

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 9 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 - 25 June 2019 ...2

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1	DA-2013/10056/C - 13A Church Avenue, Mascot.....	23
6.2	DA-2015/427/B - 4 Warialda Street, Kogarah.	159
6.3	DA-2018/333 - 1109 Botany Road, Mascot.....	195
6.4	DA-2018/319/A - 10-12 Sarah Street, Mascot.....	460
6.5	DA-2019/94 - 12 O'Connell Street, Monterey.....	511

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

9/07/2019

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 25 June 2019
Report by	Michael McCabe, Director City Futures
File	SF18/3001

Recommendation

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.

Present

Marcia Doheny, Chairperson
Jan Murrell, Independent Expert Member
Ross Bonthorne, Independent Expert Member
Thomass Wong, Community Representative

Also Present

Luis Melim, Manager Development Services
Bruce Cooke, Coordinator Governance & Risk
Ben Latta, Coordinator Development Assessment
Andrew Ison, Senior Development Assessment Planner
Angela Lazaridis, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Patrick Nash, Senior Development Assessment Planner
Julia Hunt, Development Assessment Planner
Gary Choice, Development Assessment Planner
Lauren Thomas, Governance Officer
Suhradem Patel, IT Officer

The Chairperson opened the meeting in the Committee Room, Botany Town Hall at 6:05 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

Marcia Doheny declared a Conflict of Interest in Item 6.6 on the basis that Hamptons Property Services, who are the applicant's planners for Item 6.6, have previously been a client of hers, and stated that she would leave the meeting for consideration of the item.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 28 May 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 28 May 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

4.2 Minutes of the Bayside Local Planning Panel Meeting - 11 June 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 11 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 DS18/790 - 19-25 Robey Street, Mascot

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

The following person spoke:

- Josh Thompson, the Project Manager representing the applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 The Panel is satisfied that:
 - a. the proposed modification will have minimal environmental impact.

- b. that it is substantially the same development as the development for which consent was granted before it was modified.
 - c. that the application was notified as required by Botany Bay DCP 2013 and no submissions were received; and
 - d. that the application has been assessed having regard to the relevant matters in section 4.15 (1) of the EPA.
- 2 That the Section 4.55(1A) application for the Modifications to basement design and deletion of Condition 34 relating to waterproofing and tanking of the basement structure at 19-25 Robey Street, Mascot be **APPROVED** subject to the following:
 - (a) Amend Condition 1 relating to amended plans and reference to dewatering plan, to now read:

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

Plans	Author	Date Received
Cover Page, Drawing No. DA001, Rev A dated 27 February 2018	DKO Architecture	1 March 2018
Site Analysis Plan, Drawing No. DA101, Rev A dated 27 February 2018		1 March 2018
Site Plan, Drawing No. DA102, Rev A dated 27 February 2018		1 March 2018
Demolition Plan, Drawing No. DA103, Rev A dated 27 February 2018		1 March 2018
Ground Floor Plan, Drawing No. DA201, Rev A dated 27 February 2018		1 March 2018
Ground Floor Plan, Drawing No. DA201, Rev E dated 12 July 2018 (DA-2016/165/02)		8 August 2018 (DA-2016/165/02)
Ground Floor Plan, Drawing No. DA201, Rev F dated 26 October 2018 (DA-2016/165/02)		2 November 2018 (DA-2016/165/04)
Level 1 Plan, Drawing No. DA202, Rev A dated 27 February 2018	DKO Architecture	1 March 2018
Level 1 Plan, Drawing No. DA202, Rev D dated 26 October 2018 (DA-2016/165/04)		2 November 2018 (DA-2016/165/04)

<p>Level 2 Plan, Drawing No. DA203, Rev A dated 27 February 2018</p> <p><i>Level 2 Plan, Drawing No. DA203, Rev D dated 26 October 2018</i></p> <p><i>(DA-2016/165/04)</i></p>		<p>1 March 2018</p> <p>2 November 2018</p> <p><i>(DA-2016/165/04)</i></p>
<p>Level 3 Plan, Drawing No. DA204, Rev A dated 27 February 2018</p> <p><i>Level 3 Plan, Drawing No. DA204, Rev D dated 26 October 2018</i></p> <p><i>(DA-2016/165/04)</i></p>		<p>1 March 2018</p> <p>2 November 2018</p> <p><i>(DA-2016/165/04)</i></p>
<p>Level 4 Plan, Drawing No. DA205, Rev A dated 27 February 2018</p> <p><i>Level 4 Plan, Drawing No. DA205, Rev D dated 26 October 2018</i></p> <p><i>(DA-2016/165/04)</i></p>		<p>1 March 2018</p> <p>2 November 2018</p> <p><i>(DA-2016/165/04)</i></p>
<p>Roof Terrace, Drawing No. DA206, Rev A dated 27 February 2018</p>		<p>1 March 2018</p>
<p>Basement 1 Plan, Drawing No. DA207, Rev A dated 27 February 2018</p> <p><i>Basement 1 Plan, Drawing No. DA207, Rev B dated 11 September 2018</i></p> <p><i>(DA-2016/165/03)</i></p>		<p>1 March 2018</p> <p>25 September 2018</p> <p><i>(DA-2016/165/03)</i></p>
<p>Basement 2 Plan, Drawing No. DA208, Rev A dated 27 February 2018</p> <p><i>Basement 2 Plan, Drawing No. DA208, Rev B dated 11 September 2018</i></p> <p><i>(DA-2016/165/03)</i></p>		<p>1 March 2018</p> <p>25 September 2018</p> <p><i>(DA-2016/165/03)</i></p>
<p>Adaptable Units, Drawing No. DA209, Rev A dated 27 February 2018</p>		<p>1 March 2018</p>
<p>South Elevation, Drawing No. DA301, Rev A dated 27 February 2018</p> <p>South Elevation, Drawing No. DA301, Rev D.1 dated 25 February 2019</p> <p><i>(DA-2016/165/02)</i></p> <p><i>North Elevation, Drawing No. DA302, Rev D dated 26 October 2018</i></p>		<p>1 March 2018</p> <p>2 November 2018</p>

(DA-2016/165/04)		
(DA-2016/165/04)		
<p>North Elevation, Drawing No. DA302, Rev A dated 27 February 2018</p> <p><i>North Elevation, Drawing No. DA302, Rev B dated 26 October 2018</i></p> <p>(DA-2016/165/04)</p>		<p>1 March 2018</p> <p>2 November 2018</p> <p>(DA-2016/165/04)</p>
<p>East Elevation, Drawing No. DA303, Rev A dated 27 February 2018</p> <p><i>North Elevation, Drawing No. DA302, Rev B dated 26 October 2018</i></p> <p>(DA-2016/165/04)</p>		<p>1 March 2018</p> <p>2 November 2018</p> <p>(DA-2016/165/04)</p>
<p>West Elevation, Drawing No. DA304, Rev A dated 27 February 2018</p> <p><i>North Elevation, Drawing No. DA302, Rev B dated 26 October 2018</i></p> <p>(DA-2016/165/04)</p>		<p>1 March 2018</p> <p>2 November 2018</p> <p>(DA-2016/165/04)</p>
Section A, Drawing No. DA305, Rev A dated 27 February 2018		1 March 2018
Section B, Drawing No. DA306, Rev A dated 27 February 2018		1 March 2018
Section C, Drawing No. DA307, Rev A dated 27 February 2018		1 March 2018
Streetscape, Drawing No. DA308, Rev A dated 27 February 2018		1 March 2018
Landscape Concept Ground Floor Plan, DWG No. LSDA-201, Issue C dated 7 February 2018	Greenplan	1 March 2018
Landscape Concept Roof Floor Plan DWG No. LSDA-202, Issue C dated 7 February 2018		1 March 2018
Landscape Planting Ground Floor DWG No. LSDA-301, Issue A, dated 7 February 2018		1 March 2018
Landscape Planting Roof Floor, DWG No. LSDA-302, Issue A dated 7 February 2018		1 March 2018

Landscape Details Planting, DWG No. LSDA-401, Issue A, dated 7 February 2018		1 March 2018
Landscape Details Typical Construction, DWG No. LSDA-404, Issue A dated 7 February 2018		1 March 2018
Cover Sheet, Drawing No. SW100, Revision A dated 26 February 2018		1 March 2018
Stormwater Concept Design – Basement 2 Plan, Drawing No. SW200, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Ground Floor Plan, Drawing No. SW201, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Roof Plan, Drawing No. SW202, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 1 of 2, Drawing No. SW300, Issue A, dated 26 February 2018		1 March 2018
Stormwater Concept Design – Details Sheet 2 of 2, Drawing No. SW301, Issue A, dated 26 February 2018		1 March 2018
Erosion & Sediment Control – Plan & Details, Drawing No. SW400 dated 26 February 2018		1 March 2018
Stormwater Concept Design – Music Catchment Plan, Drawing No. SW500, Issue A, dated 26 February 2018	SCG Engineering	1 March 2018
Survey Plan (Ref: 3558), dated 7 June 2016	Cedar Surveying Services Pty Ltd	16 September 2016
Ground Floor Swept Paths – 6.4m SRV, Drawing No TX.01 Rev C, dated 23 February 2018	Traffix Traffic and Transport Planners	1 March 2018
Ground Floor Swept Paths – B85 & B99 Drawing No TX.02 Rev C, dated 23 February 2018		1 March 2018
Basement Level 1 B99 Circulation & Passing, Drawing No. TX.03, Rev C dated 23 February 2018		1 March 2018

Basement Level 2 B99 Circulation & Passing, Drawing No. TX.04, Rev B dated 18 January 2018		1 March 2018
Ramp Profile, Drawing No. TX.05, Rev C dated 23 February 2018		1 March 2018

Reference Document(s)	Author	Date Received
Amended Statement of Environmental Effects	Chapman Planning Pty Ltd	1 March 2018
Amended Clause 4.6 variation to the height development standard dated 27 February 2018	Chapman Planning Pty Ltd	1 March 2018
Statement of Compliance: Access for people with a disability (Ref: 216196), dated 26 February 2018	Accessible Building Solutions	1 March 2018
SEPP 65 Report dated 26 February 2018	DKO Architecture	1 March 2018
Traffic Impact Assessment Rev B- Ref: 17.607v02, dated 23 February 2018	Traffix Traffic and Transport Planners	1 March 2018
BASIX Certificate No. 902705M_02, dated 25 February 2018	Senica Consultancy Group Pty Ltd	1 March 2018
NATHERS Certificates with various dates	Senica Consultancy Group Pty Ltd	1 March 2018
Acoustic Report- Ref: 20161114.1/1104A/R1/RL (Rev 1), dated 11 April 2017;	Acoustic Logic	21 April 2017
Arboricultural Assessment Report (Ref: R 17/11), dated 24 August 2016.	Angophora Consulting Arborist	16 September 2016
Arboricultural Assessment Report - Tree Impact Statement & Root Investigation dated 12 April 2017;	Naturally Trees	21 April 2017
BCA Compliance Assessment Report No. 18/002, dated 23 February 2018	Paul Aramini Consulting Pty Ltd	1 March 2018
Waste Management Plan 2018/02034 dated 22 February 2018	Senica Consultancy Group	1 March 2018

Stage 1 Desktop Environmental Site Assessment (Ref: E29461KHrpt dated 20 July 2016.	Environmental Investigation Services (EIS)	16 September 2016
Stage 2 Environmental Site Assessment (Ref: E29461KHrpt2-interim) dated 16 September 2016;	Environmental Investigation Services (EIS)	16 September 2016
Geotechnical Investigation- Ref: 29461ZRrpt dated 20 July 2016;	JK Geotechnics	16 September 2016
<i>Dewatering Management Plan, ref 754-SYDGE219267-AC Rev 2</i>	<i>Coffey</i>	<i>27 May 2019</i>

- (b) Amend Condition 9 to make reference to Water NSW letter dated 9 January 2019, to now read:

The conditions provided by **Water NSW** in their letters dated 9 November 2016 and 9 January 2019 are imposed.

