale developments. | Complies | C28 The minimum width of the access driveway at the property boundary shall be:- | Complies | (i) For dwelling houses: | The proposed double garage will be accessed via the existing driveway widened to | • 3 metres |  | (ii) For other residential developments: |  | • 3 metres (one-way) and 5.5 metres (two-way); and |  | • The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary. |  | The potential for on-street queuing should be eliminated by the provision of sufficient standing area for vehicles entering the carpark and loading areas. | Complies |
| Requirement  | Compliance  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| Bicycle Parking  | Not applicable, less than 600 m <sup>2</sup> GFA  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| C7 In every new building, where the floor space exceeds 600m <sup>2</sup> GFA (except for houses and multi-unit housing) bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.                              |   |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| C8 Residential flat buildings where the floor space exceeds 600m <sup>2</sup> GFA shall provide secure bicycle storage as per AS 2890.3.   | Not applicable, less than 600 m <sup>2</sup> GFA  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| <b>3A.3.1 Car Park Design</b>  |   |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| C1 All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off-street commercial vehicles facilities (including parking) shall be in accordance with AS2890.2. | Complies  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| C2 Vehicle access points, loading/unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction (except for dwelling houses).                                | Complies<br>The proposed double garage is designated to two dwellings and will have the same access arrangements as the existing garage plus car port on site (with a slight improvement in that the proposed car spaces will have independent access whereas currently it is a tandem arrangement)   |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| C13 Pedestrian entrances and exits shall be separated from vehicular access paths.   | Complies  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| C14 A maximum of one vehicle access point is permitted per property. Council may consider additional vehicle access points for large scale developments.   | Complies  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| C28 The minimum width of the access driveway at the property boundary shall be:-   | Complies  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| (i) For dwelling houses:   | The proposed double garage will be accessed via the existing driveway widened to  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| • 3 metres   |   |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| (ii) For other residential developments:   |   |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| • 3 metres (one-way) and 5.5 metres (two-way); and   |   |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| • The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary.  |   |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |
| The potential for on-street queuing should be eliminated by the provision of sufficient standing area for vehicles entering the carpark and loading areas.   | Complies  |             |            |                 |  |   |  |  |  |                               |  |  |          |   |   |  |          |  |          |  |          |                          |  |            |  |  |  |  |  |   |  |  |          |



| Item                      | Report   |
|---------------------------|--|
|                           | <b>Traffic impacts</b>   |
| <b>Traffic generation</b> | <ul style="list-style-type: none"> <li>▪ Base traffic generation rates <ul style="list-style-type: none"> <li>◦ RMS (2002) Guide to Traffic Generating Developments <ul style="list-style-type: none"> <li>▪ Updated statistics from TDT 2013 / 04a</li> </ul> </li> </ul> </li> <li>▪ <b>Existing traffic generation</b> <ul style="list-style-type: none"> <li>▪ Single storey residential dwelling (low density residential dwellings) <ul style="list-style-type: none"> <li>▪ Peak hour vehicle trips = 0.99 per unit <ul style="list-style-type: none"> <li>• <math>1 \times 0.99 = 0.99</math>, say 1 trip per hour during the commuter peak hours (morning and afternoon)</li> </ul> </li> </ul> </li> </ul> </li> <li>▪ <b>Traffic generated by proposed development</b> <ul style="list-style-type: none"> <li>◦ Medium density development <ul style="list-style-type: none"> <li>▪ 4 units at 0.5 trips per dwelling - 2 trips per hour during the commuter peak hours (morning and afternoon)</li> </ul> </li> <li>◦ Commercial <ul style="list-style-type: none"> <li>▪ 2 trips per 100 m2 GFA - <math>135.99 / 100 \times 2 = 2.7</math>, say 3 trips per hour during the commuter peak hours (morning and afternoon)</li> </ul> </li> <li>▪ Total number of additional trips in the peak hour <ul style="list-style-type: none"> <li>• Morning: 3 trips in and 1 trip out</li> <li>• Afternoon: 1 trip in and 3 trips out</li> </ul> </li> </ul> </li> </ul> |
| <b>Conclusion</b>         | <ul style="list-style-type: none"> <li>▪ Additional traffic generation is very minor and will have no noticeable impact on the existing road network.</li> </ul>   |





|                    |  |
|--------------------|--|
| <b>Conclusions</b> | <ul style="list-style-type: none"><li>• Proposed parking provision<ul style="list-style-type: none"><li>◦ Short of the Council's DCP requirements by 8 spaces. Acceptable due to high parking availability, good public transport provision and site constraints</li></ul></li><li>• Traffic impacts<ul style="list-style-type: none"><li>◦ The additional traffic from the proposed development will be minimal and will have no noticeable impacts on street network operation.</li></ul></li><li>• Design of access, car parking and servicing facilities<ul style="list-style-type: none"><li>◦ Complies with the relevant Standards</li></ul></li><li>• The proposed development is supportable on traffic and parking grounds.</li></ul> |
|--------------------|--|

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MIEAust, PEng  
FAITPM



**References:**

Botany Bay Development Control Plan 2013 (Amendment 8)

Guide to Traffic Generating Developments RMS (2002)

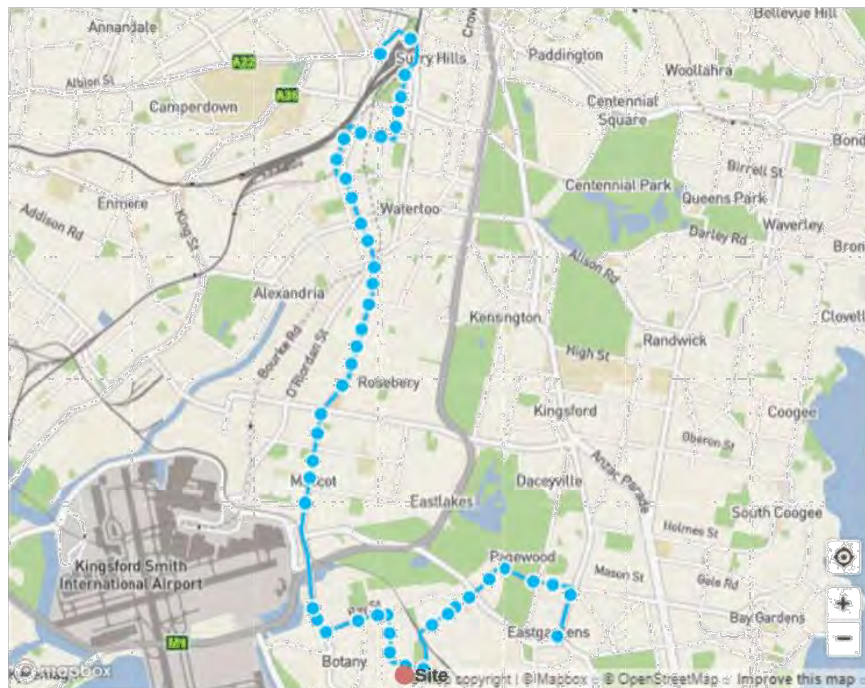
Australian Standard AS/NZS 2890.1:2004: Parking Facilities - Off-street car parking

Australian Standard AS/NZS 2890.6:2009: Parking Facilities - Off-street parking for people with disabilities

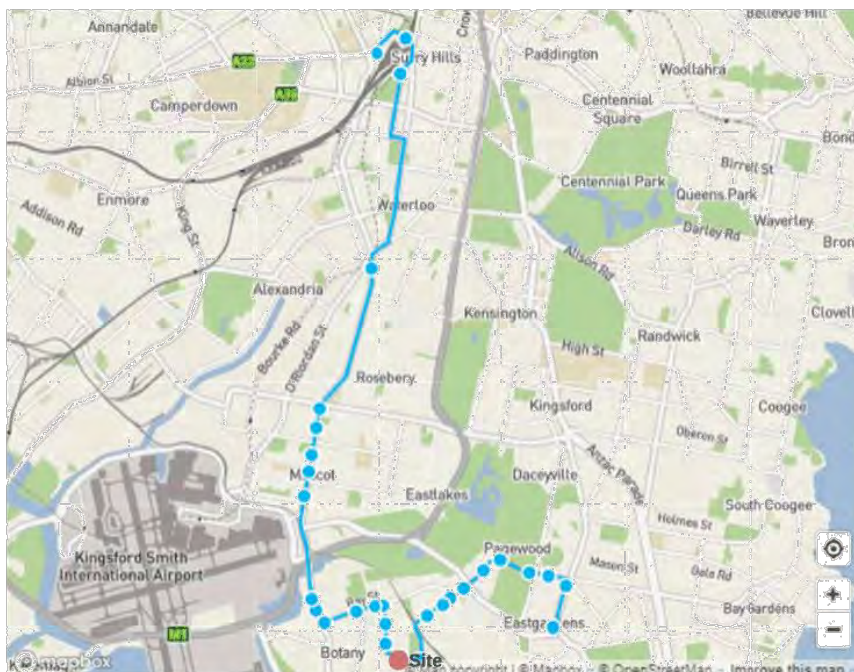


**Appendix A**  
**Public transport routes near the site**

Route No 310



Route No X10



# 310 Eastgardens to Central Railway Square via Botany Rd

## How to use this timetable

This timetable provides a snap shot of service information in 24-hour time (e.g. 5am = 05:00, 5pm = 17:00). Information contained in this timetable is subject to change without notice. Please note that timetables do not include minor stops, additional trips for special events, short term changes, holiday timetable changes, real-time information or any disruption alerts.

For the most up-to-date times, use the Trip Planner or Departures on [transportnsw.info](http://transportnsw.info)

## Real-time planning


You can plan your trip with real-time information using the Trip Planner or Departures on [transportnsw.info](http://transportnsw.info) or by downloading travel apps on your smartphone or tablet.

The Trip Planner, Departures and travel apps offer various features:

- favourite your regular trips
- see where your service is on the route
- get estimated pick up and arrival times
- receive service updates
- find nearby stations, stops, wharves and routes
- check accessibility information

Find the latest apps at [transportnsw.info/apps](http://transportnsw.info/apps)

## Accessible services

All new buses are wheelchair-accessible with low-level floors and space for wheelchairs, prams or strollers. Look for the  symbol in this timetable. Some older buses may not have all the features you need. There will be more accessible services as older buses are replaced.

## Who is providing my bus services?

The bus services shown in this timetable are run by State Transit.

## Fares

To travel on public transport in Sydney and surrounding regions, an Opal card is the cheapest and easiest ticket option.

An Opal card is a smartcard you keep and reuse. You put credit onto the card then tap on and tap off to pay your fares throughout Sydney, the Blue Mountains, Central Coast, Southern Highlands, Hunter and the South Coast.

Fares are based on:

- the type of Opal card you use
- the distance you travel from tap on to tap off
- the mode of transport you choose
- any Opal benefits such as discounts and capped fares that apply

Find out more about Opal fares and benefits at [transportnsw.info/opal](http://transportnsw.info/opal)

## Which Opal card is right for you?


**Adult** - For customers 16 years and over who are not entitled to any concessions.

**Child/Youth** - For children aged 4-15 and eligible secondary students.

**Gold Senior/Pensioner** - For eligible NSW and interstate seniors, pensioners, war widows/ers and asylum seekers.



**Concession** - For eligible tertiary students, job seekers, apprentices and trainees.

## How to get an Opal card

You can get an Adult and Child/Youth Opal cards over the counter at thousands of Opal retailers that display the Opal sign . To find your nearest retailer or order online, visit [transportnsw.info/opal](http://transportnsw.info/opal).