- (c) Amend Condition 30 to include reference to AS 2890 and AS 4299 with the modifications resulting in 4 x accessible spaces provided as per AS 2890 and 4 x provided as per AS 4299, to now read:

Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) Disabled car parking spaces shall be provided and clearly marked as per the Traffic Impact Assessment Report by Traffix, dated February 2018, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
- b) *All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6, AS 4209 and Council requirements.*

- (d) Add Condition 33A to read:

Prior to the issue of the construction certificate, the applicant must provide satisfactory documented evidence to Bayside Council from Water NSW including purchase of required groundwater share allocation assignment as per the annual dewatering amount as specified in the approved dewatering management plan prepared by Coffey, ref: 754-SYDGE219267-AC Rev 2, dated 27 May.

- (e) Add Condition 33B to read:

Prior to the issue of any Construction Certificate, the following details shall be provided to the satisfaction of the Principal Certifier:

- *Dilapidation reports of all surrounding properties adjacent to the development site.*

- *Details of the permanent dewatering method including permanent Water Access Licence with appropriate share allocation purchased for permanent groundwater extraction.*
- *Finalised Implementation Plan incorporating finalised Geotechnical and Hydrogeological Monitoring Program, Contingency Plan and Construction Methodology.*
- *Any further geotechnical and hydrogeological investigations as may be required by special consent conditions or as recommended in the dewatering management plan prepared by Coffey, ref: 754-SYDGE219267-AC Rev 2, dated 27 May 2019*
- *Design Certification from suitably qualified and experienced geotechnical and/or hydrogeological engineers confirming that the design of the new below-ground structure has been undertaken in accordance with geotechnical recommendations.*

(f) Add Condition 33C to read:

Prior to the issue of any construction certificate, all recommendations from the approved dewatering management plan prepared by Coffey, ref: 754-SYDGE219267-AC Rev 2, dated 27 May 2019 must be implemented into the detailed design of the development, this includes Appendix D.

- *This includes the following detailed design aspects:*
- *The detailed design of the groundwater treatment system generally in accordance with de-watering treatment system process, prepared by SAS Water Solutions, ref: P18619-301 & instrumentation drawing & de-watering treatment system sheet 1 of 1 filter skid - general arrangement, prepared by SAS Water Solutions, P18619-202. The above detailed design shall be certified by an environmental scientist, and*
- *The detailed design of the system for the pump-out of the groundwater generally in accordance with stormwater drainage design prepared by SGC Consulting Engineers, project number: 20170454, revision 05 dated 20.11.2018. the system shall have an anticipated design life of 100 years, and*
- *Detailed design of the electronic and manual monitoring systems for the proposed groundwater treatment devices, and*
- *Emergency management plan for the pump-out system failure.*

(g) Add Condition 33D to read:

Permanent changes to the groundwater level as a result of construction must be kept within the historical range of natural groundwater fluctuations.

- *Where data is limited or unavailable the permanent change in the level of the natural water table due to the development is not to exceed 0.25m.*

- *In areas where the construction affects existing development within a shadow zone of an earlier construction, the permanent change in the water table due to the construction is not to exceed 0.1m. The permanent shadow zone of an earlier construction with full penetrating cut-off walls but without appropriate subsurface drainage should be taken as a distance equal to one building width along the groundwater flow path both in front and behind the earlier construction.*
 - *Details shall be provided to the principal certifying authority certifying the above requirements have been reflected in the detailed design of the development.*
- (h) Add Condition 74A to read:
- All construction works on the site must be inspected and monitored in accordance with the Implementation Plan, the Geotechnical and Hydrogeological Monitoring Program and any other recommendations made by the geotechnical and/or hydrogeological engineer.*
- (i) Add Condition 112A to read:
- Prior to the issue of any Occupation Certificate, the following must be provided to the satisfaction of the principal certifier:*
- *A record of inspections and monitoring as required by the Implementation Plan and Geotechnical and Hydrogeological Monitoring Program.*
 - *Certification from suitably qualified and experienced geotechnical and/or hydrogeological engineers confirming that all works have been undertaken in accordance with applicable consent conditions, applicable standards and the recommendations of the geotechnical and hydrogeological reports.*
- (j) Add Condition 146 to read:
- To ensure adequate allocation under the Water Access Licence (WAL) for permanent dewatering, a current WAL must be maintained with a sufficient amount of water allocation assignment maintained for the life of the development. All conditions of the WAL must be adhered to.*
- (k) Add Condition 147 to read:
- Groundwater monitoring must be conducted by the registered proprietor for the lifetime of the development in accordance with the below:*
- *Monitoring requirements as specified in the conditions of the WAL provided by Water NSW.*
 - *Discharge volumes of groundwater pumped to the stormwater network will be reviewed on an annual basis.*
 - *Groundwater levels will be monitored to enable assessment of groundwater drawdown due to ongoing operation of the drained basement. A six month review of groundwater levels will be conducted*

in conjunction with ground settlement/movement monitoring to assess groundwater drawdown and its potential impacts.

- *Groundwater quality will be monitored on a six monthly basis including collection of groundwater samples for laboratory analysis for selected metals and nutrients.*
- *A groundwater review is to occur six months after commencement of the operational system and further monitoring requirements reviewed at that time.*

A summary of operational monitoring requirements is provided in Table 8 of the approved dewatering management plan prepared by Coffey, ref: 754-SYDGE219267-AC Rev 2, dated 27 May.

- (l) Amend Conditions 34 to now read:

Prior to the issue of the Construction Certificate, the subsurface structures shall be designed ~~with a waterproof retention system (i.e. tanking and waterproofing)~~ with adequate provision for future fluctuation of the water ~~table~~ to ensure that the bulk of the ground water to be 'cutoff' by extending the depth of the walls further down to 18-20m below ground level as outlined in the letter from SCP consulting PTY LTD, ref 180031 and dated 27/05/2019. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, ~~tanking and waterproofing, and subsoil drainage~~ shall be undertaken by a suitably qualified engineer. The detailed design of the subsurface structures is to be certified by suitably qualified practicing geotechnical engineer as being in accordance with the geotechnical report prepared by Coffey, ref: 754-SYDGE219267-AC Rev 2, dated 27 May 2019. Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.

- (m) Amend Condition 113 to now read:

Prior to the issue of any relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system, water treatment devices and groundwater extraction pump devices ~~has~~ have 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.

- (n) Amend Condition 116 to now read:

Prior to the issue of any Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the

Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) *The pathway as indicated on the landscape plan along the northern boundary is to remain private with a public Right of Footway over the path from Elizabeth Avenue to John Curtin Reserve and must be noted as such on any future strata title subdivision. Appropriate access control gates and ambient lighting is required to provide adequate safety for residents outside of daylight hours.*
- b) *Restrictions on Use of Land and Positive Covenants for On-site Stormwater Detention systems and Stormwater Quality Improvement Devices (SQIDs). Refer to Appendices B and E of the SMTG for suggested wording.*
- c) *Waste collection is to be undertaken within the site by a private collection service using a small rigid vehicle until such time as Council vehicles are able to access the site.*
- d) *Restrictions on Use of Land and Positive Covenants for the maintenance of water treatment devices and groundwater extraction pump devices.*
- e) *Restrictions on Use of Land and Positive Covenant for the stormwater pump-out system. Refer to Appendices C 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.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The modification regarding parking is of a housekeeping and has been approved by Council's engineering staff.
- The modifications regarding the basement design, waterproofing and tanking have been considered by Council's engineering and environmental staff who support the modifications..
- Water NSW has no objections to the proposed modifications and has issued an approval and conditions for the proposed changes.

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

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

The following person spoke:

- Maurice Beraldo, architect, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 The Panel has considered the written request under Clause 4.6 to vary the height development standard in Clause 4.3 of Botany Bay Local Environmental Plan 2013 and is satisfied that it adequately responds to the matters required by clause 4.6(3).
- 2 The Panel is satisfied that it is unreasonable and unnecessary to comply with the development standard in the circumstances of this case and that there are sufficient environmental planning reasons to justify varying the development standard.
- 3 The Panel is also satisfied that the variation will result in consistency with the objectives of the height standard and the objectives of the B2 – Local Centre zone and is therefore in the public interest.
- 4 That Development Application No. 2017/1047 for demolition of the existing structures and construction of a new residential flat building containing 20 dwellings and basement car parking at 2, 2A and 4 Bay Street, Botany, be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the conditions of consent attached to this report.
- 5 That the objectors be advised of the Bayside Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Name	For	Against
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The application as modified has responded adequately to all the issues raised by Council staff and the Panel that previously considered the development and the Panel is satisfied that the issues of the car park design and access, internal amenity, mechanical ventilation, and flooding have been addressed and that an updated Basix certificate has now been submitted.

6.3 DA-2018/276 - 10 Earlwood Crescent, Bardwell Park

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

The following people spoke:

- Ms Pam Markellos, affected neighbour, spoke against the officer's recommendation.
- Mrs Helen and Mr Sam Karagiannis, affected neighbours, spoke against the officer's recommendation.
- Michael Ilievski, Building Designer, spoke for the officer's recommendation and responded to the Panel's questions.
- Gianni Georges, Building Designer, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That Development Application No.DA-2018/276 for the proposed demolition of existing structures and construction of a new two storey dwelling with basement parking, swimming pool and front fence at 10 Earlwood Crescent, Bardwell Park 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 as amended by the following conditions:

- a. That the drawings for the construction certificate incorporate the following details:-
- b. The external air conditioning unit to be located on the western wall between the living and dining rooms.
- c. The construction hours to be 7:00 am – 5:30 pm Monday to Friday and 8:00 am – 2:30 pm on Saturdays
- d. That some articulation be incorporated into the western wall to break the linear nature of that wall.
- e. Condition 7 to be amended to add the following sentence:

The amended landscape plan must also include a canopy tree with a mature minimum height of 8-10 metres, centrally located in the front lawn area. All plantings of trees are to be a minimum setback of 1.5 metres from boundaries.

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

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Ross Bonthorne ☒ ☐

Thomass Wong ☒ ☐

Reasons for Panel Determination

- The proposed development complies with all of the development controls for the site.
- The issues that have been raised in the submissions have been dealt with through amended plans and conditions of consent.
- The Panel is satisfied that the proposed development is appropriate for this site and accommodates the concerns of the neighbours in its design.

6.4 DA-2018/327 - 17 George Street, Eastlakes

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

The following people spoke:

- Mr Marvin Loreto, affected neighbour, spoke against the officer's recommendation.
- Mr Martin Dall'Asta, affected neighbour, spoke against the officer's recommendation.
- John Spiteri, architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Greg Evans, part owner, 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 s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to the floor space ratio prescribed by 4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of the FFR standard and the objectives for development within the zone.
2. That development application DA-2018/327 for demolition of existing structures and construction of 2 X two storey attached dwellings, landscaping and front fence at 17 George Street, Eastlakes be APPROVED as a DEFERRED COMMENCEMENT pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent as amended by the following:

A Deferred Commencement condition which states:

The front elevation shall be amended to provide a more contemporary rectilinear framework and balustrade design that references the form and levels of the semi-detached dwellings on either side of the site. The dormer windows are to be deleted and provision may be made for an alternative source of light. The gable roof at the rear shall be amended to a hip roof.

On satisfaction of the deferred commencement condition, the operational conditions take effect. The amended plans, subject to the deferred commencement, must be submitted within one month of the date of this determination for the approval of the Manager of Development Services.

The operational conditions shall be amended to provide for the landscape plan to be amended for the trees within the front setback to be a minimum of 8 metres and evergreen and wheel strips with a permeable centre shall be provided to the driveway.

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

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The Panel notes the substantial exceedance of the floor space ratio control however, it is noted that the FSR will be less than what would be permitted for detached dwellings on the sites.
- The proposed design as amended, as a consequence of the deferred commencement condition, will have regard in its design to the design of the properties on either side and the design will be consistent with the desired future character for the area as set out in Council's Development Control Plan that seeks terrace-style development.
- The Panel heard from adjoining neighbours on issues concerning overlooking and solar access and is satisfied that those issues are appropriately addressed in the design to minimise adverse impacts on adjoining neighbours.

6.5 DA-2018/243 - 2 Riverside Drive, Sans Souci

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

The following person spoke:

- Jon Jacka, (Architect), spoke for the officer's recommendation and responded to the Panel's questions

Determination

- 1 The Panel is satisfied that existing use rights apply to this site and that this development application can therefore be approved.
- 2 That Development Application No. 2018/243 for demolition of the existing structures and construction of a new sailing club with associated decks, jetty, boat shed, change rooms, service areas and retention of existing liquor licencing and club operating hours at 2 Riverside Drive, Sans Souci, be APPROVED subject to the conditions attached to this report.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The Panel notes that the Design Advisory Panel has considered and support the proposed design and the Panel also considers the design to be of a high quality.
- The Panel notes that the proposed design will result in a modest well designed building that is substantially more attractive than the existing building.
- The Panel notes that Council's environmental staff have advised the proposed development will not have adverse environmental impacts.