If you are eligible to travel with concession fares you can apply for a Gold Senior/Pensioner or Concession Opal card. Visit [transportnsw.info/opal](http://transportnsw.info/opal) or call **13 67 25 (13 OPAL)** for more information.

## Explanation of definitions and symbols

-  Wheelchair Accessible
-  Drops off passengers only





# 310 Central Railway Square to Eastgardens via Botany Rd

Valid from: 05 May 2018

Creation date: 27 June 2018

NOTE: Information is correct on date of download.

| Monday to Friday                                |       |       |       |       |       |       |       |       |       |  |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|--|
| Railway Square, Sydney                          | 05:22 | 05:55 | 06:16 | 06:24 | 06:39 | 06:54 | 07:09 | 07:22 | 07:34 |  |
| Central Station, Elizabeth St, Surry Hills      | 05:26 | 05:59 | 06:20 | 06:28 | 06:43 | 06:58 | 07:14 | 07:27 | 07:39 |  |
| Regent St after Redfern St, Redfern             | 05:33 | 06:06 | 06:27 | 06:35 | 06:51 | 07:06 | 07:22 | 07:35 | 07:47 |  |
| Botany Rd opp Green Square Station, Zetland     | 05:37 | 06:10 | 06:31 | 06:39 | 06:56 | 07:11 | 07:28 | 07:41 | 07:53 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 05:41 | 06:14 | 06:35 | 06:43 | 07:00 | 07:17 | 07:34 | 07:47 | 07:59 |  |
| Botany Rd at Hollingshed St, Mascot             | 05:45 | 06:18 | 06:39 | 06:48 | 07:05 | 07:22 | 07:39 | 07:52 | 08:05 |  |
| Botany Rd after Bay St, Botany                  | 05:49 | 06:22 | 06:43 | 06:52 | 07:09 | 07:26 | 07:43 | 07:56 | 08:09 |  |
| Swinbourne St near Stephen Rd, Botany           | 05:53 | 06:26 | 06:48 | 06:57 | 07:15 | 07:32 | 07:49 | 08:02 | 08:15 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 06:01 | 06:34 | 06:56 | 07:05 | 07:25 | 07:42 | 07:59 | 08:14 | 08:27 |  |
| Monday to Friday                                |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 07:53 | 08:04 | 08:13 | -     | 08:41 | 09:01 | 09:21 | 09:41 | 10:01 |  |
| Central Station, Elizabeth St, Surry Hills      | 07:58 | 08:09 | 08:18 | -     | 08:46 | 09:06 | 09:26 | 09:45 | 10:05 |  |
| Regent St after Redfern St, Redfern             | 08:08 | 08:19 | 08:28 | 08:44 | 08:56 | 09:15 | 09:35 | 09:54 | 10:14 |  |
| Botany Rd opp Green Square Station, Zetland     | 08:16 | 08:27 | 08:36 | 08:52 | 09:04 | 09:22 | 09:42 | 10:01 | 10:21 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 08:22 | 08:33 | 08:42 | 08:58 | 09:10 | 09:27 | 09:47 | 10:06 | 10:26 |  |
| Botany Rd at Hollingshed St, Mascot             | 08:28 | 08:39 | 08:48 | 09:04 | 09:16 | 09:33 | 09:52 | 10:11 | 10:31 |  |
| Botany Rd after Bay St, Botany                  | 08:32 | 08:43 | 08:52 | 09:08 | 09:20 | 09:37 | 09:56 | 10:15 | 10:35 |  |
| Swinbourne St near Stephen Rd, Botany           | 08:38 | 08:48 | 08:57 | 09:13 | 09:26 | 09:43 | 10:02 | 10:21 | 10:41 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 08:48 | 08:58 | 09:07 | 09:22 | 09:35 | 09:51 | 10:10 | 10:29 | 10:49 |  |
| Monday to Friday                                |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 10:21 | 10:41 | 11:01 | 11:21 | 11:41 | 12:01 | 12:21 | 12:41 | 13:01 |  |
| Central Station, Elizabeth St, Surry Hills      | 10:25 | 10:45 | 11:05 | 11:25 | 11:45 | 12:05 | 12:25 | 12:45 | 13:05 |  |
| Regent St after Redfern St, Redfern             | 10:34 | 10:54 | 11:14 | 11:35 | 11:55 | 12:14 | 12:34 | 12:54 | 13:14 |  |
| Botany Rd opp Green Square Station, Zetland     | 10:41 | 11:01 | 11:21 | 11:42 | 12:02 | 12:21 | 12:41 | 13:01 | 13:21 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 10:47 | 11:07 | 11:27 | 11:48 | 12:08 | 12:27 | 12:47 | 13:07 | 13:27 |  |
| Botany Rd at Hollingshed St, Mascot             | 10:52 | 11:12 | 11:33 | 11:54 | 12:14 | 12:33 | 12:53 | 13:13 | 13:33 |  |
| Botany Rd after Bay St, Botany                  | 10:56 | 11:16 | 11:37 | 11:58 | 12:18 | 12:37 | 12:57 | 13:17 | 13:37 |  |
| Swinbourne St near Stephen Rd, Botany           | 11:02 | 11:22 | 11:42 | 12:03 | 12:23 | 12:42 | 13:02 | 13:22 | 13:42 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 11:10 | 11:32 | 11:52 | 12:12 | 12:32 | 12:51 | 13:11 | 13:31 | 13:51 |  |
| Monday to Friday                                |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 13:21 | 13:41 | 14:01 | 14:21 | 14:41 | 15:01 | 15:21 | 15:36 | 15:51 |  |
| Central Station, Elizabeth St, Surry Hills      | 13:25 | 13:45 | 14:05 | 14:25 | 14:45 | 15:05 | 15:26 | 15:41 | 15:56 |  |
| Regent St after Redfern St, Redfern             | 13:34 | 13:54 | 14:14 | 14:35 | 14:55 | 15:14 | 15:35 | 15:50 | 16:05 |  |
| Botany Rd opp Green Square Station, Zetland     | 13:41 | 14:01 | 14:21 | 14:42 | 15:02 | 15:21 | 15:43 | 15:58 | 16:13 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 13:47 | 14:07 | 14:27 | 14:48 | 15:08 | 15:27 | 15:49 | 16:04 | 16:19 |  |
| Botany Rd at Hollingshed St, Mascot             | 13:53 | 14:13 | 14:33 | 14:54 | 15:14 | 15:32 | 15:54 | 16:09 | 16:24 |  |
| Botany Rd after Bay St, Botany                  | 13:57 | 14:17 | 14:37 | 14:59 | 15:19 | 15:37 | 15:59 | 16:14 | 16:29 |  |
| Swinbourne St near Stephen Rd, Botany           | 14:02 | 14:22 | 14:42 | 15:04 | 15:24 | 15:42 | 16:04 | 16:19 | 16:34 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 14:11 | 14:32 | 14:52 | 15:14 | 15:36 | 15:54 | 16:16 | 16:31 | 16:46 |  |
| Monday to Friday                                |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 16:03 | 16:15 | 16:27 | 16:39 | 16:52 | 17:02 | 17:16 | 17:27 | 17:48 |  |
| Central Station, Elizabeth St, Surry Hills      | 16:08 | 16:20 | 16:32 | 16:44 | 16:57 | 17:08 | 17:22 | 17:33 | 17:53 |  |
| Regent St after Redfern St, Redfern             | 16:17 | 16:29 | 16:41 | 16:53 | 17:07 | 17:18 | 17:32 | 17:44 | 18:05 |  |
| Botany Rd opp Green Square Station, Zetland     | 16:25 | 16:37 | 16:49 | 17:01 | 17:16 | 17:27 | 17:41 | 17:51 | 18:12 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 16:31 | 16:43 | 16:55 | 17:07 | 17:22 | 17:33 | 17:47 | 17:57 | 18:18 |  |
| Botany Rd at Hollingshed St, Mascot             | 16:36 | 16:48 | 17:00 | 17:13 | 17:28 | 17:39 | 17:53 | 18:03 | 18:23 |  |
| Botany Rd after Bay St, Botany                  | 16:41 | 16:53 | 17:05 | 17:18 | 17:33 | 17:45 | 17:59 | 18:09 | 18:27 |  |
| Swinbourne St near Stephen Rd, Botany           | 16:46 | 16:58 | 17:12 | 17:25 | 17:40 | 17:51 | 18:05 | 18:15 | 18:33 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 16:58 | 17:11 | 17:25 | 17:38 | 17:50 | 18:01 | 18:15 | 18:24 | 18:41 |  |

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## Central Railway Square to Eastgardens via Botany Rd

B

| Monday to Friday                                |       |       |       |       |       |       |       |       |       |  |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|--|
| Railway Square, Sydney                          | 18:01 | 18:29 | 18:49 | 19:15 | 19:55 | 20:35 | 21:27 | 22:27 | 23:27 |  |
| Central Station, Elizabeth St, Surry Hills      | 18:06 | 18:34 | 18:53 | 19:19 | 19:59 | 20:39 | 21:31 | 22:31 | 23:31 |  |
| Regent St after Redfern St, Redfern             | 18:18 | 18:43 | 19:01 | 19:27 | 20:07 | 20:47 | 21:38 | 22:38 | 23:37 |  |
| Botany Rd opp Green Square Station, Zetland     | 18:25 | 18:50 | 19:07 | 19:33 | 20:12 | 20:52 | 21:43 | 22:43 | 23:41 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 18:30 | 18:54 | 19:11 | 19:37 | 20:16 | 20:56 | 21:47 | 22:47 | 23:44 |  |
| Botany Rd at Hollingshed St, Mascot             | 18:35 | 18:59 | 19:16 | 19:42 | 20:20 | 21:00 | 21:51 | 22:51 | 23:47 |  |
| Botany Rd after Bay St, Botany                  | 18:39 | 19:02 | 19:19 | 19:45 | 20:23 | 21:03 | 21:54 | 22:54 | 23:49 |  |
| Swinbourne St near Stephen Rd, Botany           | 18:45 | 19:07 | 19:24 | 19:50 | 20:27 | 21:07 | 21:58 | 22:58 | 23:53 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 18:53 | 19:15 | 19:32 | 19:58 | 20:35 | 21:14 | 22:05 | 23:05 | 23:59 |  |
| Saturday  |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 06:28 | 07:35 | 08:06 | 08:36 | 09:07 | 09:36 | 10:06 | 10:26 | 10:46 |  |
| Central Station, Elizabeth St, Surry Hills      | 06:31 | 07:38 | 08:09 | 08:39 | 09:10 | 09:39 | 10:09 | 10:29 | 10:49 |  |
| Regent St after Redfern St, Redfern             | 06:36 | 07:44 | 08:15 | 08:46 | 09:17 | 09:46 | 10:16 | 10:36 | 10:56 |  |
| Botany Rd opp Green Square Station, Zetland     | 06:40 | 07:48 | 08:19 | 08:51 | 09:22 | 09:51 | 10:21 | 10:41 | 11:01 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 06:44 | 07:52 | 08:23 | 08:55 | 09:26 | 09:55 | 10:25 | 10:45 | 11:05 |  |
| Botany Rd at Hollingshed St, Mascot             | 06:47 | 07:57 | 08:28 | 09:00 | 09:31 | 10:00 | 10:30 | 10:50 | 11:10 |  |
| Botany Rd after Bay St, Botany                  | 06:50 | 08:01 | 08:32 | 09:04 | 09:35 | 10:04 | 10:34 | 10:54 | 11:14 |  |
| Swinbourne St near Stephen Rd, Botany           | 06:54 | 08:06 | 08:37 | 09:09 | 09:40 | 10:09 | 10:39 | 10:59 | 11:19 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 07:02 | 08:14 | 08:45 | 09:17 | 09:48 | 10:17 | 10:47 | 11:07 | 11:27 |  |
| Saturday  |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 11:06 | 11:26 | 11:46 | 12:06 | 12:26 | 12:46 | 13:06 | 13:26 | 13:46 |  |
| Central Station, Elizabeth St, Surry Hills      | 11:09 | 11:29 | 11:49 | 12:09 | 12:29 | 12:49 | 13:09 | 13:29 | 13:49 |  |
| Regent St after Redfern St, Redfern             | 11:16 | 11:36 | 11:56 | 12:16 | 12:36 | 12:56 | 13:16 | 13:36 | 13:56 |  |
| Botany Rd opp Green Square Station, Zetland     | 11:22 | 11:42 | 12:02 | 12:22 | 12:42 | 13:02 | 13:22 | 13:42 | 14:02 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 11:26 | 11:46 | 12:06 | 12:26 | 12:46 | 13:06 | 13:26 | 13:46 | 14:06 |  |
| Botany Rd at Hollingshed St, Mascot             | 11:31 | 11:51 | 12:11 | 12:31 | 12:51 | 13:11 | 13:31 | 13:51 | 14:11 |  |
| Botany Rd after Bay St, Botany                  | 11:35 | 11:55 | 12:15 | 12:35 | 12:55 | 13:15 | 13:35 | 13:55 | 14:15 |  |
| Swinbourne St near Stephen Rd, Botany           | 11:40 | 12:00 | 12:20 | 12:40 | 13:00 | 13:20 | 13:40 | 14:00 | 14:20 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 11:48 | 12:08 | 12:28 | 12:48 | 13:08 | 13:28 | 13:48 | 14:08 | 14:28 |  |
| Saturday  |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 14:06 | 14:26 | 14:47 | 15:07 | 15:27 | 15:47 | 16:07 | 16:27 | 16:47 |  |
| Central Station, Elizabeth St, Surry Hills      | 14:09 | 14:29 | 14:50 | 15:10 | 15:30 | 15:50 | 16:10 | 16:30 | 16:50 |  |
| Regent St after Redfern St, Redfern             | 14:16 | 14:36 | 14:57 | 15:17 | 15:37 | 15:57 | 16:17 | 16:37 | 16:57 |  |
| Botany Rd opp Green Square Station, Zetland     | 14:22 | 14:42 | 15:03 | 15:23 | 15:43 | 16:03 | 16:22 | 16:42 | 17:02 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 14:26 | 14:46 | 15:07 | 15:27 | 15:47 | 16:07 | 16:26 | 16:46 | 17:06 |  |
| Botany Rd at Hollingshed St, Mascot             | 14:31 | 14:51 | 15:12 | 15:32 | 15:52 | 16:11 | 16:30 | 16:50 | 17:10 |  |
| Botany Rd after Bay St, Botany                  | 14:35 | 14:55 | 15:16 | 15:36 | 15:56 | 16:15 | 16:34 | 16:54 | 17:14 |  |
| Swinbourne St near Stephen Rd, Botany           | 14:40 | 15:00 | 15:21 | 15:41 | 16:01 | 16:20 | 16:39 | 16:59 | 17:19 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 14:48 | 15:08 | 15:29 | 15:49 | 16:09 | 16:28 | 16:47 | 17:07 | 17:27 |  |
| Saturday  |       |       |       |       |       |       |       |       |       |  |
| Railway Square, Sydney                          | 17:07 | 17:29 | 17:57 | 18:27 | 18:57 | 19:34 | 20:24 | 21:24 | 22:24 |  |
| Central Station, Elizabeth St, Surry Hills      | 17:10 | 17:32 | 18:00 | 18:30 | 19:00 | 19:37 | 20:27 | 21:27 | 22:27 |  |
| Regent St after Redfern St, Redfern             | 17:17 | 17:39 | 18:07 | 18:37 | 19:06 | 19:43 | 20:33 | 21:33 | 22:33 |  |
| Botany Rd opp Green Square Station, Zetland     | 17:22 | 17:44 | 18:12 | 18:42 | 19:10 | 19:47 | 20:37 | 21:37 | 22:37 |  |
| Botany Rd before Gardeners Rd, Rosebery         | 17:26 | 17:48 | 18:16 | 18:46 | 19:14 | 19:51 | 20:41 | 21:41 | 22:41 |  |
| Botany Rd at Hollingshed St, Mascot             | 17:30 | 17:52 | 18:20 | 18:50 | 19:18 | 19:55 | 20:45 | 21:45 | 22:45 |  |
| Botany Rd after Bay St, Botany                  | 17:34 | 17:56 | 18:24 | 18:54 | 19:21 | 19:58 | 20:48 | 21:48 | 22:48 |  |
| Swinbourne St near Stephen Rd, Botany           | 17:39 | 18:01 | 18:29 | 18:59 | 19:25 | 20:02 | 20:52 | 21:52 | 22:52 |  |
| Westfield Eastgardens, Lower Level, Eastgardens | 17:47 | 18:09 | 18:37 | 19:06 | 19:32 | 20:09 | 20:59 | 21:59 | 22:59 |  |

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## Central Railway Square to Eastgardens via Botany Rd

B

| Saturday  |       |
|---|-------|
| Railway Square, Sydney                          | 23:24 |
| Central Station, Elizabeth St, Surry Hills      | 23:27 |
| Regent St after Redfern St, Redfern             | 23:33 |
| Botany Rd opp Green Square Station, Zetland     | 23:37 |
| Botany Rd before Gardeners Rd, Rosebery         | 23:41 |
| Botany Rd at Hollingshed St, Mascot             | 23:45 |
| Botany Rd after Bay St, Botany                  | 23:48 |
| Swinbourne St near Stephen Rd, Botany           | 23:52 |
| Westfield Eastgardens, Lower Level, Eastgardens | 23:59 |

| Sunday & Public Holidays                        |       | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Railway Square, Sydney                          | 07:28 | 08:20 | 09:18 | 09:50 | 10:20 | 10:51 | 11:22 | 11:52 | 12:22 |
| Central Station, Elizabeth St, Surry Hills      | 07:31 | 08:23 | 09:21 | 09:53 | 10:23 | 10:54 | 11:25 | 11:55 | 12:25 |
| Regent St after Redfern St, Redfern             | 07:37 | 08:29 | 09:27 | 09:59 | 10:29 | 11:00 | 11:32 | 12:02 | 12:32 |
| Botany Rd opp Green Square Station, Zetland     | 07:41 | 08:33 | 09:31 | 10:03 | 10:33 | 11:05 | 11:37 | 12:07 | 12:37 |
| Botany Rd before Gardeners Rd, Rosebery         | 07:44 | 08:36 | 09:35 | 10:07 | 10:37 | 11:09 | 11:41 | 12:11 | 12:41 |
| Botany Rd at Hollingshed St, Mascot             | 07:48 | 08:40 | 09:39 | 10:11 | 10:41 | 11:13 | 11:45 | 12:15 | 12:45 |
| Botany Rd after Bay St, Botany                  | 07:51 | 08:43 | 09:42 | 10:14 | 10:44 | 11:16 | 11:48 | 12:18 | 12:48 |
| Swinbourne St near Stephen Rd, Botany           | 07:55 | 08:47 | 09:46 | 10:18 | 10:48 | 11:20 | 11:52 | 12:22 | 12:52 |
| Westfield Eastgardens, Lower Level, Eastgardens | 08:03 | 08:55 | 09:55 | 10:27 | 10:57 | 11:29 | 12:01 | 12:31 | 13:01 |

| Sunday & Public Holidays                        |       | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Railway Square, Sydney                          | 12:52 | 13:22 | 13:52 | 14:22 | 14:52 | 15:22 | 15:52 | 16:22 | 16:52 |
| Central Station, Elizabeth St, Surry Hills      | 12:55 | 13:25 | 13:55 | 14:25 | 14:55 | 15:25 | 15:55 | 16:25 | 16:55 |
| Regent St after Redfern St, Redfern             | 13:02 | 13:32 | 14:02 | 14:32 | 15:02 | 15:32 | 16:02 | 16:32 | 17:02 |
| Botany Rd opp Green Square Station, Zetland     | 13:07 | 13:37 | 14:07 | 14:37 | 15:07 | 15:37 | 16:07 | 16:37 | 17:07 |
| Botany Rd before Gardeners Rd, Rosebery         | 13:11 | 13:41 | 14:11 | 14:41 | 15:11 | 15:41 | 16:11 | 16:41 | 17:11 |
| Botany Rd at Hollingshed St, Mascot             | 13:15 | 13:45 | 14:15 | 14:45 | 15:15 | 15:45 | 16:15 | 16:45 | 17:15 |
| Botany Rd after Bay St, Botany                  | 13:18 | 13:48 | 14:18 | 14:48 | 15:18 | 15:48 | 16:18 | 16:48 | 17:18 |
| Swinbourne St near Stephen Rd, Botany           | 13:22 | 13:52 | 14:22 | 14:52 | 15:22 | 15:52 | 16:22 | 16:52 | 17:22 |
| Westfield Eastgardens, Lower Level, Eastgardens | 13:31 | 14:01 | 14:31 | 15:01 | 15:31 | 16:01 | 16:31 | 17:01 | 17:31 |

| Sunday & Public Holidays                        |       | 6     | 6     | 6     | 6     | 6     | 6     | 6     |
|---|-------|-------|-------|-------|-------|-------|-------|-------|
| Railway Square, Sydney                          | 17:22 | 17:52 | 18:24 | 19:24 | 20:24 | 21:24 | 22:24 | 23:24 |
| Central Station, Elizabeth St, Surry Hills      | 17:25 | 17:55 | 18:27 | 19:27 | 20:27 | 21:27 | 22:27 | 23:27 |
| Regent St after Redfern St, Redfern             | 17:32 | 18:02 | 18:34 | 19:34 | 20:33 | 21:33 | 22:32 | 23:32 |
| Botany Rd opp Green Square Station, Zetland     | 17:37 | 18:06 | 18:38 | 19:38 | 20:37 | 21:37 | 22:36 | 23:36 |
| Botany Rd before Gardeners Rd, Rosebery         | 17:41 | 18:10 | 18:42 | 19:42 | 20:40 | 21:40 | 22:39 | 23:39 |
| Botany Rd at Hollingshed St, Mascot             | 17:45 | 18:14 | 18:46 | 19:46 | 20:44 | 21:44 | 22:42 | 23:42 |
| Botany Rd after Bay St, Botany                  | 17:48 | 18:17 | 18:49 | 19:49 | 20:47 | 21:47 | 22:44 | 23:44 |
| Swinbourne St near Stephen Rd, Botany           | 17:52 | 18:21 | 18:53 | 19:53 | 20:51 | 21:51 | 22:48 | 23:48 |
| Westfield Eastgardens, Lower Level, Eastgardens | 18:01 | 18:29 | 19:01 | 20:01 | 20:58 | 21:58 | 22:55 | 23:55 |



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## Eastgardens to Central Railway Square via Botany Rd