Item 6.7 was considered and determined prior to Item 6.6 due to the Chair having a conflict of interest in Item 6.6.

6.7 S82-2019/2 - 53 Johnson Street, Mascot

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

The following people spoke:

- Ahmad Jadid, Architect, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Mr Jarn Elias, owner, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

- Georgina David, owner, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

Determination

That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Division 8.2 relating to application No. S82-2019/2 for a review of determination, resolve to confirm previous decision for REFUSAL of development application DA-2018/1120, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979, with the following modified 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, a valid BASIX certificate has not been provided.
- 2 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 to demonstrate if the parking requirements in accordance with Botany Bay DCP2013 can be achieved.
- 3 Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, a valid Flood Management Plan has not been submitted as required by Council's Flood Advice Letter.
- 4 Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, a survey plan has not been provided to confirm the floor levels as required by Council's Flood Advice Letter.
- 5 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 Botany Bay Local Environmental Plan 2013 with respect to Clause 6.9 – *Development in areas subject to aircraft noise*. The acoustics report prepared by Acoustic, Vibration & Noise Pty Ltd (dated 20 December 2018) states that the development will result in an exceedance of the AS 2021-2015 standards for aircraft noise levels.
- 7 Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Part 3A.2 - Car Parking of the Botany Development Control Plan 2013. There is insufficient information to determine if the two (2) parking spaces required in accordance with Botany Bay DCP2013 can be achieved.
- 8 Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Part - 3A.2 Car Parking of the Botany Development Control Plan 2013. The car parking design obstructs direct pedestrian access to and from the secondary dwelling.
- 9 Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of Part 3J –Aircraft Noise and OLS of the Botany Development

Control Plan 2013. The development will result in an exceedance of the AS 2021-2015 standards for aircraft noise levels.

- 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 objectives of Part 4A.5.2 - Secondary Dwellings of the Botany Development Control Plan 2013. The proposed development does not provide sufficient private open space for the secondary dwelling.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The Panel adopts the reasons for the Panel's determination contained in the Council Officer's report.

The Chairperson reiterated her conflict of interest in Item 6.6, vacated the Chair and left the meeting room. Jan Murrell assumed the Chair for the determination of Item 6.6.

6.6 DA-2018/88 - 16-20 Shaw Street, Bexley North

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

The following people spoke:

- Maurice Mandalinic, Architect, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Adam Agdiran, client's representative, spoke against the officer's recommendation of refusal and responded to the Panel's questions.

Determination

- The Panel considers that this matter should be deferred for a period of three months to allow the Council to further consider the question of access over Shaw Lane and for the applicant to further consult with the Council regarding land owner's consent and access arrangements over private land which is not classified or designated as a Road.

The Panel, by way of comment, suggests that the applicant and the Council seek their own legal advice to resolve this issue.

If there is no resolution of the access issue, then the matter will be determined as recommended for refusal as the Panel is unable to consider consent without the consent of the land owner of Shaw Lane. As such, the following will take effect after three months:

2. That Development Application No. 2018/88 for the demolition of existing structures and construction of a part four (4) and part five (5) storey mixed use development including three (3) retail shops and twelve (12) residential units, basement parking and loading at 16-20 Shaw Street, Bexley North, be REFUSED pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - a. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, legal vehicular access to the site remains unresolved and the proposal does not accommodate vehicular access to the site via a publicly dedicated road.
 - b. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is unsuitable for the development in its current form, given that the site does not benefit from a Right of Way over the adjoining western lots (22 and 23 of DP 1222081).
 - c. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with State Environmental Planning Policy 65 in respect of:
 - i. Principle 4 – Sustainability
 - ii. Principle 5 - Landscape
 - iii. Principle 6 - Amenity.
 - d. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with the Apartment Design Guide in respect of:
 - i. 3D - Communal Open Space
 - ii. 3E - Deep Soil Provision
 - iii. 3F - Visual Privacy
 - e. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 6.7 - Stormwater of Rockdale Local Environmental Plan 2011.
 - f. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate area available on site for the loading and unloading of goods.
 - g. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the above matters, the proposed development is not in the public interest.
3. That the objectors be informed of the Bayside Local Planning Panel determination.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for Panel Determination

- The Panel has no power to determine the application without the resolution of the access issue.

The Chairperson closed the meeting at 9:32 pm.

Certified as true and correct.

Marcia Doheny
Chairperson

Bayside Local Planning Panel

9/07/2019

Item No	6.1
Application Type	Development Application
Application No	DA-2013/10056/C
Lodgement Date	03/06/2019
Property	13A Church Avenue, Mascot
Ward	Mascot
Owner	S & A & S Mohebbaty
Applicant	S & A & S Mohebbaty
Proposal	Modification of Conditions 1, 65 and 77 of DA2015/427/B relating to updated supporting documents.
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(1) of the Environmental Planning and Assessment Act 1979 be 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 take 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 be 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).
-

Drawing N°	Author	Date Received
<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>	<i>Simmons Architects</i>	<i>13 May 2014</i>
<i>11170-01 Issue A</i>		
<i>11170-02 Issue I</i>		
<i>11170-03 Issue O</i>		
<i>11170-04 Issue F</i>		
<i>11170-05 Issue D</i>		
<i>11170-06 Issue D</i>		
<i>11170-07 Issue A</i>		
<i>11170-08 Issue E</i>		
Landscape Plans L/01 Issue A L/02 Issue B L/03	ATC	15 November 2013
Survey Plan Ref No. 582AA 01	Mitchell Land Surveyors Pty Ltd	28 March 2013

Stormwater Plans C01_B C02_B C03_B C04_A	Alan L Wright & Associates	15 November 2013
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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 (DA-2013/10056/C)	LJB Urban Planning Pty Ltd (DA-2013/10056/C)	23 November 2017 (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
Traffic Report Traffic and Parking Impact Assessment (DA-2013/10056/C)	Integral Services group Motion Traffic Engineers (DA-2013/10056/C)	August 2009 received by Council 20 May 2013 November 2017 (DA-2013/10056/C)
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. 474684M 47468M_02 (DA-2013/10056/C)	Department of Planning Gradwell Consulting (DA-2013/10056/C)	28 March 2013 received by Council 28 March 2013 23 November 2017

		(DA-2013/10056/C)
Access Report Access Compliance Report (DA-2013/10056/C)	PSE Consulting	7 May 2013 received by Council 20 May 2013 22 November 2017 (DA-2013/10056/C)
Design Verification	Simmons Architects Bureau SRH Architecture (DA-2013/10056/C)	21 March received by Council 28 March 2013 20 November 2017 (DA-2013/10056/C)
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:

- the provisions made in the stormwater drainage drawings C1-C4, by Alan. L. Wright & Associates, dated Oct 2013;
- 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;
- 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
- the provisions meet or exceed the BASIX Certificate **~~No. 474684M issued 28 March 2013~~ 474684M_02 dated 22 November 2017.**

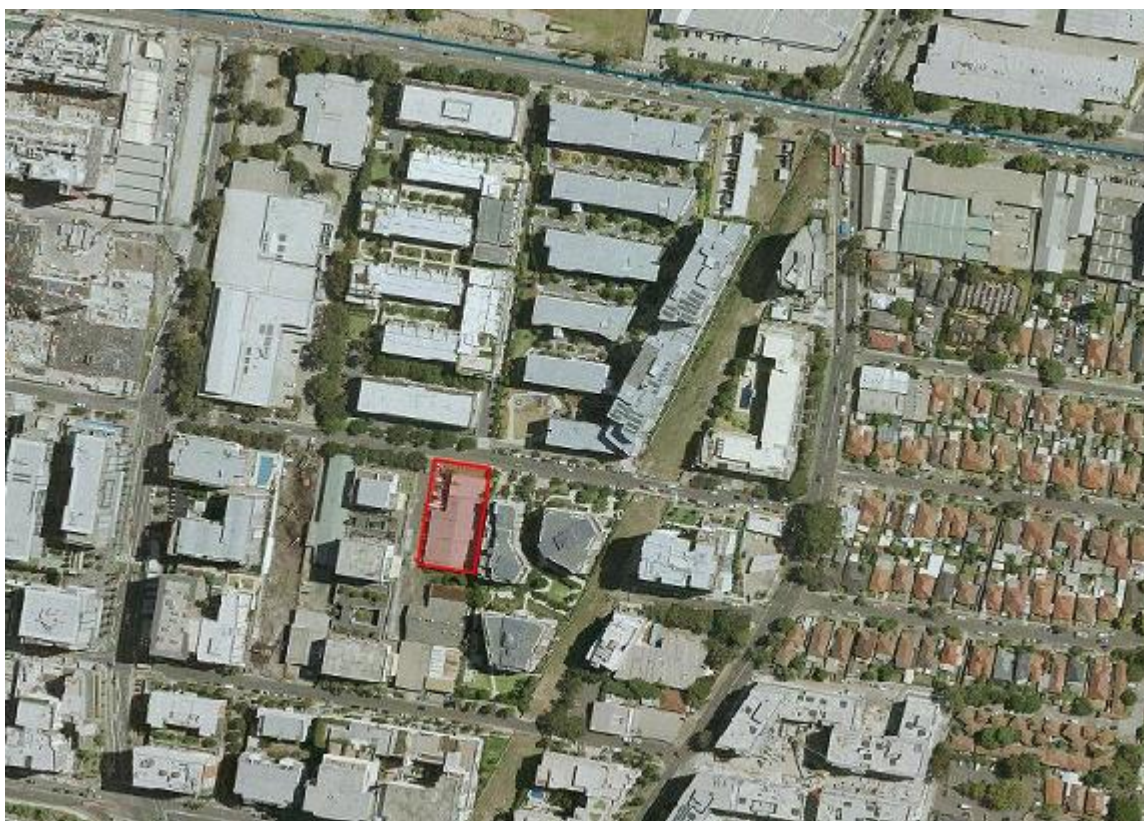
Note: All underground parking structures are to be "tanked" so that there is no intrusion of waters into the structure. **(Amended 9 July 2019 DA-2013/10056/C)**

(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)
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)
- 3 Previous Modified Consent [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2013/10056/C
Date of Receipt:	3 June 2019
Property:	13A Church Avenue, Mascot Lot 1 DP 547700
Owner:	S & A & S Mohebbaty
Applicant:	S & A & S Mohebbaty
Proposal:	Modification of Conditions 1, 65 and 77 relating to updated supporting documents
Recommendation:	Approval subject to amended conditions
Value:	Nil
Zoning:	B4 Mixed Use under Botany Bay Local Environmental Plan 2013
No. of submissions:	Nil
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	9 July 2019

Key Issues

The key issues relate to the following:

- Administrative changes to conditions.

Recommendation

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 be 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 take 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 be 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).

Drawing N°	Author	Date Received
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S96 106	Bureau SRH	28 November 2017
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S96 108	Bureau SRH	28 November 2017
S96 200	Bureau SRH	28 November 2017
S96 201	Bureau SRH	6 April 2018
S96 202	Bureau SRH	6 April 2018
S96 203	Bureau SRH	6 April 2018
S96 300	Bureau SRH	28 November 2017
<i>Architectural Plans</i>		
11170-01 Issue A	Simmons Architects	13 May 2014
11170-02 Issue 1		

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

Documents	Author	Date Received
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Statement of Environmental Effects (DA-2013/10056/C)	LJB Urban Planning Pty Ltd (DA-2013/10056/C)	23 November 2017 (DA-2013/10056/C)
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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)

Site Description

The subject site is commonly known as 13A Church Avenue, Mascot (Lot 1 in DP 547700). The site is rectangular in shape, has an area of 1,953m², and currently contains an industrial building, which will be demolished to accommodate the approved development. The surrounding area is characterised primarily by various forms of mixed use and residential flat building developments to the north, south and west and commercial development to the east. The subject site is located on the within the Mascot Station Precinct, between Bourke Street to the west and O'Riordan Street to the east.

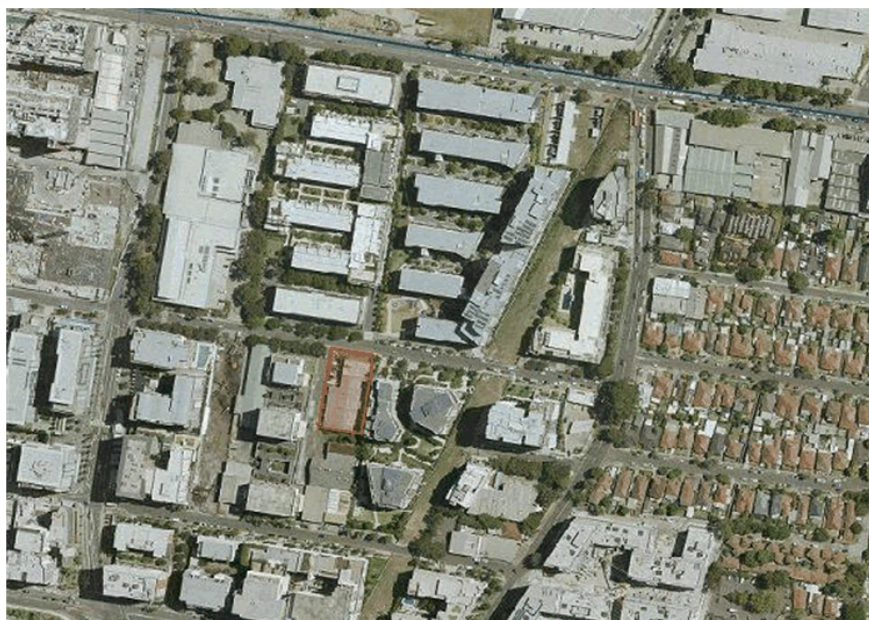


Figure 1: Aerial showing subject site, marked in red (Source: Bayside IntraMaps)

Description of approved development and proposed modifications

Approved Development DA-2013/56

Development Application (DA) 2017/1155 was approved on 11 June 2014 by the former City of Botany Bay for the following:

- Demolition of all existing buildings and structures on the site;
- Construction of a 12 storey residential flat building;
- A three level car park comprising 138 car parking spaces, including 2 wash bays and 3 turning spaces;
- Vehicular access via a Right of Way from Church Avenue;
- Associated new landscaping works.

Approved Modification DA-2013/56/02

On 8 May 2018, the Bayside Local Planning Panel approved a Section 4.55(1A) application modification under the former Section 96(1) provisions (now Section 4.55(1)) for the following:

- Amend the description of the approved development to "Demolition of the existing building and construction of a new residential flat building comprising of 80 residential units and car parking for 138 vehicles including 15 visitor parking spaces and new landscaping works"
- Amend Conditions 1 and 141.

Approved Modification DA-2013/56/03

On 27 March 2018, a Section 4.55(1A) application report was put up to the Bayside Local Planning Panel with the recommendation for refusal for the following modifications:

- Changes to the building footprint;
- Increase overall building height by 2.7 metres from RL 46.94 AHD (39.8 metres) to RL 49.64 AHD (42.5 metres) measured to the top of the lift over run;
- Reconfiguration of unit layouts and modify unit mix by increasing number of units from 80 to 103, including an additional 3 bedroom unit on the roof top;
- Increase the size of communal room on the roof top;
- Delete basement (Level 3) and reduce the number of car parking spaces from 138 to 110;
- Increase all floor levels including ground floor level from RL 7.44 AHD to RL 7.59 AHD, floor to ceiling height of the ground floor from 3.35 metres to 3.5 metres, and floor to ceiling height of typical floor level from 3 metres to 3.1 metres. The floor level increases consequently raises the building height as measured to the roof top floor level by 1.1 metres from RL 43.94 AHD to RL 45.04 AHD;
- Delete condition requiring roof mounted solar collector on the roof top, which was required for hot water to the units;
- Increase height of lift over run from 3 metres to 4.6 metres;
- Review Section 94 contribution;
- Amend various conditions to reflect proposed modifications; and
- External façade changes, including modification to the approved colours and materials.

The resolution of the Panel was to defer the application, subject to the following amendments:

- Relocation and minimisation of the rooftop plant room with the majority being placed in the basement. It was recognised that this may require car parking spaces to be deleted however the proposal is in excess of the requirement.
- A reduction in the height of the parapet on the west side of the building by a minimum of 1.1 metres.
- The bulk on the north-western corner of the building is to be reduced such that it does not exceed the envelope approved (clear glazing is to be provided only with no privacy screen). The reduction is to be for the top three levels.
- The privacy screens are to be notated as fixed on the east elevation.
- Investigation of the provision of solar panels.

On 8 May 2018, it was reported back to the Bayside Local Planning Panel, with the recommendation for approval subject to the amendments as per the 27 March resolution being satisfied. The Panel supported the recommendations and the application was approved, subject to the following:

- Amend Condition 1 to refer to the amended plans and reference documents;
- Amend Conditions 2 and 3 to refer to the updated Section 94 contributions;
- Amend Condition 141 to refer to the subject modification application; and
- Delete Condition 142 requiring roof mounted solar panels.

Proposed Modifications DA-2016/165/03 (subject to this report)

The applicant seeks the following amendments:

- Amend Condition 1 to update the landscape plans, statement of environmental effects, traffic and parking impact assessment, BASIX certificate, access compliance report and design

verification to reflect what had been lodged as part of DA-2013/56/03 but were not updated as part of Condition 1.

- Amend Condition 65 with relation to the BASIX certificate.
- Amend Condition 77 with relation to the BASIX certificate.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.4.55(1) – Modifications involving minor error, misdescription or miscalculation

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

It is considered that the subject application meets the provisions of Section 4.55(1) based on the following:

- The amended Statement of Environmental Effects dated 23 November 2017 is noted but is to be listed as a supplementary one to that dated 27 March 2014.
- The traffic report, whilst prepared by a different consultant for the modification, provides similar commentary in the methodology with relation to the additional units, as well as similar conclusions. Therefore, it is considered that the like for like replacement is acceptable.
- The BASIX certificate was considered as part of the original modification assessment and supported based on an assessment against the BASIX SEPP.
- The access report was an updated report prepared by the same consultant; and
- The design verification statement, whilst prepared by a different consultant for the modification, provides similar commentary in the methodology with relation to the additional units, as well as similar conclusions. Therefore, it is considered that the like for like replacement is acceptable.

S.4.55(3) – Consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application

In the assessment of this modification, the original reasons for granting consent has been considered and is satisfied that the proposal as modified is appropriate in regards to the provisions of this Clause.

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

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

The following Environmental Planning Instruments are relevant to this application:

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

Given the nature of the proposed modifications, no amended BASIX certificate was required. Therefore, the proposal remains consistent with the SEPP.

State Environmental Planning Policy (Infrastructure) 2007

Given the nature of proposed modifications, the proposal remains consistent with the SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

Consideration of this SEPP was undertaken as part of the original assessment, with the site deemed suitable for the proposal. There is no further information as part of this modification which would alter previous conclusions regarding the suitability of the site. The site remains suitable for the proposal as modified.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

Consideration of this SEPP was undertaken as part of the original assessment. Given the nature of the proposed modifications, no further assessment against this SEPP was required, and therefore remains consistent with this SEPP.

Botany Bay Local Environmental Plan 2013 (LEP)

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application. There are no relevant provisions in the LEP that relate to this application.

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

There are no current Draft EPIs applicable to this development.

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

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

There are no provisions in this DCP that are relevant to the assessment of this application.

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

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

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

The proposed modification relates only to condition changes to amend minor errors in the preparation of the modified consent as part of the previous application. The proposed amendment will have no significant adverse environmental, social or economic impacts on the locality.

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

Site suitability was assessed as part of the original Development Application, and the modifications to the conditions do not change the deemed acceptable suitability of the approved development on the subject site.

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 not notified to surrounding property owners. No submissions were received.

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

Granting approval to the modified conditions will have no adverse impact on the public interest.

Section 94 Contributions

The proposed modification does not change any Section 94 Contributions that are payable, and as prescribed in the original development consent (as amended).

Conclusion

Modification Application No. 2013/10056/C to amend conditions 1, 65 and 77 relating to updated supporting documents at 13A Church Avenue, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to modified conditions of consent.

SCHEDULE OF CONSENT CONDITIONS

Premises: 13A Church Street, Mascot

DA No: 2013/10056/C

GENERAL CONDITIONS

1. 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).

Drawing N°	Author	Date Received
<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>

S96 102	Bureau SRH	28 November 2017
S96 103	Bureau SRH	6 April 2018
S96 104	Bureau SRH	28 November 2017
S96 105	Bureau SRH	28 November 2017
S96 106	Bureau SRH	28 November 2017
S96 107	Bureau SRH	6 April 2018
S96 108	Bureau SRH	28 November 2017
S96 200	Bureau SRH	28 November 2017
S96 201	Bureau SRH	6 April 2018
S96 202	Bureau SRH	6 April 2018
S96 203	Bureau SRH	6 April 2018
S96 300	Bureau SRH	28 November 2017
<i>Architectural Plans</i> 11170-01 Issue A 11170-02 Issue I 11170-03 Issue O 11170-04 Issue F 11170-05 Issue D 11170-06 Issue D 11170-07 Issue A 11170-08 Issue E	Simmons Architects	13 May 2014
Landscape Plans L/01 Issue A L/02 Issue B L/03	ATC	15 November 2013
Survey Plan Ref No. 582AA 01	Mitchell Land Surveyors Pty Ltd	28 March 2013
Stormwater Plans C01_B C02_B	Alan L Wright & Associates	15 November 2013

CO3_B CO4_A		
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 (DA-2013/10056/C)	LJB Urban Planning Pty Ltd (DA-2013/10056/C)	23 November 2017 (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
Traffic Report Traffic and Parking Impact Assessment (DA-2013/10056/C)	Integral Services group Motion Traffic Engineers (DA-2013/10056/C)	August 2009 received by Council 20 May 2013 November 2017 (DA-2013/10056/C)
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. 474684M 47468M_02 (DA-2013/10056/C)	Department of Planning Gradwell Consulting (DA-2013/10056/C)	28 March 2013 received by Council 28 March 2013 23 November 2017 (DA-2013/10056/C)

Access Report Access Compliance Report (DA-2013/10056/C)	PSE Consulting	7 May 2013 received by Council 20 May 2013 22 November 2017 (DA-2013/10056/C)
Design Verification	Simmons Architects Bureau SRH Architecture (DA-2013/10056/C)	21 March received by Council 28 March 2013 20 November 2017 (DA-2013/10056/C)
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)

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

- | | |
|---|--|
| a) Landscape Bond | \$10,000.00 |
| b) Landscape Bond Preparation Fee | \$550.00 |
| c) Waste Levy | \$5,000.00 |
| d) Section 94 Contribution | \$1,600,000.00 \$1,821,458.36 |
| e) Damage Deposit | \$50,000.00 |
| f) Development Control
(DA-13/56/03) | \$11,200.00 |

3. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2005-2010 to be paid prior to the issue of Construction Certificate:

a) Section 94 Contribution 2005 – 2010

- i) Residential component ~~\$1,600,000~~ \$1,821,458.36

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. (DA13/56/03)

4. This Consent relates to land in Lot 1 in DP 547700 (subject to right of way) and, as such, building works (other than public domain work) must not encroach on to adjoining lands or the adjoining public place.
5. Prior to the release of the Construction Certificate the required Long Service Leave Levy payable under Section 34 of the Building and Construction Industry Long Service Payment 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.

6.

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia; and
 - b) All air-conditioning units shall be appropriately treated to ensure that they are concealed from view; and
 - c) It is a condition of this consent that BCS Performance Provision FP1.5 applies to the Class 7 part of the building.
7. 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.
- 8.
- a) A detailed Site Contamination Investigation shall be carried out by an appropriately qualified contamination consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA Guidelines for the site for the proposed development and shall be submitted to Council prior to the commencement of any excavation of the site soils. If investigations find that remediation is required, a Remedial Action Plan (RAP) must be submitted to Council prior to Council making a determination. Council reserves the right to require a site audit of the RAP.
 - b) The detailed Site Contamination Investigation must address whether a Risk Assessment is required to manage the potential contaminated groundwater identified in the Soil Contamination Audit Investigation report dated 30 October 2009 prepared by Pacific Environmental and the Addendum to Soil Contamination Audit Investigation prepared by Pacific Environment dated 13 May 2010. If deemed appropriate a Risk Assessment must be prepared prior to the issue of an Occupation Certificate. Depending on the findings of the detailed site assessment an RAP may be required.
 - c) The RAP will be required to cover the eventuality that the site groundwater, if encountered, be monitored for hydrocarbon contamination.
 - d) The RAP will also require that all site contaminated groundwater be removed during excavation and construction activities and be transported to a NSW APE licensed waste facility or be discharged to sewer via a trade waste agreement with Sydney Water or meets ANECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water to discharge to Council's stormwater system.