B

| Monday to Friday                                | 6     |       | 6     |       |       | 6     |       |       |       |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 05:42 | 05:58 | 06:13 | 06:27 | 06:41 | 06:57 | 07:15 | 07:38 | 07:52 |
| Swinbourne St near Stephen Rd, Botany           | 05:51 | 06:07 | 06:22 | 06:36 | 06:50 | 07:06 | 07:25 | 07:48 | 08:02 |
| Botany Rd opp Hickson St, Botany                | 05:57 | 06:13 | 06:28 | 06:43 | 06:58 | 07:14 | 07:32 | 07:55 | 08:09 |
| Mascot Post Office, Botany Rd, Mascot           | 06:01 | 06:17 | 06:32 | 06:48 | 07:03 | 07:19 | 07:37 | 08:00 | 08:14 |
| Botany Rd opp Tramway St, Mascot                | 06:04 | 06:20 | 06:35 | 06:51 | 07:06 | 07:23 | 07:41 | 08:05 | 08:20 |
| Green Square Station, Botany Rd, Alexandria     | 06:09 | 06:25 | 06:40 | 06:56 | 07:11 | 07:29 | 07:48 | 08:12 | 08:27 |
| Redfern Post Office, Redfern St, Redfern        | 06:15 | 06:31 | 06:48 | 07:04 | 07:19 | 07:37 | 07:58 | 08:23 | 08:38 |
| Central Station                                 | 06:19 | 06:35 | 06:52 | 07:08 | 07:24 | 07:42 | 08:04 | 08:29 | 08:44 |
| Railway Square, Sydnev                          | 06:23 | 06:39 | 06:57 | 07:13 | 07:29 | 07:47 | 08:09 | 08:34 | 08:49 |

| Monday to Friday                                | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     |       |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 08:06 | 08:23 | 08:43 | 09:03 | 09:24 | 09:44 | 10:04 | 10:25 | 10:45 |
| Swinbourne St near Stephen Rd, Botany           | 08:17 | 08:34 | 08:54 | 09:14 | 09:34 | 09:54 | 10:14 | 10:35 | 10:55 |
| Botany Rd opp Hickson St, Botany                | 08:24 | 08:41 | 09:01 | 09:21 | 09:41 | 10:01 | 10:21 | 10:41 | 11:01 |
| Mascot Post Office, Botany Rd, Mascot           | 08:29 | 08:46 | 09:06 | 09:26 | 09:46 | 10:06 | 10:26 | 10:45 | 11:05 |
| Botany Rd opp Tramway St, Mascot                | 08:35 | 08:52 | 09:12 | 09:30 | 09:50 | 10:10 | 10:30 | 10:49 | 11:09 |
| Green Square Station, Botany Rd, Alexandria     | 08:42 | 08:59 | 09:19 | 09:36 | 09:56 | 10:16 | 10:36 | 10:55 | 11:15 |
| Redfern Post Office, Redfern St, Redfern        | 08:53 | 09:10 | 09:28 | 09:45 | 10:05 | 10:25 | 10:46 | 11:05 | 11:25 |
| Central Station                                 | 08:59 | 09:16 | 09:33 | 09:50 | 10:10 | 10:30 | 10:51 | 11:10 | 11:30 |
| Railway Square, Sydnev                          | 09:04 | 09:21 | 09:38 | 09:55 | 10:15 | 10:35 | 10:56 | 11:15 | 11:35 |

| Monday to Friday                                | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 11:05 | 11:25 | 11:45 | 12:05 | 12:25 | 12:44 | 13:04 | 13:25 | 13:44 |
| Swinbourne St near Stephen Rd, Botany           | 11:15 | 11:35 | 11:55 | 12:15 | 12:35 | 12:54 | 13:14 | 13:34 | 13:54 |
| Botany Rd opp Hickson St, Botany                | 11:21 | 11:41 | 12:01 | 12:21 | 12:41 | 13:01 | 13:21 | 13:41 | 14:01 |
| Mascot Post Office, Botany Rd, Mascot           | 11:25 | 11:45 | 12:05 | 12:25 | 12:45 | 13:05 | 13:25 | 13:45 | 14:05 |
| Botany Rd opp Tramway St, Mascot                | 11:29 | 11:49 | 12:09 | 12:29 | 12:49 | 13:10 | 13:29 | 13:49 | 14:09 |
| Green Square Station, Botany Rd, Alexandria     | 11:35 | 11:56 | 12:16 | 12:36 | 12:56 | 13:17 | 13:36 | 13:56 | 14:16 |
| Redfern Post Office, Redfern St, Redfern        | 11:45 | 12:06 | 12:26 | 12:46 | 13:06 | 13:26 | 13:45 | 14:05 | 14:26 |
| Central Station                                 | 11:50 | 12:11 | 12:31 | 12:51 | 13:11 | 13:31 | 13:50 | 14:10 | 14:31 |
| Railway Square, Sydney                          | 11:55 | 12:16 | 12:36 | 12:56 | 13:16 | 13:36 | 13:55 | 14:15 | 14:36 |

| Monday to Friday                                | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 14:03 | 14:22 | 14:42 | 15:01 | 15:12 | 15:21 | 15:32 | 15:44 | 15:55 |
| Swinbourne St near Stephen Rd, Botany           | 14:14 | 14:34 | 14:54 | 15:13 | 15:24 | 15:33 | 15:44 | 15:55 | 16:06 |
| Botany Rd opp Hickson St, Botany                | 14:21 | 14:41 | 15:01 | 15:21 | 15:32 | 15:41 | 15:51 | 16:02 | 16:13 |
| Mascot Post Office, Botany Rd, Mascot           | 14:26 | 14:46 | 15:06 | 15:26 | 15:37 | 15:46 | 15:56 | 16:07 | 16:18 |
| Botany Rd opp Tramway St, Mascot                | 14:30 | 14:50 | 15:10 | 15:30 | 15:41 | 15:50 | 16:00 | 16:11 | 16:22 |
| Green Square Station, Botany Rd, Alexandria     | 14:37 | 14:57 | 15:17 | 15:37 | 15:48 | 15:57 | 16:07 | 16:18 | 16:29 |
| Redfern Post Office, Redfern St, Redfern        | 14:47 | 15:07 | 15:27 | 15:47 | 15:58 | 16:07 | 16:17 | 16:28 | 16:39 |
| Central Station                                 | 14:52 | 15:12 | 15:32 | 15:52 | 16:03 | 16:12 | 16:22 | 16:33 | 16:44 |
| Railway Square, Sydney                          | 14:57 | 15:17 | 15:37 | 15:57 | 16:08 | 16:17 | 16:27 | 16:38 | 16:49 |

| Monday to Friday                                | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     | 6     |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 16:10 | 16:25 | 16:40 | 16:55 | 17:15 | 17:40 | 18:05 | 18:35 | 19:17 |
| Swinbourne St near Stephen Rd, Botany           | 16:21 | 16:36 | 16:51 | 17:06 | 17:26 | 17:51 | 18:15 | 18:45 | 19:25 |
| Botany Rd opp Hickson St, Botany                | 16:28 | 16:43 | 16:58 | 17:13 | 17:34 | 17:59 | 18:22 | 18:51 | 19:31 |
| Mascot Post Office, Botany Rd, Mascot           | 16:33 | 16:48 | 17:03 | 17:18 | 17:39 | 18:03 | 18:26 | 18:55 | 19:35 |
| Botany Rd opp Tramway St, Mascot                | 16:37 | 16:52 | 17:07 | 17:23 | 17:44 | 18:07 | 18:30 | 18:58 | 19:38 |
| Green Square Station, Botany Rd, Alexandria     | 16:44 | 16:59 | 17:15 | 17:32 | 17:53 | 18:14 | 18:37 | 19:03 | 19:43 |
| Redfern Post Office, Redfern St, Redfern        | 16:54 | 17:09 | 17:27 | 17:44 | 18:04 | 18:24 | 18:46 | 19:12 | 19:50 |
| Central Station                                 | 16:59 | 17:15 | 17:33 | 17:50 | 18:09 | 18:29 | 18:50 | 19:16 | 19:55 |
| Railway Square, Sydney                          | 17:04 | 17:20 | 17:38 | 17:55 | 18:14 | 18:34 | 18:54 | 19:20 | 19:59 |

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## Eastgardens to Central Railway Square via Botany Rd

B

| Monday to Friday                                |       |       |       |       |       |       |       |       |       |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 20:07 | 21:06 | 22:06 | 23:06 |       |       |       |       |       |
| Swinbourne St near Stephen Rd, Botany           | 20:15 | 21:14 | 22:14 | 23:14 |       |       |       |       |       |
| Botany Rd opp Hickson St, Botany                | 20:21 | 21:20 | 22:20 | 23:19 |       |       |       |       |       |
| Mascot Post Office, Botany Rd, Mascot           | 20:25 | 21:23 | 22:23 | 23:22 |       |       |       |       |       |
| Botany Rd opp Tramway St, Mascot                | 20:28 | 21:26 | 22:26 | 23:24 |       |       |       |       |       |
| Green Square Station, Botany Rd, Alexandria     | 20:32 | 21:31 | 22:31 | 23:28 |       |       |       |       |       |
| Redfern Post Office, Redfern St, Redfern        | 20:39 | 21:37 | 22:36 | 23:33 |       |       |       |       |       |
| Central Station                                 | 20:43 | 21:41 | 22:39 | 23:36 |       |       |       |       |       |
| Railway Square, Sydney                          | 20:47 | 21:45 | 22:43 | 23:40 |       |       |       |       |       |
| Saturday  |       |       |       |       |       |       |       |       |       |
| Westfield Eastgardens, Lower Level, Eastgardens | 06:09 | 06:41 | 07:10 | 07:40 | 08:10 | 08:40 | 09:05 | 09:25 | 09:45 |
| Swinbourne St near Stephen Rd, Botany           | 06:16 | 06:48 | 07:18 | 07:48 | 08:18 | 08:48 | 09:13 | 09:33 | 09:53 |
| Botany Rd opp Hickson St, Botany                | 06:22 | 06:54 | 07:24 | 07:54 | 08:24 | 08:54 | 09:19 | 09:39 | 09:59 |
| Mascot Post Office, Botany Rd, Mascot           | 06:25 | 06:57 | 07:27 | 07:57 | 08:27 | 08:57 | 09:22 | 09:42 | 10:02 |
| Botany Rd opp Tramway St, Mascot                | 06:28 | 07:00 | 07:30 | 08:00 | 08:30 | 09:00 | 09:25 | 09:45 | 10:06 |
| Green Square Station, Botany Rd, Alexandria     | 06:32 | 07:04 | 07:34 | 08:05 | 08:35 | 09:05 | 09:30 | 09:50 | 10:11 |
| Redfern Post Office, Redfern St, Redfern        | 06:37 | 07:09 | 07:39 | 08:12 | 08:42 | 09:12 | 09:37 | 09:57 | 10:19 |
| Central Station                                 | 06:41 | 07:13 | 07:43 | 08:17 | 08:47 | 09:17 | 09:42 | 10:02 | 10:25 |
| Railway Square, Sydney                          | 06:45 | 07:17 | 07:47 | 08:21 | 08:51 | 09:21 | 09:46 | 10:06 | 10:29 |
| Saturday  |       |       |       |       |       |       |       |       |       |
| Westfield Eastgardens, Lower Level, Eastgardens | 10:05 | 10:25 | 10:45 | 11:05 | 11:25 | 11:45 | 12:05 | 12:25 | 12:45 |
| Swinbourne St near Stephen Rd, Botany           | 10:13 | 10:33 | 10:53 | 11:13 | 11:33 | 11:53 | 12:13 | 12:33 | 12:53 |
| Botany Rd opp Hickson St, Botany                | 10:19 | 10:39 | 10:59 | 11:19 | 11:39 | 11:59 | 12:19 | 12:39 | 12:59 |
| Mascot Post Office, Botany Rd, Mascot           | 10:22 | 10:42 | 11:02 | 11:22 | 11:42 | 12:02 | 12:22 | 12:42 | 13:02 |
| Botany Rd opp Tramway St, Mascot                | 10:26 | 10:46 | 11:06 | 11:26 | 11:46 | 12:06 | 12:26 | 12:46 | 13:06 |
| Green Square Station, Botany Rd, Alexandria     | 10:31 | 10:51 | 11:11 | 11:31 | 11:51 | 12:11 | 12:31 | 12:51 | 13:11 |
| Redfern Post Office, Redfern St, Redfern        | 10:39 | 10:59 | 11:19 | 11:39 | 11:59 | 12:19 | 12:39 | 12:59 | 13:19 |
| Central Station                                 | 10:45 | 11:05 | 11:25 | 11:45 | 12:05 | 12:25 | 12:45 | 13:05 | 13:25 |
| Railway Square, Sydney                          | 10:49 | 11:09 | 11:29 | 11:49 | 12:09 | 12:29 | 12:49 | 13:09 | 13:29 |
| Saturday  |       |       |       |       |       |       |       |       |       |
| Westfield Eastgardens, Lower Level, Eastgardens | 13:05 | 13:24 | 13:43 | 14:03 | 14:23 | 14:43 | 15:03 | 15:23 | 15:43 |
| Swinbourne St near Stephen Rd, Botany           | 13:13 | 13:32 | 13:51 | 14:11 | 14:31 | 14:51 | 15:11 | 15:31 | 15:51 |
| Botany Rd opp Hickson St, Botany                | 13:19 | 13:38 | 13:57 | 14:16 | 14:36 | 14:56 | 15:16 | 15:36 | 15:56 |
| Mascot Post Office, Botany Rd, Mascot           | 13:22 | 13:41 | 14:00 | 14:19 | 14:39 | 14:59 | 15:19 | 15:39 | 15:59 |
| Botany Rd opp Tramway St, Mascot                | 13:26 | 13:45 | 14:03 | 14:22 | 14:42 | 15:02 | 15:22 | 15:42 | 16:02 |
| Green Square Station, Botany Rd, Alexandria     | 13:31 | 13:50 | 14:08 | 14:27 | 14:47 | 15:07 | 15:27 | 15:47 | 16:07 |
| Redfern Post Office, Redfern St, Redfern        | 13:39 | 13:58 | 14:16 | 14:35 | 14:55 | 15:15 | 15:35 | 15:55 | 16:14 |
| Central Station                                 | 13:45 | 14:03 | 14:21 | 14:40 | 15:00 | 15:20 | 15:40 | 16:00 | 16:19 |
| Railway Square, Sydney                          | 13:49 | 14:07 | 14:25 | 14:44 | 15:04 | 15:24 | 15:44 | 16:04 | 16:23 |
| Saturday  |       |       |       |       |       |       |       |       |       |
| Westfield Eastgardens, Lower Level, Eastgardens | 16:03 | 16:23 | 16:43 | 17:13 | 17:43 | 18:13 | 19:06 | 20:06 | 21:07 |
| Swinbourne St near Stephen Rd, Botany           | 16:11 | 16:31 | 16:51 | 17:21 | 17:51 | 18:21 | 19:14 | 20:13 | 21:14 |
| Botany Rd opp Hickson St, Botany                | 16:17 | 16:37 | 16:57 | 17:27 | 17:57 | 18:27 | 19:20 | 20:18 | 21:19 |
| Mascot Post Office, Botany Rd, Mascot           | 16:20 | 16:40 | 17:00 | 17:30 | 18:00 | 18:30 | 19:23 | 20:21 | 21:22 |
| Botany Rd opp Tramway St, Mascot                | 16:23 | 16:43 | 17:03 | 17:33 | 18:03 | 18:33 | 19:26 | 20:24 | 21:25 |
| Green Square Station, Botany Rd, Alexandria     | 16:28 | 16:48 | 17:08 | 17:38 | 18:08 | 18:38 | 19:31 | 20:28 | 21:29 |
| Redfern Post Office, Redfern St, Redfern        | 16:35 | 16:55 | 17:15 | 17:45 | 18:15 | 18:45 | 19:38 | 20:33 | 21:34 |
| Central Station                                 | 16:40 | 17:00 | 17:20 | 17:50 | 18:20 | 18:50 | 19:43 | 20:37 | 21:38 |
| Railway Square, Sydney                          | 16:44 | 17:04 | 17:24 | 17:54 | 18:24 | 18:54 | 19:47 | 20:41 | 21:42 |