- e) A site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 is requested by Council prior to the issue of the Occupation Certificate.
9. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about the contamination and remediation must be notified to Council and the accredited certifier immediately.
10. 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 construction works.
11. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
12. 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;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operations (Waste) Regulation 2005.
13. It is a condition of approval that the Applicant must, at no cost or expense to Council:
- a) Dedicate the portion of land for the Church Avenue road widening, the dimensions of which will extend for the full width of the site and to a depth, which is determined by measuring from the centreline of Church Avenue, a horizontal distance of 12 metres and as detailed in the Botany Bay Development Control Plan 2013 and determined;
 - b) Upgrade the public domain and installation of new footpath area with new paving installed by the applicant and at the applicant's expense. All improvements shall be in accordance with the approved landscape plan and Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupational Certificate; and
 - c) The existing above ground electricity and telecommunications cables within the road reserve and within the site shall be replaced at the applicant's expense, by underground cable and appropriate street light standards in accordance with the energy provider's guidelines. The applicant shall bear the cost of the new installation. These works and payment shall be completed prior to the issue of the Occupation Certificate;
 - d) Shall ensure that all drainage from the property shall be led to the existing pit(s) in Church Avenue and shall include all associated construction within the roadway area; and
 - e) Land dedication, road construction, kerb and gutter, drainage, street trees and associated works including the footpath construction to be completed prior to the issue of the Occupation Certificate for the development under this consent being DA 13/056.

14. Submit a further Development Application for the construction of the road widening sections of, and public domain works in, Church Avenue (including the under-grounding of existing above ground electricity and telecommunication cables in Church Avenue, adjoining the site together with the provision of appropriate street light standards, drainage (if any) kerb and gutter, footway, bicycle paths, landscaping, traffic signs). Details shall be submitted by the applicant to Council's satisfaction.
15. The application required in (14) is to be accompanied by a detailed streetscape/public domain landscape plan for Church Avenue Road verges. A suitably qualified landscape architect shall prepare the public domain plan with relevant qualifications in landscape architecture.
16. All costs for the construction, submission of a Development Application and documentation, deed preparation and execution and design shall be borne by the applicant.

CONDITIONS THAT HAVE TO BE SATISFIED PRIOR TO DEMOLITION

17. Prior to the issue of Demolition, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's Infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the 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.
18. A dilapidation Report of the immediate adjoining properties including photographic survey prepared by a Practising Structural or Geotechnical Engineer, must be prepared and submitted as follows:
 - a) a copy of the dilapidation report together with the accompanying photographs shall be given to the above owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the commencement of excavation and any dewatering and demolition works. The report should be agreed to by the adjacent building owners as a fair record of existing conditions prior to commencement of works;
 - b) a second Dilapidation Report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate;
 - c) any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner;
 - d) it is a condition of consent that should demolition and/or construction works cause rise to public safety and/or workplace safety, work must halt until absolute safety is restored.

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

19. During demolition works, the applicant/builder is required to ensure the protection and preservation of all building fencing between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
20. Prior to the commencement of works, the Applicant shall contact "Dial Before you Dig on 1100" to obtain a Service Diagram for and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council for our records.
21. The Applicant shall conduct all demolition/construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made to Council's Customer Service Department.
22. The use of any part of Council's road reserve or other Council lands must have prior approval of Council. For example, should the development require a building waste container(s) (building skip), then such container shall not be placed or left on a public road or road related area (e.g. footpath, nature strip, shoulder, road reserve, public car parks, service stations etc.) without prior approval of Council's Engineering and Regulatory Services Department.
23. The operations of the demolition shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
24. The approved Waste Management Plan for the site dated 28/03/13 shall be complied with at all times during demolition works.
25. 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.
26.
 - a) Demolition 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 operation must not exceed the background level by more than 20dB(A).
 - b) Demolition period greater than 4 weeks and not exceeding 26 weeks

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

c) Time Restrictions for Demolition Works:

Monday to Friday	07:00am to 5:00pm
Saturday	07:00am to 01:00pm
No demolition/construction to take place on Sundays or Public Holidays.	

d) Silencing:

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

27. The demolition and use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property.

- a) 'offensive noise' as defined in the Protection of the Environmental Operations Act 1997;
- b) transmission of vibration to any place of different occupancy above the requirements of AS2670;
- c) a sound pressure LA_{eq} period at any noise sensitive position of any other premises or occupancy greater than the recommended amenity noise criteria detailed in the Department of Environment and Conservation, New South Wales Industrial Noise Policy;
- d) a sound pressure LA_{eq} , 15 min at any noise sensitive position greater than the intrusiveness criteria determined in accordance with the Department of Environment and Conservation, New South Wales (EPA) Industrial Noise Policy and does not contain any tones, low frequency or impulsive factors as defined in the Department of Environment and Conservation, New South Wales (EPA) Industrial Noise Policy table 4.1;
- e) the following additional criteria:
 - i) the operation of all plant and equipment shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA_{90} level (in the absence of the noise under construction);
 - ii) the operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LA_{eq} 50dB(A) night time;
 - iii) the operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LA_{eq} 65dB(A) day time/night time;
 - iv) for assessment purposes, the above LA_{eq} sound levels shall be a

28. There shall be no loss of support to the Council's nature strip area as a result of the demolition within the site. Details prepared by the Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to commencement of works.
29. If the work involved in the demolition of a building:
- a) are likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b) involves the enclosure of a public place:
 - i) a hoarding or fence must be erected between the work site and the public place;
 - ii) if necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place;
 - iii) any such hoarding, fence or awning is to be removed when the work has been completed.
30. Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
- 31.
- a) Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - i) demolition 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:-
 - a) to a public sewer; or
 - b) if connected to a public sewer or an accredited sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this clause must be completed before any work is commenced.
32. 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;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;

- d) the name of the Principal Certifying Authority including an afterhours contact telephone number; and
 - e) any sign is to be removed when the work has been completed.
33. All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and
- a) all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property; and
 - b) if the 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 must be provided and: -
 - ii) adequate provision must be made for drainage.
34. The following shall be complied with:
- a) Soil and Water Management Plan shall be prepared in accordance with the requirements of Southern Sydney Regional Organisation of Councils (SSROC)'s booklet '*Do It Right On-Site*'- *Soil and Water Management for the Construction Industry*. A copy of the Soil & Water Management Plan/Waste Management Plan shall be kept on-site at all times and made available to Council Officers on request;
 - b) the Waste Management Plan shall require that all demolished materials from the site being recycled and reused wherever possible rather than being placed in landfill.
35. A Lead Management Work Plan shall be prepared in accordance with *AS2601-2001 Demolition of structures* by a person with suitable expertise and experience and submitted to the Principal Certifying Authority for approval prior to the commencement of works. The Lead Management Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials. The Lead Management Work Plan shall be prepared in accordance with:
- a) AS 4361:1998 Guide to lead paint management;
 - b) Australian Standards AS 2601:2001 "*Demolition of Structures*";
 - c) Lead Safe a renovator's guide to the dangers of lead, NSW EPA, 1998 (booklet).
36. In relation to the demolition of the existing building (or part of a building) on the site:
- a) The demolisher shall:-
 - i) lodge with Council, and at least forty-eight (48) hours prior to the commencement of work (due to the potential impact on Council's infrastructure):-
 - ii) written notice, indicating the date when demolition of the building is to commence:
 - 1 the person's full name and address;

- 2 details of Public Liability Insurance;
 - 3 compliance with Australian Standard 2601-2001 "Demolition of Structures";
 - 4 have a current public liability/risk insurance to cover claims up to \$10 million, and policy of such shall be submitted to Council for its records;
 - 5 this Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
37. 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.
38. The following shall be complied with:
- a) 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;
 - b) vibration levels induced by the demolition activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building;
 - c) the upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
39. No demolition materials shall be burnt or buried on the site.
40. During demolition the nature strip in front of the premises and for the full width of the site, shall be maintained at all times and kept clean and tidy.
41. All vehicles associated with the demolition works are to be parked wholly within the subject site and not upon Church Avenue or other public roads contiguous with the site.
42. All unloading and loading of vehicles associated with the demolition works is to occur wholly within the subject site and not to Church Avenue or any other public places or street.
43. The demolisher shall:-
- a) cause motor vehicles leaving the site with demolition material and the like to have their loads covered; and
 - b) ensure that the wheels of vehicles leaving the site do not track soil and other waste material on to the public roads adjoining the site.
44. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001 "Demolition of Structures". Amongst others, precautions to be taken

shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) protection of site workers and the general public;
- b) erection of hoardings where appropriate;
- c) asbestos handling and disposal where applicable;
- d) any disused service connections shall be capped off;
- e) the disposal of refuse is to be to an approved waste disposal depot.

45. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with AS2601-2001 Demolition of structures. Removal, cleaning and disposal of lead-based paint shall conform with relevant EPA guidelines including the Lead Safe a renovator's guide to dangers of lead, NSW EPA, 1998. Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work shall be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition shall not be performed during high winds, which may cause dust to spread beyond the site boundaries.

46.

- a) A Work Plan shall be prepared in accordance with Australian Standard AS 2601-2001, Demolition of Structure by a person with suitable expertise and experience and submitted to Council for approval prior to commencement of any demolition or site works. The Work Plan shall outline the identification of any hazardous materials, including surface coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- b) Hazardous or intractable 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 and Conservation and with the provisions of;
 - i) New South Wales Occupational Health and Safety Act 2000;
 - ii) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - iii) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - iv) Protection of the Environmental Operations Act 1997 (NSW) and
 - v) Department of Environment and Climate Change (DECC) Waste Classification Guidelines 2008.

47. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover etc.

48. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building material is prohibited.

49.

- a) Care must be taken to protect Council's roads, including the made footway, kerbs etc., and where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends;
- b) This construction shall be maintained safe and in a state of good repair and condition throughout the course of construction;
- c) Any damage to Council's road reserve will be repaired and the full cost shall be borne by the Applicant.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

50. The proposed development is to comply with the General Terms of Approval dated 3 July 2013 issued by Sydney Airport Corporation Limited (SACL). The conditions are as follows:

- a) Height Restrictions:
 - i) the PROPERTY DEVELOPMENT at 13 CHURCH AVENUE, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations 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;
 - ii) 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, have no objection to the proposed development to a maximum height of 46.94 metres above Australian Height Datum (AHD);
 - iii) the approved height is inclusive of all its over-runs, vents chimneys, aerials, TV antennae, construction cranes etc.;
 - iv) should you wish to exceed 46.94 metres above Australian Height Datum (AHD), a new application must be submitted;
 - v) 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 be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161;
 - vi) 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;
 - vii) Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct;
 - viii) Information required by SACL prior to any approval is to include:
 - 1 the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - 2 the swing circle of any temporary structure/equipment used during construction;

- 3 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;
- 4 the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- ix) any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No.293, which now apply to this Airport;
- x) for further information on Height Restrictions please call Peter Bleasdale on (02) 9667 9246;
- xi) 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;
- xii) the height of the prescribed airspace at the site is 51 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airport (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."
- b) Bird and Obstacle Hazard Management:
 - i) the area in which the proposed development is located is in the vicinity of Sydney (KS) Airport;
 - ii) to minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscaping design;
 - iii) any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted;
 - iv) all trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.
- c) Planning for Aircraft Noise and Public Safety Zones:
 - i) current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land planning tool for Sydney Airport was endorsed by Airservices Australia on 13 March 2009 (Sydney Airport 2029 ANEF);
 - ii) whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

51. The following conditions are imposed by Sydney Water:

- a) the approved Building Plans must be submitted to a Sydney Water Quick Check agent 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. Plans will be appropriately stamped.
- b) Sydney Water will assess the impact of the development when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. The proponent must fund any adjustments needed to Sydney Water Infrastructure as a result of any development;
 - c) the proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator must ensure submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).
52. The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 25 June 2013. 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 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 behaviour. The system is obliged to conform to Federal, State or Territory Privacy and Surveillance Legislation;
 - 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) 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;
 - iv) it is crucial even in the development stage that these cameras are installed as soon as power is available to the site;
 - v) any proposed landscaping and vegetation should adhere to the following principles:
 - 1. shrubs, bushes, plants should remain under 900mm in height;

2. branches of larger 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.

b) Lighting:

- i) 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 Standards AS: 1158;
- ii) 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);
- iii) 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;
- iv) 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;
- v) 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 \$5,500) for an individual and 100 penalty units (currently \$11,000) 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, trespassers will be prosecuted;
 2. warning, these premises are under electronic surveillance.
- iii) directional signage should be strategically 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) 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;
- vii) graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
- d) Space Management:
 - 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 development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information 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 (e.g. Locking bars, electronic locking devices and detection devices) Dead locks are required 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 the side that face the person seeking egress, by a single hard 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 which 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 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 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 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.