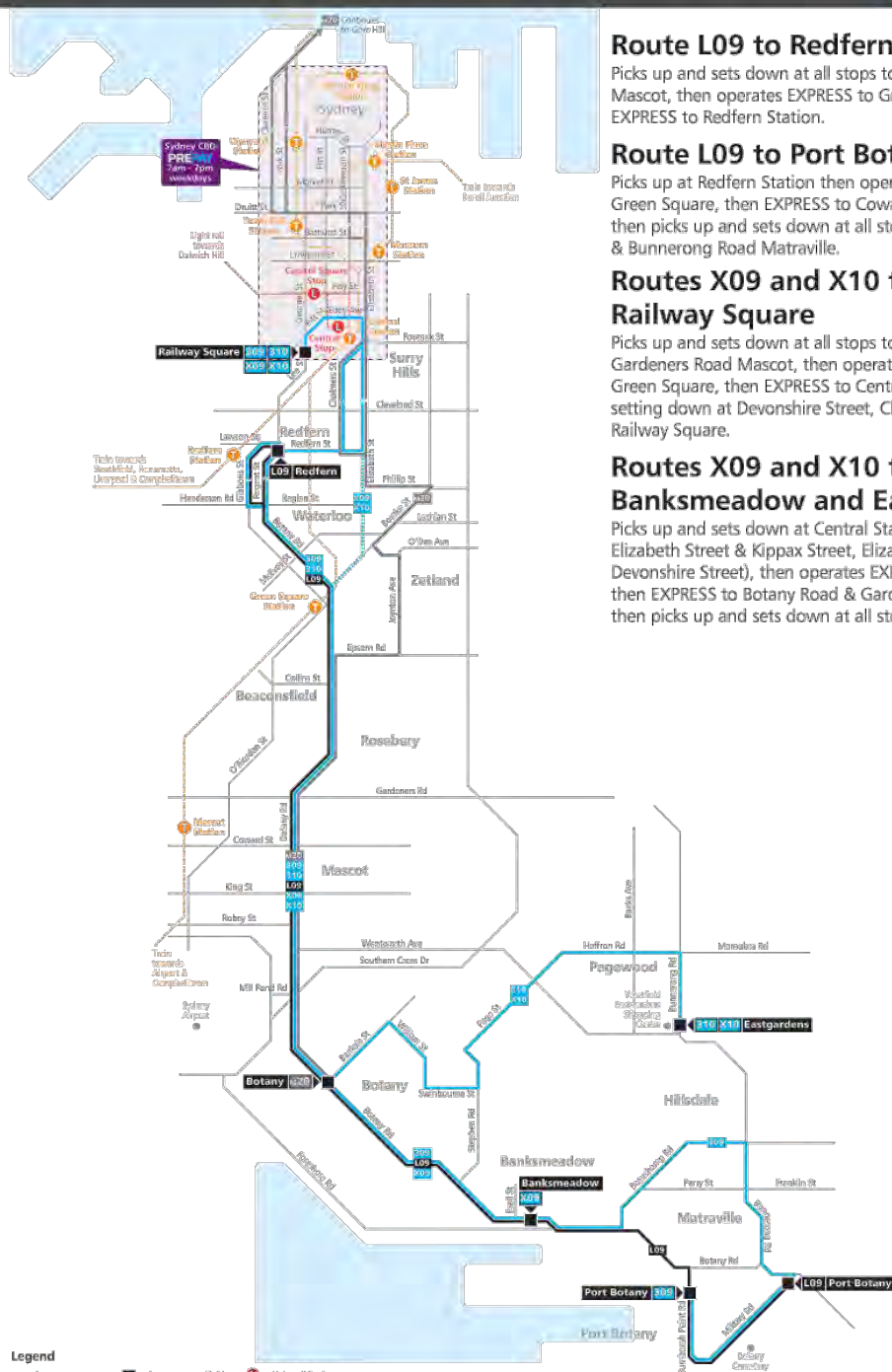
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## Eastgardens to Central Railway Square via Botany Rd

B

| Saturday  |       | 6     | 6     |
|---|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 22:07 | 23:07 |       |
| Swinbourne St near Stephen Rd, Botany           | 22:14 | 23:14 |       |
| Botany Rd opp Hickson St, Botany                | 22:19 | 23:19 |       |
| Mascot Post Office, Botany Rd, Mascot           | 22:22 | 23:22 |       |
| Botany Rd opp Tramway St, Mascot                | 22:25 | 23:25 |       |
| Green Square Station, Botany Rd, Alexandria     | 22:29 | 23:29 |       |
| Redfern Post Office, Redfern St, Redfern        | 22:34 | 23:34 |       |
| Central Station                                 | 22:38 | 23:38 |       |
| Railway Square, Sydney                          | 22:42 | 23:42 |       |
| Sunday & Public Holidays                        |       | 6     | 6     |
| Westfield Eastgardens, Lower Level, Eastgardens | 07:25 | 08:09 | 08:41 |
| Swinbourne St near Stephen Rd, Botany           | 07:32 | 08:17 | 08:49 |
| Botany Rd opp Hickson St, Botany                | 07:37 | 08:22 | 08:54 |
| Mascot Post Office, Botany Rd, Mascot           | 07:40 | 08:25 | 08:57 |
| Botany Rd opp Tramway St, Mascot                | 07:42 | 08:28 | 09:00 |
| Green Square Station, Botany Rd, Alexandria     | 07:46 | 08:32 | 09:04 |
| Redfern Post Office, Redfern St, Redfern        | 07:51 | 08:38 | 09:10 |
| Central Station                                 | 07:55 | 08:43 | 09:15 |
| Railway Square, Sydney                          | 07:59 | 08:47 | 09:19 |
| Sunday & Public Holidays                        |       | 6     | 6     |
| Westfield Eastgardens, Lower Level, Eastgardens | 12:12 | 12:42 | 13:12 |
| Swinbourne St near Stephen Rd, Botany           | 12:20 | 12:50 | 13:20 |
| Botany Rd opp Hickson St, Botany                | 12:26 | 12:56 | 13:26 |
| Mascot Post Office, Botany Rd, Mascot           | 12:30 | 13:00 | 13:30 |
| Botany Rd opp Tramway St, Mascot                | 12:33 | 13:03 | 13:33 |
| Green Square Station, Botany Rd, Alexandria     | 12:38 | 13:08 | 13:38 |
| Redfern Post Office, Redfern St, Redfern        | 12:45 | 13:15 | 13:45 |
| Central Station                                 | 12:50 | 13:20 | 13:50 |
| Railway Square, Sydney                          | 12:54 | 13:24 | 13:54 |
| Sunday & Public Holidays                        |       | 6     | 6     |
| Westfield Eastgardens, Lower Level, Eastgardens | 16:42 | 17:15 | 18:05 |
| Swinbourne St near Stephen Rd, Botany           | 16:49 | 17:22 | 18:12 |
| Botany Rd opp Hickson St, Botany                | 16:55 | 17:28 | 18:18 |
| Mascot Post Office, Botany Rd, Mascot           | 16:58 | 17:31 | 18:21 |
| Botany Rd opp Tramway St, Mascot                | 17:01 | 17:34 | 18:24 |
| Green Square Station, Botany Rd, Alexandria     | 17:05 | 17:38 | 18:28 |
| Redfern Post Office, Redfern St, Redfern        | 17:11 | 17:44 | 18:34 |
| Central Station                                 | 17:15 | 17:48 | 18:37 |
| Railway Square, Sydney                          | 17:19 | 17:52 | 18:41 |

## Routes 309, L09, X09, 310, X10, M20



### Route L09 to Redfern

Picks up and sets down at all stops to Coward Street Mascot, then operates EXPRESS to Green Square, then EXPRESS to Redfern Station.