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

53. Plans submitted with the Construction Certificate shall demonstrate compliance with the following:
- a) All residential unit size excluding balconies as minimum must be as following:
 - i) Studio = 60m²
 - ii) 1 bedroom = 75m²
 - iii) 2 bedroom = 100m²
 - b) Adaptable units must be provided in accordance with Section 4C.6.1 of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDCP 2013 (Section 4C.6.1). Details to be submitted with the Construction Certificate.
54. It is a condition of this consent that the person acting on this consent must obtain a report from a Geotechnical Engineer that the erection of the building will not:-
- a) have an impact on the stability of the building stock of the locality, nor,
 - b) have an adverse impact on the water table, again in relation to the locality and any undue rise and or fall other than by natural circumstances.

55. The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$10,000.00, for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not intended to limit the period of compliance with the landscaping requirements to five (5) years.
- a) The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.
 - b) The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.
56. The proposed development is to comply with the recommendations provided by the Roads and Maritime Services (RMS) dated 9 July 2013. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:
- a) the swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement;
 - b) the number of car and bicycle parking spaces should be provided to Council's satisfaction;
 - c) the layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1-20004, AS2890.2-2002 for heavy vehicles usage and AS2890.6:2009 for the disabled;
 - d) a Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate;
 - e) all vehicles are to enter and leave the site in forward direction.
- 57.
- a) Prior to the issue of the Construction certificate, the applicant must obtain and complete to the satisfaction of the NSW Office of Water, an Application for a Water Licence.
 - b) Proof of a Part 3A Permit having been issued for the proposed works must be submitted to the Principal Certifying Authority and to Council prior to the issue of the Construction Certificate and prior to any works commencing on the site.

- c) The licence is to be submitted to Council for Council's records.
- d) The basement must be designed and built to achieve when complete a 'fully tanked' structure.

Note: The reason for this is that no works that can impact upon groundwater can commence before a licence is obtained (See Condition No. 67 for the General Terms and Approval issued by the NSW Office of Water on 19 June 2013).

58. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of the Construction certificate. This plan shall be implemented prior to the commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
59. Prior to the issue of the Construction Certificate The landscape area shown on the plan A Total Concept (ATC) Issue B dated February 2010 shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by the City of Botany Bay Council's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect and shall include, but not be limited to:
 - a) A planting plan at 1:100 scale showing all plant locations, groupings and centres and a plant schedule listing all plants by botanical name with plant numbers, spacings, pot sizes and staking.
 - b) The scheme shall be in accordance with DCP 2013 and all other Council specifications for public domain inclusions.\
 - c) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls. Planter box external finishes. Areas of paving, schedule of materials, edge treatments and sectional construction details. All fencing, privacy screening and pergolas – elevations and materials. Details of other landscape elements such as furniture (required), pedestrian lighting, water features and so on. Provide sectional construction details and elevations.
 - d) Planter box on slab sectional construction details. All planter boxes on podium to be 900-1m soil depth to support healthy, well developed canopy trees. The planter box on slab details must indicate the waterproofing treatment extent.
 - e) A detail is to be provided for turf on slab showing soils depths and drainage.
 - f) Provide irrigation details (irrigation required for common area and setbacks).
 - g) Canopy trees shall be used extensively throughout the site – private courtyards, through the centre of the site and in setbacks. Trees must be of an appropriate scale to complement and scale with the building form (setbacks, communal open space) and to provide amenity for users of the space. 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. All trees on the site to be min. 100 litre, 200 litre preferred. All street trees to be 400 litre.

- h) The Blueberry Ash across the rear boundary are to be replaced with Native Quandong, pot sizes 100L. The Metrosideros Tahiti should be replaced with a more shade tolerant hedge plant.
 - i) All public domain work shall be in accordance with Council specification – tree planting, landscaping and turfing, footpath location and dimensions etc.
 - j) An alternative configuration for the stormwater absorption trench within the front setback is required in liaison with the Hydraulics Engineer and Applicant. The trench shall be relocated or re-configured to allow substantial landscaping including trees and shrubs within the setback. Note that a second row of street trees is required on the southern side of the public footpath between the footpath and property boundary in accordance with Council specification (Michelia dolstopa).
 - k) Show the location of electrical kiosks/substations and fire booster assemblies and their locational impact on landscape areas.
60. The building shall be designed in accordance with AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. The report is to include any required noise attenuation to the structure of the building to meet the above standard and acoustically treated mechanical ventilation, if necessary, to comply with the above standard. If the applicant chooses to install air conditioning to meet the mechanical ventilation requirements, the installation must be designed to meet the additional requirements, applying to air conditioners on residential properties contained in the Protection of the Environment Operations (Noise Control) Regulation 2000. (Information attached in the Advisory section). Details shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.
61. Prior to the issue of the Construction Certificate the following required section(s) are to be submitted and approved by Council. All driveways/access ramps/vehicular crossings shall conform to the current version of Australian Standards AS 2890.1 and Council requirements. With regard to Industrial and Multi Unit Housing, 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. With regard to other housing, only a centre line longitudinal section is required. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The section shall also show the clear height from the ramp to any overhead structure.
62. 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.
 - b) the proposed phases of construction works on the site and the expected duration of each construction phase;
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;

- d) the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
 - e) the proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
 - f) the proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
 - h) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent;
 - i) proposed protection for Council and adjoining properties;
 - j) the location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation; and
 - k) the location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
63. Prior to the issue of a Construction Certificate, the Applicant is to submit payment for a Tree Maintenance Bond of \$7,500.00. The duration of the Bond shall be limited to a period of 12 months after planting of the street trees. At the completion of the 12 months period the Bond shall be refunded pending a satisfactory inspection by Council. If the 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 the work.
64. 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 the 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.
65. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and 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 issued 23 November 2017.*

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

66. The access pits(s) to On Site Detention Tank (OSD) shall have a solid lid to avoid a potential trip hazard as a result of perforated grates.
67. 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 Traffic Authority) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant;
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police; and
 - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

68. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the adjacent Council drainage pipeline. The camera and its operation shall comply with the following:
- a) the internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner;
 - b) the CCTV camera shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
 - c) distance from the manholes shall be accurately measured;
 - d) the inspection survey shall be conducted from manhole to manhole; and
 - e) the written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior the commencement of any works. A written acknowledgement shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

69. 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 level of services;
 - b) negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) the additional load on the system; and
 - ii) the relocation and/or adjustment of the services affected by the construction. Any costs in 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.
70. All services (Utility, Council etc.) within the road reserve (including footpaths) shall be relocated/adjusted to match the proposed/existing levels.
71. A suitable intercom system linked to all units within the development shall be provided at all vehicle accesses to the development to ensure that 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 prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
- 72.
- a) Suitable street lighting to a high decorative standard shall be provided to the street boundaries of the site so as to provide safety and illumination for residents of the development;
 - b) The street Lighting (electricity cables) shall be undergrounded at the applicant's expense and shall meet relevant electricity authority requirements and plans and specifications of such are to be approved by Council prior to the issue of a Construction Certificate;
 - c) The Council footpath in Church Avenue if to be upgraded with new paving installed by the applicant at the applicant's expense. All improvements shall be in accordance with Council Specifications and requirements for the Church Avenue Public Domain, and shall be constructed and completed prior to the issue of an Occupational Certificate. The footpath shall be maintained in a clean and tidy state at all times by the occupiers.
- 73.
- a) Planter boxes constructed over a concrete slab shall be built so as to ensure soil depth strictly 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. Turfed areas require a min. 5% cross fall.

- b) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent 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.
 - c) Drainage sell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes and which complies with AS 4419 and AS 3743. Install drip irrigation. Pop-ups may be provided to lawn areas provided they use recycled water.
 - d) Planter boxes shall be finished externally with a suitable paint or render to coordinate with the colour schemes of the building.
- 74.
- a) Any electrical kiosk required by the energy provider shall be located in an unobtrusive and discreet location away from vehicle and pedestrian entrances to the property, preferably towards a side boundary, and/or setback into the site off the street boundary, and shall be softened with built screens and/or landscaping so as not to reduce streetscape and visual amenity.
 - b) The location of and screening treatment surrounding the kiosk shall be approved by Council's Landscape Architect prior to installation.
 - c) Fire booster valves shall be housed within the external face of the building structure and/or screened from view from the public domain area. Booster shall be located in an unobtrusive and discreet location away from vehicle and pedestrian entrances to the property.
75. 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
 - b) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the erection of the building.
 - c)
76. The following car a parking spaces shall be made available to residents and visitors;
- a) a total of one hundred and thirty four (138) car parking spaces on site; and
 - b) the following conditions apply to the car parking:

- i) the on-site car parking spaces, exclusive of service and visitor spaces, are not to be used by those other than the occupants, tenant or resident of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, licence or transfer ownership of any car parking spaces to those other than an occupant, tenant, lessee or resident of a unit in the building.
 - ii) prior to Construction Certificate under the Environmental Planning and Assessment Act 1979 a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyance Act 1919, to the effect of (a) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
 - iii) any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act 1973, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking pat-lots in the strata scheme.
77. ***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 dated 28 March 2014 received by Council 28 March 2014 474684M_02 dated 23 November 2017 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. (DA-2013/10056/C)***
78. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified Architect to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
79. The Architect is to conform in writing that the apartment sizes in metres squared (sq.m) and the balconies comply with Council's Building Design and Construction Development Control Plan.

80. As this development involves an excavation below the watertable these works are subject to a Council Drainage Charge for discharge of site dewatering to storm water and as such an application is required to be submitted to Council.

Note: Council will not give permission for contaminated groundwater to be discharged into its stormwater system. To discharge groundwater into the Council's stormwater drain the applicant must supply the following:

- a) an Application is to be made to Council for permission to discharge site dewatering to Council's stormwater drainage system;
 - b) a copy of a current bore licence from Department of Natural Resources for dewatering;
 - c) a report from a suitably qualified person is to be provided together with results from NATA approved laboratory confirming that the quality of water meets the 95% freshwater trigger values applying to typically slightly-moderately disturbed systems as detailed in the Australian and New Zealand Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Paper No 4, October 2000;
 - d) any proposed treatment to be applied to the water prior to being discharged.
81. It is a condition of approval that the Applicant must, at no cost or expense to Council:
- a) dedicate the portion of land for Church Avenue road widening, the dimensions of which will extend for the full width of the site including the right of way and to a depth, which is determined by measuring from the centreline of Church Avenue, a horizontal distance of 12 metres and as detailed in the Mascot Station Precinct Development Control Plan;
 - b) upgrade the public domain and installation of new footpath area with new paving installed by the applicant and at the applicant's expense. All improvements shall be in accordance with the approved landscape plan and Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupational Certificate; and
 - c) shall ensure that all drainage from the property shall be led to the existing pit(s) in Church Avenue and shall include all associated construction within the roadway area; and
 - d) land dedication, road construction, kerb and gutter, drainage, street trees and associated works including the footpath construction to be completed prior to the issue of the Occupation certificate for the development under this consent being DA 13/056.
82. The following conditions from the General Terms of Approval dated 19 June 2013 by the NSW Office of Water and must be complied with:
- a) General:
 - i) an authorisation shall be obtained for the take of groundwater as part of the activity, groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The 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;

- ii) the design and construction of the structure shall preclude the need for permanent dewatering by waterproofing those areas that may be impacted by any water table (i.e. a fully tanked structure) with adequate provisions for unforeseen fluctuations of water table levels to prevent potential future inundation;
 - iii) construction methods and materials used in and for construction shall not cause pollution of the groundwater.
- b) Prior to excavation:
- i) measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of 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;
 - ii) 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 calculation method shall be included in the report;
 - iii) a copy of a valid development consent for the project shall be provided to the NSW Office of Water;
 - iv) groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing 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;
 - v) the method of disposal of pumped water shall be nominated (i.e. street 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 (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 shall not be reinjected into any aquifer. 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 (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.
- c) During excavation:
- i) piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge;
 - ii) 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;
- iii) pumped groundwater (tailwater) shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewer 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 (tailwater) shall be complied with;
 - iv) dewatering shall be undertaken in accordance with 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;
 - v) 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 precautions.
- d) Following excavation:
- i) all monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with the detailed interpreted hydrogeological report identifying all actual resource and third party impacts.
83. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- a) the rooms for the storage of garbage and recyclable materials shall be fully enclosed and adequately ventilated;
 - b) constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - c) the floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket in accordance with the requirements of Sydney Water Corporation;
 - d) washing facilities shall be provided within close proximity to the garbage and recycling storage area.
84. The *principal contractor* 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 Southern Sydney Regional Organisation of Councils, 2001; and
 - c) "Managing Urban Stormwater – Soils and Construction" published by the NSW Department of Housing 4th Edition" ('The Blue Book');
 - d) where there is any conflict The Blue Book takes precedence;
 - i) 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 a 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.

- ii) 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.
 - iii) 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.
 - iv) 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.”
 - v) 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.
85. The wind mitigating treatments, as recommended in the Pedestrian Wind Environment Statement Report (Windtech, Dated: 13 May 2013) shall be incorporated into the design of the building as part of the construction certificate.
86. Signs incorporating the international symbol of access for disabled persons must be provided to identify each accessible:
- a) entrance;
 - b) lift or bank of lifts; and
 - c) sanitary facility;
 - d) this requirement shall be submitted to the Principal Certifying Authority prior to the release of a Construction certificate.
- 87.
- a) Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - i) erection of a building 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 a standard flushing toilet; and
 - ii) must be connected:-

- 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some sewerage management facility approved by the Council.
 - c) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
88. The proposed traffic movements and parking arrangements within and adjoining the development shall conform to the current versions of Council's off-street parking DCP; Australian Standard AS 2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) unless otherwise stipulated by another condition of this Consent.
- 89.
- a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition 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; and
 - b) As the development involves demolition that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) protect and support the adjoining premises from possible damage from demolition;
 - ii) when necessary, underpin the adjoining premises to prevent any such damage.

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

90. All management measures recommended and contained within the Soil and Water Management Plan (SWMP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004)*. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.
91. The principal contractor or owner building must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) the Soil and Water Management Plan;

- b) "Managing Urban Stormwater – Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
92. Erosion and sediment control devices are to be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the project, where necessary.
93. 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.
94. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the development, where necessary.
95. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -
- (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - c) Permit for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve

- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
- f) Permit to place skip/waste bin on footpath and/or nature strip
- g) Permit to use any part of Council's road reserve or other Council lands

DURING WORKS

96. 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.

97. Building works associated with the erection of the building shall be carried out between the following hours:

Monday to Friday, inclusive – 7:00am to 5:00pm

Saturday – 7:00am to 1:00pm

Sunday and Public Holidays – No work.

98. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".

99. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
 - a) protection of site workers and the general public;
 - b) erection of hoardings where appropriate;
 - c) asbestos handling and disposal where applicable;
 - d) any disused service connections shall be capped off;
 - e) the disposal of refuse is to be to an approved waste disposal depot.

100. 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).
101. 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.
- 102.
- 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 and 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 (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.
103. During Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (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 specifications and AUS-SPEC at no cost to Council.
104. If groundwater is encountered during excavation works, site de-watering shall be subject to the following requirements:
- a) site de-watering to be undertaken under the guidance of an experienced professional engineer;
 - b) the groundwater extracted from the dewatering process is to be passed through a sand filter prior to its disposal to the street water table. The discharged water is to be visually clear of suspended solids; and
 - c) the pump used to de-water must be electricity powered.

- d) For any water from site dewatering to be permitted to go to stormwater the water must meet ANZEC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
- 105. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with an approved Traffic Management Plan and Construction Management Plan at all times.
- 106. 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.
- 107. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 108. 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.
- 109.
 - a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) protect and support the adjoining premises from possible damage from the excavation, and
 - ii) where necessary, underpin the adjoining premises to prevent any such damage.
- 110. 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 operation must not exceed the background level by more than 20dB(A).

- ii) Construction period greater than 4 weeks and not exceeding 26 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 06:00pm
- 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.

111. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.

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

112. The building and land shall display a conspicuous street number of legible numerals that has been allocated by Council for the allotment.
113. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the above report in condition 60 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
114. All vehicular crossings are to be constructed prior to the issuing of an Occupational Certificate (or the completion of work or the use of the building). The applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted.

115. Landscaping shall be installed in accordance with the Council approved landscape plan only, as stamped by Council's Landscape Architect. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times. 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.

The Church Avenue public footpath shall be constructed in accordance with Council. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture. Construction hold points and Council inspections are required at the following points :

- a) after formwork installation and to prior pouring the concrete blinding slab,
- b) at the commencement of paving works, and
- c) at final completion.

Council approval of public domain works is required prior issue of Occupation Certificate.

116. New street trees at the pot size specified shall be installed in the Church Avenue road the approved landscape plan and Council specification. The trees shall be sourced from a reputable supplier that grows to NATSPEC. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works.

- a) The trees shall be planted in an area measuring approx. 1 metre square ensuring adequate space for the root ball, backfilled with water holding additive and fertiliser and mulched to a depth of 75mm and at a diameter of 1 metre. Trees are to be double staked.
- b) Two hold point inspections are required: prior to planting trees to ensure plant stock is suitable and post planting.

117. The Applicant is to submit payment for a Public Works Defects Liability Bond of \$10,000.00. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.

118. All works completed by the applicant on Council's Road Reserve or other Council lands are subject to a 6 months defect liability period from the date of final completion. The date of final completion will be determined by Council's Engineering and Regulatory Services Department.

119. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the plans approved under the Development Application, with relation to drainage, car parking structures, boundary and road reserve levels, have been strictly adhered to.
120. Prior to the issuing of the Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
121. Prior to the issue of the Occupational Certificate the boundary fences adjoining the site shall be replaced with suitable and decorative fence or wall in accordance with Council requirements.
122. 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 of 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.
123. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a close circuit television (CCTV) inspection and then report on the existing condition of the adjacent Council drainage pipeline. The camera and its operation shall comply with the following:
 - a) the internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner;
 - b) the CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
 - c) distance from the manholes shall be accurately measured; and
 - d) the inspection survey shall be conducted from manhole to manhole.
 - e) the written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written acknowledgement shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
124. 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.
125. Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
126. Prior to the issue of the Occupation Certificate, the redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.

127. Prior to the issue of the Occupational Certificate, the applicant shall reconstruct the footpath and kerb and guttering along the full site frontage in accordance with Council's standard drawings E01, E06 and CHUR RW/SS1.
128. Prior to the issue of the Occupation certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
129. Prior to the issue of the Occupation Certificate:
- a) the construction of the stormwater drainage system of the proposed development shall be completed generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA.
 - b) documentation 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 accepted practice.
130. Any damage not shown in the photographic survey and dilapidation survey submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to occupancy of the development.
131. 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.
- 132.
- a) 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; and
 - b) Conditioned numbered 8(e), 13 and 112-131 are all pre-conditioned to the issue of the Occupational Certificate;
 - c) The terms of the Voluntary Planning Agreement must be complied with prior to the issue of the Occupational Certificate.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

133. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The Owners Corporation or building owner shall be responsible for movement of the waste and recycling containers to the footpath for weekly collections, and the return of waste and recycling containers to the waste storage

area. The Owners Corporation or building owner shall be responsible for cleaning the waste storage area, dry arrestor pit and waste collection containers.

134. An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
135. Ongoing maintenance of the nature strip shall be undertaken by the occupier, owner or strata. Maintenance includes mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees located on the nature strip under any circumstances at any time. Pruning is undertaken by Council only.
136. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
137. 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.
138. A subdivision application must be accompanied by the following documentation that indicates:
 - a) The requirement for the employment of a person to manage the collection of waste material by Council, including, but not limited to bin placement at the road edge and retrieval of bins soon after collection of contents, cleansing of bins, storage of bins in the compound and the like.
 - (a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under this Development Consent.
 - b) Responsibilities with regard to the operation maintenance of artificial features at the property in accordance with the plans and details approved under this Development Consent.
 - c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times.

- d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are 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 by 12.00 noon.
 - e) The Owners Corporation obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000.
 - f) The Owners Corporation/Executive Committee obligations to ensure all 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.
139. 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.
140. All vehicles shall enter and exit the premises in a forward direction.
141. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 13/056 dated 28 March 2013 and as amended by Section 96(1) Application No. 13/056/01 received by Council on 18 June 2014 and as amended by Section 96(2) application No. 13/56/03 received by Council 24 November 2017 and that any alteration, variation, or extension to the use, for which this approval has been given, would require further Approval from Council. (DA13/56/03)
- 142 ~~Prior to the issue of the Construction Certificate, subject to the approval of CASA, the applicant is to provide roof mounted solar collector panels below a height of 46-94m AHD, to the rooftop of the building, of which 20% of power generated shall be returned to the Ausgrid network together with tariff rebates. Details of the panel system are to be provided with a Construction Certificate including the approval from the Civil Aviation Safety Authority. (DA13/56/03)~~
- 143 The development must on completion contain within the basement carpark 15 carparking spaces for use by visitors.



STATEMENT OF ENVIRONMENTAL EFFECTS

SECTION 4.55 AMENDMENT APPLICATION

**13A CHURCH AVENUE
MASCOT**



MAY 2019

This report has relied upon the information available at the time of its preparation. All views and conclusions contained in the report are based on the aforementioned circumstances. The report is for the use of the client and Bayside Council and no responsibility will be taken for its use by other parties.

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APPENDIX A Amended landscaping plans

APPENDIX B Revised BASIX Certificate

Purpose

This Statement of Environmental Effects has been prepared to accompany the lodgement of an application made under Section 4.55(1) of the Environmental Planning and Assessment Act, 1979 (the "**Act**") to modify certain conditions of consent to correct references to plans and BASIX certification that is outdated and redundant.

1. What is the consent being modified?

The Section 4.55(1) application relates to Notice of Determination No.2013/056, dated 11 June, 2014 (the "**consent**").

The consent approved a residential flat building comprising 103 apartments with associated car parking, landscaping and other associated works.

The consent relates to:

- Lot 1, DP 547700, 13A Church Avenue, Mascot

2. History

2.1 Development approval history

For completeness and context, it is useful to understand the history of the development application and subsequent amendments pertaining to this modification.

Application	Purpose	Date of approval
DA-2013/056	Demolition of the existing building and the redevelopment of the site for a new multi-unit building with associated car parking for 138 vehicles and new landscaping works.	11 June 2014
DA-2013/56/2	Section 96(1) Application to modify Development Consent 13/056 by amending Condition 1 to reflect the correct issue number of the Architectural Plans and to amend the description to include the number of units approved, being 80.	1 July 2014
DA-2013/56/3	Section 96(2) Application to modify Development Consent 13/056 to alter the design of the building & increase height, amend apartment size, car parking,	8 May 2018

	car parking layout, unit mix and to increase height and FSR. In particular, the development amends the number of units from 80 to 103 and reflects a change to the number of car parking spaces from 138 to 110.	
--	--	--

As a result of the aforementioned amendments, the development for which consent has been granted can be described as:

The demolition of the existing building and the construction of a residential flat building comprising 103 apartments with 110 car parking spaces, landscaping and associated works.

2.2 The consent has been activated

At the time of preparing this statement, demolition of the existing industrial building had physically commenced, including but not limited to the removal of the internal mezzanine and the removal of asbestos.

Noting that the demolition comprised a part of the development for which consent has been granted, the consent has been activated by the carrying out of those demolition works.