### Route L09 to Port Botany

Picks up at Redfern Station then operates EXPRESS to Green Square, then EXPRESS to Coward Street Mascot, then picks up and sets down at all stops to Military Road & Bunnerong Road Matraville.

### Routes X09 and X10 to Railway Square

Picks up and sets down at all stops to Botany Road & Gardeners Road Mascot, then operates EXPRESS to Green Square, then EXPRESS to Central Station, setting down at Devonshire Street, Chalmers Street and Railway Square.

### Routes X09 and X10 to Banksmeadow and Eastgardens

Picks up and sets down at Central Station (Railway Square, Elizabeth Street & Kippax Street, Elizabeth Street & Devonshire Street), then operates EXPRESS to Green Square, then EXPRESS to Botany Road & Gardeners Road Mascot, then picks up and sets down at all stops.

**Legend**

- Bus route
- Bus route number
- Bus route identifier
- Light rail line
- Train station

Diagrammatic Map  
Not to Scale

[transportsw.info](http://transportsw.info)



### How to use this timetable

This timetable provides a snap shot of service information in 24-hour time (e.g. 5am = 05:00, 5pm = 17:00). Information contained in this timetable is subject to change without notice. Please note that timetables do not include minor stops, additional trips for special events, short term changes, holiday timetable changes, real-time information or any disruption alerts.

For the most up-to-date times, use the Trip Planner or Departures on [transportnsw.info](http://transportnsw.info)

### Real-time planning


You can plan your trip with real-time information using the Trip Planner or Departures on [transportnsw.info](http://transportnsw.info) or by downloading travel apps on your smartphone or tablet.

The Trip Planner, Departures and travel apps offer various features:

- favourite your regular trips
- see where your service is on the route
- get estimated pick up and arrival times
- receive service updates
- find nearby stations, stops, wharves and routes
- check accessibility information

Find the latest apps at [transportnsw.info/apps](http://transportnsw.info/apps)

### Accessible services

All new buses are wheelchair-accessible with low-level floors and space for wheelchairs, prams or strollers. Look for the  symbol in this timetable. Some older buses may not have all the features you need. There will be more accessible services as older buses are replaced.

### Who is providing my bus services?

The bus services shown in this timetable are run by State Transit.

### Fares

To travel on public transport in Sydney and surrounding regions, an Opal card is the cheapest and easiest ticket option.

An Opal card is a smartcard you keep and reuse. You put credit onto the card then tap on and tap off to pay your fares throughout Sydney, the Blue Mountains, Central Coast, Southern Highlands, Hunter and the South Coast.

Fares are based on:

- the type of Opal card you use
- the distance you travel from tap on to tap off
- the mode of transport you choose
- any Opal benefits such as discounts and capped fares that apply

Find out more about Opal fares and benefits at [transportnsw.info/opal](http://transportnsw.info/opal)

### Which Opal card is right for you?


**Adult** - For customers 16 years and over who are not entitled to any concessions.

**Child/Youth** - For children aged 4-15 and eligible secondary students.

**Gold Senior/Pensioner** - For eligible NSW and interstate seniors, pensioners, war widows/ers and asylum seekers.



**Concession** - For eligible tertiary students, job seekers, apprentices and trainees.

### How to get an Opal card

You can get an Adult and Child/Youth Opal cards over the counter at thousands of Opal retailers that display the Opal sign . To find your nearest retailer or order online, visit [transportnsw.info/opal](http://transportnsw.info/opal).

If you are eligible to travel with concession fares you can apply for a Gold Senior/Pensioner or Concession Opal card. Visit [transportnsw.info/opal](http://transportnsw.info/opal) or call **13 67 25 (13 OPAL)** for more information.

### Explanation of definitions and symbols

-  Wheelchair Accessible
-  Drops off passengers only





Valid from: 06 May 2018

Creation date: 27 June 2018

NOTE: Information is correct on date of download.

| Monday to Friday                                 | 🕒     | 🕒     | 🕒     | 🕒     |
|--|-------|-------|-------|-------|
| Railway Square, Sydney                           | 16:57 | 17:14 | 17:48 | 18:22 |
| Central Station, Elizabeth St, Surry Hills       | 17:02 | 17:20 | 17:53 | 18:27 |
| Botany Rd opp Green Square Station, Zetland      | 17:12 | 17:30 | 18:03 | 18:36 |
| Botany Rd before Gardeners Rd, Rosebery          | 17:17 | 17:35 | 18:08 | 18:40 |
| Botany Rd at Hollingshed St, Mascot              | 17:22 | 17:40 | 18:13 | 18:45 |
| Botany Rd after Bay St, Botany                   | 17:27 | 17:46 | 18:19 | 18:49 |
| Swinbourne St near Stephen Rd, Botany            | 17:34 | 17:52 | 18:24 | 18:54 |
| Westfield Eastgardens, Bunnerong Rd, Eastgardens | 17:45 | 18:02 | 18:34 | 19:02 |

X10

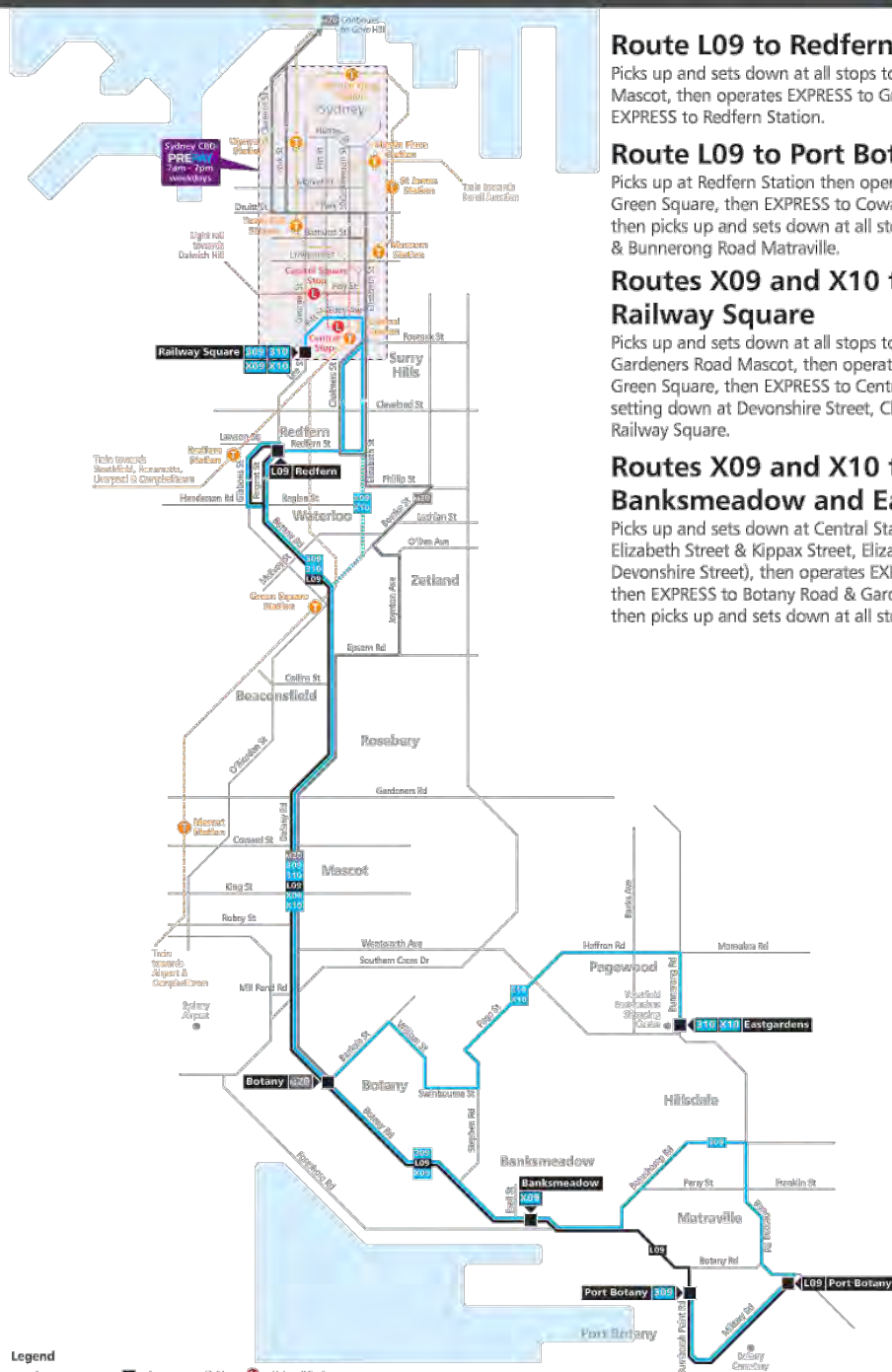
## PrePay Only - Eastgardens to Central Railway Square (Express Service)

B

| Monday to Friday                                | 🕒     | 🕒     | 🕒     | 🕒     |
|---|-------|-------|-------|-------|
| Westfield Eastgardens, Lower Level, Eastgardens | 06:53 | 07:11 | 07:26 | 07:49 |
| Swinbourne St near Stephen Rd, Botany           | 07:02 | 07:21 | 07:36 | 07:59 |
| Botany Rd opp Hickson St, Botany                | 07:10 | 07:28 | 07:43 | 08:06 |
| Mascot Post Office, Botany Rd, Mascot           | 07:15 | 07:33 | 07:48 | 08:11 |
| Botany Rd opp Tramway St, Mascot                | 07:19 | 07:37 | 07:53 | 08:17 |
| Botany Rd before O'Riordan St, Alexandria       | 07:23 | 07:41 | 07:58 | 08:23 |
| Railway Square, Sydney                          | 07:37 | 07:56 | 08:14 | 08:41 |



## Routes 309, L09, X09, 310, X10, M20

**Route L09 to Redfern**

Picks up and sets down at all stops to Coward Street Mascot, then operates EXPRESS to Green Square, then EXPRESS to Redfern Station.

**Route L09 to Port Botany**

Picks up at Redfern Station then operates EXPRESS to Green Square, then EXPRESS to Coward Street Mascot, then picks up and sets down at all stops to Military Road & Bunnerong Road Matraville.

**Routes X09 and X10 to Railway Square**

Picks up and sets down at all stops to Botany Road & Gardeners Road Mascot, then operates EXPRESS to Green Square, then EXPRESS to Central Station, setting down at Devonshire Street, Chalmers Street and Railway Square.

**Routes X09 and X10 to Banksmeadow and Eastgardens**

Picks up and sets down at Central Station (Railway Square, Elizabeth Street & Kippax Street, Elizabeth Street & Devonshire Street), then operates EXPRESS to Green Square, then EXPRESS to Botany Road & Gardeners Road Mascot, then picks up and sets down at all stops.

[transportsw.info](http://transportsw.info)



| Item             | Report   |
|------------------|--|
| Property address | 108 Wilson Street, Botany NSW 2019                               |
| Client           | Bureau SRH   |
| Prepared by      | O. Sannikov, MEngSc (Traffic Engineering), MIEAust, PEng, FAITPM |
| Date             | 08/02/2019   |
| Job No.          | 19011  |

#### Surveys and survey results

##### Parking survey

- A parking demand survey was conducted on Saturday 26<sup>th</sup> January 2019 and Sunday 27<sup>th</sup> January 2019, to complement the results of the weekday afternoon survey conducted for the original traffic report for the DA (as requested by Council)

- The survey was conducted between 7:00 a.m. and 3:00 p.m. on both days

- Refer to **Figure 1** for survey locations.

- Areas in red represent a walking distance of up to 150 metres from the site location
- Areas in blue represent a walking distance of 150 to 250 metres from the site location.
- The parking survey areas were expanded compared with the previous survey, so that the parking demand from a nearby cafe could be taken into consideration (areas 11 – 15).

##### Survey results

- Refer to **Tables 1a & 1b** for survey results.

- Areas 1a – 5b & 11 – 14 (within 150 metres walking distance).

- The survey results indicated that there were at least 41 spaces vacant throughout the day on Saturday (to a maximum of 57) in the survey area.
- The survey results indicated that there were at least 52 spaces vacant throughout the day on Sunday (to a maximum of 71) in the survey area.

- Areas 6 – 10 & 15 (between 150 to 250 metres walking distance).

- The survey results indicated that there were at least 41 spaces vacant throughout the day on Saturday (to a maximum of 58) in the survey area.
- The survey results indicated that there were at least 23 spaces vacant throughout the day on Sunday (to a maximum of 47) in the survey area.

- Areas 1a – 15 (all areas within walking distance).

- The survey results indicated that there were at least 95 spaces vacant throughout the day on Saturday (to a maximum of 105) in the survey area.
- The survey results indicated that there were at least 77 spaces vacant throughout the day on Sunday (to a maximum of 118) in the survey area.

- There are substantial parking opportunities near the site.

- Note: there are a few discrepancies in the number of available kerbside parking spaces for the same parking zones between this parking survey and the previous report's parking survey (18070 TEF Rep 01). The numbers of available spaces counted by the observer in the previous report were more optimistic for some parking zones as compared with the spaces that were counted by the observer in this survey. In such cases the fewer number of spaces was used for calculations of spare capacity.



Figure 1. Parking survey locations.



Table 1a. Parking survey results.

| Saturday     | Number of parked cars |    |    |    |    |    |    |    |    |    |    |    |    |    |    |       |    |   |    |    |    |    |    |    |    |                   |             |     |
|--------------|-----------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|----|---|----|----|----|----|----|----|----|-------------------|-------------|-----|
|              | Parking Location      |    |    |    |    |    |    |    |    |    |    |    |    |    |    | Total |    |   |    |    |    |    |    |    |    |                   |             |     |
|              | Time                  | 1a | 1b | 1c | 2a | 2b | 2c | 2d | 2e | 3a | 3b | 4a | 4b | 5a | 5b | 6     | 7  | 8 | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 1a - 5b & 11 - 14 | 6 - 10 & 15 | All |
| 7:00         | 1                     | 11 | 9  | 1  | 2  | 6  | 2  | 2  | 3  | 3  | 1  | 0  | 1  | 2  | 16 | 10    | 30 | 7 | 20 | 8  | 7  | 7  | 5  | 5  |    | 68                | 88          | 156 |
| 7:30         | 1                     | 11 | 9  | 1  | 2  | 6  | 2  | 2  | 3  | 3  | 1  | 0  | 1  | 2  | 16 | 10    | 21 | 7 | 18 | 8  | 11 | 7  | 5  | 5  |    | 72                | 77          | 149 |
| 8:00         | 1                     | 13 | 9  | 1  | 4  | 6  | 2  | 2  | 3  | 3  | 1  | 0  | 1  | 2  | 16 | 10    | 21 | 7 | 17 | 10 | 15 | 7  | 5  | 5  |    | 83                | 76          | 159 |
| 8:30         | 1                     | 12 | 9  | 1  | 3  | 6  | 2  | 2  | 3  | 3  | 1  | 0  | 1  | 2  | 16 | 10    | 24 | 6 | 16 | 9  | 12 | 8  | 6  | 5  |    | 79                | 77          | 156 |
| 9:00         | 1                     | 11 | 9  | 1  | 4  | 8  | 2  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 18 | 10    | 27 | 6 | 16 | 9  | 13 | 8  | 7  | 4  |    | 83                | 81          | 164 |
| 9:30         | 1                     | 12 | 9  | 1  | 4  | 9  | 2  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 18 | 7     | 24 | 6 | 15 | 7  | 14 | 9  | 7  | 3  |    | 84                | 73          | 157 |
| 10:00        | 1                     | 12 | 8  | 1  | 4  | 9  | 2  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 18 | 6     | 24 | 6 | 15 | 6  | 16 | 9  | 6  | 3  |    | 83                | 72          | 155 |
| 10:30        | 1                     | 12 | 7  | 2  | 4  | 8  | 1  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 18 | 6     | 24 | 6 | 15 | 6  | 16 | 8  | 4  | 3  |    | 78                | 72          | 150 |
| 11:00        | 1                     | 12 | 7  | 2  | 4  | 8  | 2  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 18 | 6     | 21 | 6 | 17 | 6  | 16 | 7  | 5  | 3  |    | 79                | 71          | 150 |
| 11:30        | 1                     | 11 | 7  | 2  | 3  | 8  | 2  | 2  | 3  | 3  | 1  | 0  | 1  | 2  | 20 | 7     | 21 | 6 | 19 | 7  | 14 | 6  | 5  | 3  |    | 76                | 76          | 152 |
| 12:00        | 1                     | 11 | 7  | 2  | 3  | 9  | 2  | 2  | 3  | 3  | 1  | 0  | 1  | 2  | 18 | 7     | 21 | 6 | 19 | 7  | 15 | 6  | 5  | 4  |    | 78                | 75          | 153 |
| 12:30        | 1                     | 10 | 8  | 1  | 3  | 10 | 1  | 2  | 3  | 3  | 1  | 0  | 1  | 2  | 20 | 7     | 27 | 5 | 19 | 8  | 13 | 6  | 4  | 4  |    | 75                | 82          | 157 |
| 13:00        | 1                     | 10 | 8  | 1  | 3  | 9  | 1  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 20 | 7     | 27 | 5 | 21 | 8  | 12 | 5  | 4  | 4  |    | 72                | 84          | 156 |
| 13:30        | 1                     | 10 | 8  | 1  | 1  | 8  | 1  | 1  | 3  | 3  | 1  | 0  | 0  | 1  | 20 | 7     | 27 | 7 | 21 | 8  | 12 | 5  | 4  | 4  |    | 68                | 86          | 154 |
| 14:00        | 1                     | 11 | 8  | 1  | 3  | 8  | 1  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 18 | 6     | 24 | 7 | 22 | 9  | 11 | 4  | 4  | 5  |    | 70                | 82          | 152 |
| 14:30        | 1                     | 11 | 9  | 1  | 3  | 8  | 1  | 1  | 2  | 2  | 1  | 0  | 1  | 1  | 20 | 6     | 24 | 8 | 22 | 9  | 10 | 4  | 4  | 5  |    | 68                | 85          | 153 |
| 15:00        | 1                     | 11 | 9  | 1  | 3  | 8  | 1  | 1  | 2  | 2  | 1  | 0  | 1  | 1  | 20 | 6     | 24 | 9 | 22 | 10 | 8  | 5  | 4  | 5  |    | 68                | 86          | 154 |
| No of spaces | 2                     | 15 | 9  | 3  | 6  | 14 | 5  | 2  | 3  | 3  | 2  | 0  | 2  | 2  | 22 | 16    | 39 | 9 | 23 | 19 | 17 | 9  | 14 | 20 |    | 125               | 129         | 254 |

| Sunday       | Number of parked cars |    |    |    |    |    |    |    |    |    |    |    |    |    |    |       |    |   |    |    |    |    |    |    |    |                   |             |     |
|--------------|-----------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|----|---|----|----|----|----|----|----|----|-------------------|-------------|-----|
|              | Parking Location      |    |    |    |    |    |    |    |    |    |    |    |    |    |    | Total |    |   |    |    |    |    |    |    |    |                   |             |     |
|              | Time                  | 1a | 1b | 1c | 2a | 2b | 2c | 2d | 2e | 3a | 3b | 4a | 4b | 5a | 5b | 6     | 7  | 8 | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 1a - 5b & 11 - 14 | 6 - 10 & 15 | All |
| 7:00         | 1                     | 10 | 9  | 1  | 4  | 5  | 2  | 1  | 2  | 3  | 1  | 0  | 1  | 1  | 20 | 11    | 39 | 9 | 21 | 8  | 14 | 3  | 6  | 6  |    | 71                | 106         | 177 |
| 7:30         | 1                     | 10 | 9  | 1  | 4  | 5  | 2  | 1  | 1  | 3  | 1  | 0  | 1  | 1  | 20 | 10    | 36 | 8 | 21 | 8  | 15 | 5  | 6  | 6  |    | 73                | 101         | 174 |
| 8:00         | 1                     | 10 | 7  | 1  | 4  | 6  | 2  | 1  | 1  | 3  | 1  | 0  | 1  | 1  | 20 | 10    | 36 | 8 | 21 | 7  | 15 | 7  | 6  | 7  |    | 73                | 102         | 175 |
| 8:30         | 1                     | 10 | 7  | 1  | 4  | 6  | 2  | 0  | 1  | 3  | 1  | 0  | 1  | 0  | 18 | 10    | 36 | 8 | 20 | 6  | 13 | 8  | 6  | 7  |    | 70                | 99          | 169 |
| 9:00         | 1                     | 11 | 7  | 1  | 4  | 6  | 2  | 1  | 1  | 2  | 1  | 0  | 1  | 1  | 18 | 10    | 36 | 8 | 20 | 6  | 12 | 9  | 6  | 7  |    | 71                | 99          | 170 |
| 9:30         | 1                     | 11 | 7  | 1  | 4  | 7  | 2  | 1  | 2  | 2  | 1  | 0  | 1  | 1  | 18 | 10    | 36 | 8 | 19 | 7  | 13 | 8  | 7  | 9  |    | 75                | 100         | 175 |
| 10:00        | 1                     | 10 | 7  | 1  | 4  | 7  | 2  | 1  | 2  | 1  | 1  | 0  | 1  | 1  | 18 | 10    | 36 | 8 | 18 | 8  | 16 | 8  | 7  | 9  |    | 77                | 99          | 176 |
| 10:30        | 1                     | 11 | 7  | 1  | 6  | 7  | 2  | 1  | 1  | 1  | 1  | 0  | 2  | 1  | 16 | 10    | 33 | 8 | 17 | 6  | 12 | 7  | 5  | 9  |    | 70                | 93          | 163 |
| 11:00        | 1                     | 10 | 7  | 1  | 5  | 7  | 1  | 1  | 1  | 1  | 1  | 0  | 1  | 1  | 16 | 10    | 33 | 9 | 17 | 7  | 10 | 7  | 4  | 10 |    | 65                | 95          | 160 |
| 11:30        | 1                     | 10 | 7  | 2  | 5  | 6  | 2  | 1  | 2  | 2  | 1  | 0  | 1  | 1  | 16 | 10    | 24 | 9 | 15 | 7  | 9  | 8  | 5  | 10 |    | 69                | 84          | 153 |
| 12:00        | 1                     | 11 | 6  | 2  | 5  | 6  | 2  | 1  | 2  | 2  | 1  | 0  | 1  | 1  | 18 | 10    | 27 | 9 | 16 | 6  | 10 | 8  | 6  | 10 |    | 71                | 90          | 161 |
| 12:30        | 1                     | 11 | 6  | 1  | 5  | 7  | 2  | 1  | 3  | 2  | 1  | 0  | 1  | 1  | 18 | 8     | 24 | 9 | 17 | 6  | 9  | 9  | 6  | 8  |    | 71                | 84          | 155 |
| 13:00        | 1                     | 11 | 6  | 1  | 4  | 6  | 2  | 1  | 3  | 3  | 1  | 0  | 1  | 1  | 18 | 9     | 24 | 9 | 17 | 4  | 8  | 6  | 6  | 8  |    | 63                | 85          | 148 |
| 13:30        | 1                     | 11 | 6  | 1  | 3  | 5  | 2  | 1  | 2  | 3  | 1  | 0  | 1  | 1  | 18 | 7     | 27 | 9 | 17 | 4  | 8  | 5  | 6  | 7  |    | 60                | 85          | 145 |
| 14:00        | 1                     | 11 | 6  | 1  | 3  | 7  | 2  | 1  | 2  | 3  | 1  | 0  | 1  | 1  | 18 | 6     | 30 | 9 | 18 | 4  | 6  | 6  | 6  | 7  |    | 60                | 88          | 148 |
| 14:30        | 1                     | 10 | 7  | 1  | 3  | 6  | 2  | 1  | 2  | 3  | 1  | 0  | 1  | 1  | 18 | 5     | 33 | 9 | 16 | 4  | 5  | 4  | 7  | 7  |    | 57                | 88          | 145 |
| 15:00        | 1                     | 10 | 6  | 1  | 2  | 6  | 2  | 1  | 2  | 3  | 1  | 0  | 1  | 1  | 18 | 4     | 30 | 9 | 15 | 4  | 5  | 3  | 7  | 6  |    | 54                | 82          | 136 |
| No of spaces | 2                     | 15 | 9  | 3  | 6  | 14 | 5  | 2  | 3  | 3  | 2  | 0  | 2  | 2  | 22 | 16    | 39 | 9 | 23 | 19 | 17 | 9  | 14 | 20 |    | 125               | 129         | 254 |



Table 1b. Parking survey results (continued).

| Saturday | Number of vacant spaces |    |    |    |    |    |    |    |    |    |    |    |    |    |    |       |    |   |   |    |    |    |    |    |    |               |           |
|----------|-------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|----|---|---|----|----|----|----|----|----|---------------|-----------|
|          | Parking Location        |    |    |    |    |    |    |    |    |    |    |    |    |    |    | Total |    |   |   |    |    |    |    |    |    |               |           |
|          | Time                    | 1a | 1b | 1c | 2a | 2b | 2c | 2d | 2e | 3a | 3b | 4a | 4b | 5a | 5b | 6     | 7  | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 1a-5b & 11-14 | 6-10 & 15 |
| 7:00     | 1                       | 4  | 0  | 2  | 4  | 9  | 3  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 6  | 6     | 9  | 2 | 3 | 11 | 10 | 2  | 10 | 15 | 57 | 41            | 98        |
| 7:30     | 1                       | 4  | 0  | 2  | 4  | 9  | 3  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 6  | 6     | 18 | 2 | 5 | 11 | 6  | 2  | 10 | 15 | 53 | 52            | 105       |
| 8:00     | 1                       | 2  | 0  | 2  | 2  | 9  | 3  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 6  | 6     | 18 | 2 | 6 | 9  | 2  | 2  | 10 | 15 | 42 | 53            | 95        |
| 8:30     | 1                       | 3  | 0  | 2  | 3  | 8  | 3  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 6  | 6     | 15 | 3 | 7 | 10 | 5  | 1  | 9  | 15 | 46 | 52            | 98        |
| 9:00     | 1                       | 4  | 0  | 2  | 2  | 6  | 2  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 4  | 6     | 12 | 3 | 7 | 10 | 4  | 1  | 7  | 16 | 42 | 48            | 90        |
| 9:30     | 1                       | 3  | 0  | 2  | 2  | 5  | 3  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 4  | 9     | 15 | 3 | 8 | 12 | 3  | 0  | 8  | 17 | 41 | 56            | 97        |
| 10:00    | 1                       | 3  | 1  | 2  | 2  | 5  | 3  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 4  | 10    | 15 | 3 | 8 | 13 | 1  | 0  | 9  | 17 | 42 | 57            | 99        |
| 10:30    | 1                       | 3  | 2  | 1  | 2  | 6  | 4  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 4  | 10    | 15 | 3 | 8 | 13 | 1  | 1  | 11 | 17 | 47 | 57            | 104       |
| 11:00    | 1                       | 3  | 2  | 1  | 2  | 7  | 3  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 4  | 10    | 18 | 3 | 6 | 13 | 1  | 2  | 10 | 17 | 46 | 58            | 104       |
| 11:30    | 1                       | 4  | 2  | 1  | 3  | 7  | 3  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 2  | 9     | 18 | 3 | 4 | 12 | 3  | 3  | 9  | 17 | 49 | 53            | 102       |
| 12:00    | 1                       | 4  | 2  | 1  | 3  | 6  | 3  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 4  | 9     | 18 | 3 | 4 | 12 | 2  | 3  | 9  | 16 | 47 | 54            | 101       |
| 12:30    | 1                       | 5  | 1  | 2  | 3  | 5  | 4  | 0  | 0  | 0  | 1  | 0  | 1  | 0  | 2  | 9     | 12 | 4 | 4 | 11 | 4  | 3  | 11 | 16 | 50 | 47            | 97        |
| 13:00    | 1                       | 5  | 1  | 2  | 3  | 5  | 3  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 2  | 9     | 12 | 4 | 2 | 11 | 5  | 4  | 10 | 16 | 53 | 45            | 98        |
| 13:30    | 1                       | 5  | 1  | 2  | 5  | 6  | 3  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 2  | 9     | 12 | 2 | 2 | 11 | 5  | 4  | 10 | 16 | 57 | 43            | 100       |
| 14:00    | 1                       | 4  | 1  | 2  | 3  | 6  | 3  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 4  | 10    | 15 | 2 | 1 | 10 | 6  | 5  | 10 | 15 | 55 | 47            | 102       |
| 14:30    | 1                       | 4  | 0  | 2  | 3  | 6  | 3  | 1  | 1  | 1  | 1  | 0  | 1  | 1  | 2  | 10    | 15 | 1 | 1 | 10 | 7  | 5  | 10 | 15 | 57 | 44            | 101       |
| 15:00    | 1                       | 4  | 0  | 2  | 3  | 6  | 3  | 1  | 1  | 1  | 1  | 0  | 1  | 1  | 2  | 10    | 15 | 0 | 1 | 9  | 9  | 4  | 10 | 15 | 57 | 43            | 100       |

| Sunday | Number of vacant spaces |    |    |    |    |    |    |    |    |    |    |    |    |    |    |       |    |   |   |    |    |    |    |    |    |               |           |
|--------|-------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-------|----|---|---|----|----|----|----|----|----|---------------|-----------|
|        | Parking Location        |    |    |    |    |    |    |    |    |    |    |    |    |    |    | Total |    |   |   |    |    |    |    |    |    |               |           |
|        | Time                    | 1a | 1b | 1c | 2a | 2b | 2c | 2d | 2e | 3a | 3b | 4a | 4b | 5a | 5b | 6     | 7  | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 1a-5b & 11-14 | 6-10 & 15 |
| 7:00   | 1                       | 5  | 0  | 2  | 2  | 10 | 3  | 1  | 1  | 0  | 1  | 0  | 1  | 1  | 2  | 5     | 0  | 0 | 2 | 11 | 3  | 6  | 8  | 14 | 54 | 23            | 77        |
| 7:30   | 1                       | 5  | 0  | 2  | 2  | 9  | 3  | 1  | 2  | 0  | 1  | 0  | 1  | 1  | 2  | 6     | 3  | 1 | 2 | 11 | 2  | 4  | 8  | 14 | 52 | 28            | 80        |
| 8:00   | 1                       | 5  | 2  | 2  | 2  | 9  | 3  | 1  | 2  | 0  | 1  | 0  | 1  | 1  | 2  | 6     | 3  | 1 | 2 | 12 | 2  | 2  | 8  | 13 | 52 | 27            | 79        |
| 8:30   | 1                       | 5  | 2  | 2  | 2  | 8  | 3  | 2  | 2  | 0  | 1  | 0  | 1  | 2  | 4  | 6     | 3  | 1 | 3 | 13 | 4  | 1  | 8  | 13 | 55 | 30            | 85        |
| 9:00   | 1                       | 4  | 2  | 2  | 2  | 8  | 3  | 1  | 2  | 1  | 1  | 0  | 1  | 1  | 4  | 6     | 3  | 1 | 3 | 13 | 5  | 0  | 8  | 13 | 54 | 30            | 84        |
| 9:30   | 1                       | 4  | 2  | 2  | 2  | 7  | 3  | 1  | 1  | 1  | 1  | 0  | 1  | 1  | 4  | 6     | 3  | 1 | 4 | 12 | 4  | 1  | 8  | 11 | 50 | 29            | 79        |
| 10:00  | 1                       | 5  | 2  | 2  | 2  | 7  | 3  | 1  | 1  | 2  | 1  | 0  | 1  | 1  | 4  | 6     | 3  | 1 | 5 | 11 | 1  | 1  | 8  | 11 | 48 | 30            | 78        |
| 10:30  | 1                       | 4  | 2  | 2  | 0  | 8  | 3  | 1  | 2  | 2  | 1  | 0  | 0  | 1  | 6  | 6     | 6  | 1 | 6 | 13 | 5  | 2  | 9  | 11 | 55 | 36            | 91        |
| 11:00  | 1                       | 5  | 2  | 2  | 1  | 8  | 3  | 1  | 2  | 2  | 1  | 0  | 0  | 1  | 6  | 6     | 6  | 0 | 6 | 12 | 7  | 2  | 10 | 10 | 60 | 34            | 94        |
| 11:30  | 1                       | 5  | 2  | 1  | 1  | 8  | 3  | 1  | 1  | 1  | 1  | 0  | 0  | 1  | 6  | 6     | 15 | 0 | 8 | 12 | 8  | 1  | 10 | 10 | 56 | 45            | 101       |
| 12:00  | 1                       | 4  | 3  | 1  | 1  | 8  | 3  | 1  | 1  | 1  | 1  | 0  | 0  | 1  | 4  | 6     | 12 | 0 | 7 | 13 | 7  | 1  | 9  | 10 | 54 | 39            | 93        |
| 12:30  | 1                       | 4  | 3  | 2  | 1  | 7  | 3  | 1  | 0  | 1  | 1  | 0  | 0  | 1  | 4  | 8     | 15 | 0 | 6 | 13 | 8  | 0  | 9  | 12 | 54 | 45            | 99        |
| 13:00  | 1                       | 4  | 3  | 2  | 2  | 9  | 3  | 1  | 0  | 0  | 1  | 0  | 1  | 1  | 4  | 7     | 15 | 0 | 6 | 15 | 9  | 3  | 9  | 12 | 62 | 44            | 106       |
| 13:30  | 1                       | 4  | 3  | 2  | 3  | 9  | 3  | 1  | 1  | 0  | 1  | 0  | 1  | 1  | 4  | 9     | 12 | 0 | 6 | 15 | 9  | 4  | 8  | 13 | 65 | 44            | 109       |
| 14:00  | 1                       | 4  | 3  | 2  | 3  | 8  | 3  | 1  | 1  | 0  | 1  | 0  | 1  | 1  | 4  | 10    | 9  | 0 | 5 | 15 | 11 | 3  | 8  | 13 | 65 | 41            | 106       |
| 14:30  | 1                       | 5  | 2  | 2  | 3  | 8  | 3  | 1  | 1  | 0  | 1  | 0  | 1  | 1  | 4  | 11    | 6  | 0 | 7 | 15 | 12 | 5  | 8  | 13 | 68 | 41            | 109       |
| 15:00  | 1                       | 5  | 3  | 2  | 4  | 9  | 3  | 1  | 1  | 0  | 1  | 0  | 1  | 1  | 4  | 12    | 9  | 0 | 8 | 15 | 12 | 6  | 8  | 14 | 71 | 47            | 118       |