3. What is sought to be modified?

When the latter Section 96(2) application was determined, no update to the landscape plans or BASIX certification was incorporated into the consent.

The incorrect BASIX is, in particular, an impediment to the release of the Construction Certificate for the construction phase of the project.

In summary, this Section 4.55(1) application seeks to modify the consent as follows:

Condition	Purpose	Amendment sought
1	Approved plan references	Replace approved landscape plans with revised landscape plans to reflect the latest approved development scheme.
	Approved document references	Replace approved document references with the correct references to ensure consistency.
65	BASIX	Amend the conditions to reflect the revised BASIX certificate.
77		

4. The modifications

4.1 Condition 1 – Amended landscaping plan references

Condition 1 lists the approved plans. Relevant to this Section 4.55(1) application are the following plans:

Drawing Number/Name	Prepared By	Date
Landscape Plans L/01 Issue A L/02 Issue B L/03	ATC	15 November 2013

It is proposed to replace those plans with the following plans:

Drawing Number/Name	Prepared By	Date
Landscape Plans L/01 Issue C L/02 Issue C	ATC	17 November 2017

The landscape plans referred to in the consent are inconsistent with the development plans approved via application 2013/56/3.

The above landscape plans were updated to reflect the changes incorporated into the development via Section 96(2) application 2013/56/3, however were not incorporated into the previous approval.

This application seeks to rectify that oversight.

The landscape plans are attached at **Appendix A** to this statement.

Condition 1 also lists the documents upon which the assessment and consent relied. Relevant to this Section 4.55(1) application are the following documents:

Document	Author	Date
Statement of Environmental Effects	LJB Urban Planning Pty Ltd	27 March 2014
Traffic Report	Integral Services Group	August 2009
BASIX Certificate No. 474684M	Department of Planning	28 March 2013
Access Report	PSE Consulting	7 May 2013
Design Verification	Simmons Architects	21 March 2013

It is proposed to replace those document references with the following:

Document	Author	Date
Statement of Environmental Effects	LJB Urban Planning Pty Ltd	23 November 2017
Traffic and Parking Impact Assessment	Motion Traffic Engineers	November 2017
BASIX Certificate No. 474684M_02	Gradwell Consulting	23 November 2017
Access Compliance Report	PSE Consulting	22 November 2017
Design Verification	Bureau SRH Architecture	20 November 2017

Other documents referred to in the approved documents table to condition No.1 remain relevant and do not need to be amended.

The documents referred to in the consent are inconsistent with the development plans approved via application 2013/56/3.

The above documents reflect the changes incorporated into the development via Section 96(2) application 2013/56/3, however those documents were not incorporated into the previous approval.

This application seeks to rectify that oversight.

The documents are provided as part of this Section 4.55(1) Application.

4.2 Conditions 65 and 77 – BASIX

Condition 65 states:

65. *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 Councils "Development Control Plan – Stormwater Management Technical Guidelines, AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans. The plans shall incorporate"

.....

- d) *The provisions meet or exceed the BASIX Certificate No.474684M issued 28 March 2013.*

.....

It is proposed to amend the BASIX Certificate number so that paragraph (d) to condition 65 reads as follows:

- d) *The provisions meet or exceed the BASIX Certificate No. 474684M_02 issued 23 November 2017.*

Condition 77 states:

77. *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 dated 28 March 2014 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.*

It is proposed to amend the BASIX Certificate number so that the first paragraph of condition 77 reads as follows:

77. *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_02 dated 23 November 2017 for the development are fulfilled.*

Paragraphs a and b may remain as imposed.

The BASIX Certificate referred to in the consent is inconsistent with the development plans approved via application 2013/56/3.

The BASIX Certificate was updated to reflect the changes incorporated into the development via Section 96(2) application 2013/56/3, however was not incorporated into the previous approval.

This application seeks to rectify that oversight.

The BASIX Certificate is attached at **Appendix B** to this statement.

5. Consideration of Section 4.55

5.1 Section 4.55(1)

The proposed modifications can be considered under Section 4.55(1) of the Act which states:

4.55 Modification of consents—generally

(1) Modifications involving minor error, misdescription or miscalculation

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

.....

- (4)** *The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

5.2 The modification seeks to rectify a minor error or misdescription in the consent

The modification does not result in further changes to the development. The modification merely seeks to remedy references in the consent to redundant or incorrect landscape plans and BASIX Certificate. Those changes should have been incorporated into the previous amendments however were not.

In order to ensure the consent, as amended, remains correct and properly enforceable, it is necessary to make the amendments sought.

The modification does not result in any environmental impacts above those already considered in the assessment of the Development Application. The modified development is substantially the same as that for which consent was granted.

This application is precisely the purpose of Section 4.55(1) and consideration of this application under Section 4.55(1) is a proper exercise of that provision of the Act.

5.3 The modification does not require consideration of Section 4.15(1) of the Act

Section 4.55(3) requires consideration of Section 4.15(1) of the Act, however Section 4.55(1) specifically states that Section 4.55(3) does not apply to a modification under Section 4.55(1).

Notwithstanding, it is suffice to note that this application does not result in any inconsistency with Section 4.15(1).

6. Summary and Conclusion

DA-2013/56 was approved on 11 June, 2014 for the demolition of the existing structures at 13A Church Avenue, Mascot and the construction of a residential flat building with associated car parking, landscaping and associated works.

Subsequent amendments have been made to that consent, including the change of the development from 80 apartments to 103 apartments and a commensurate change in carparking from 138 spaces to 110 spaces.

In the process of those previous amendments being made, the necessary amendments to the landscaping plan was overlooked, as well as a revised BASIX Certificate.

This application is made to remedy that oversight and to have the consent reflect the correct landscape plan and BASIX Certificate.

The development itself remains the same as the development for which (the already amended) consent been granted.

The amendments to the conditions do not result in environmental impacts over those considered in the assessment of the development application as it was approved.

The amended conditions do not result in any non-compliance with the relevant planning instruments or Development Control Plans.

The amendments are recommended for approval.



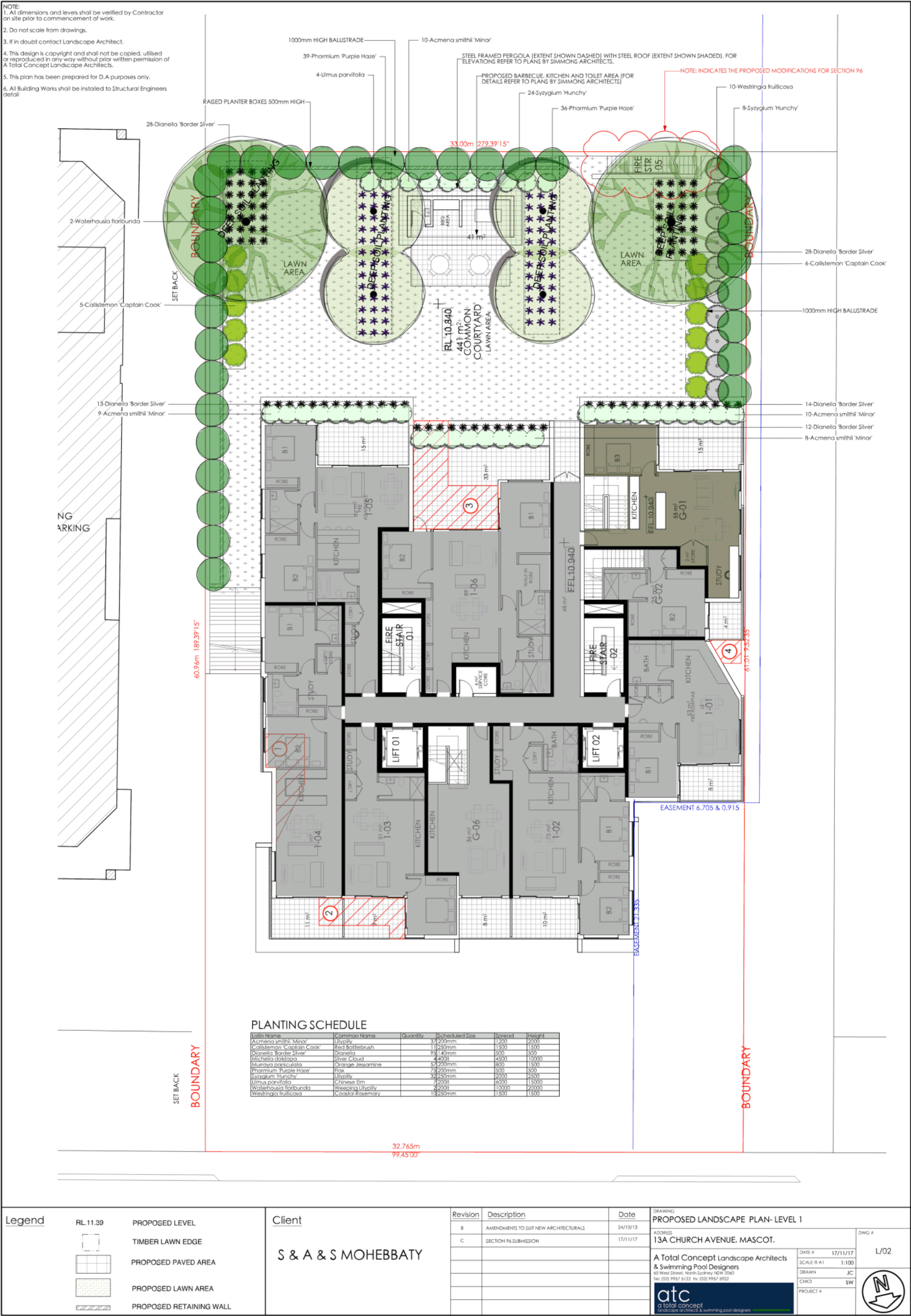
Glenn Apps
Town Planner



APPENDIX A

Amended landscaping plans





APPENDIX B

Revised BASIX Certificate

BASIX[®]Certificate

Building Sustainability Index www.basix.nsw.gov.au

Multi Dwelling

Certificate number: 474684M_02

This certificate confirms that the proposed development will meet the NSW government's requirements for sustainability, if it is built in accordance with the commitments set out below. Terms used in this certificate, or in the commitments, have the meaning given by the document entitled "BASIX Definitions" dated 06/10/2017 published by the Department. This document is available at www.basix.nsw.gov.au

This certificate is a revision of certificate number 474684M lodged with the consent authority or certifier on 28 March 2013 with application DA 2013/56.

It is the responsibility of the applicant to verify with the consent authority that the original, or any revised certificate, complies with the requirements of Schedule 1 Clause 2A, 4A or 6A of the Environmental Planning and Assessment Regulation 2000

Secretary

Date of issue: Thursday, 23 November 2017

To be valid, this certificate must be lodged within 3 months of the date of issue.



Project summary		
Project name	13a Church Ave Mascot SA1_02	
Street address	13A Church Avenue Mascot 2020	
Local Government Area	Botany Bay City Council	
Plan type and plan number	deposited 547700	
Lot no.	1	
Section no.	-	
No. of residential flat buildings	1	
No. of units in residential flat buildings	103	
No. of multi-dwelling houses	0	
No. of single dwelling houses	0	
Project score		
Water	✓ 40	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 25	Target 20

Certificate Prepared by	
Name / Company Name:	Gradwell Consulting
ABN (if applicable):	68 872 791 784

Description of project

Project address

Project name	13a Church Ave Mascot SA1_02
Street address	13A Church Avenue Mascot 2020
Local Government Area	Botany Bay City Council
Plan type and plan number	deposited 547700
Lot no.	1
Section no.	-

Project type

No. of residential flat buildings	1
No. of units in residential flat buildings	103
No. of multi-dwelling houses	0
No. of single dwelling houses	0

Site details

Site area (m²)	2005
Roof area (m²)	816
Non-residential floor area (m²)	0.0
Residential car spaces	110
Non-residential car spaces	0

Common area landscape

Common area lawn (m²)	310.0
Common area garden (m²)	480.0
Area of indigenous or low water use species (m²)	480.0

Assessor details

Assessor number	BDAV/12/1451
Certificate number	99999999
Climate zone	56

Project score

Water	✓ 40	Target 40
Thermal Comfort	✓ Pass	Target Pass
Energy	✓ 25	Target 20

Description of project

The tables below describe the dwellings and common areas within the project

Residential flat buildings - Building1, 103 dwellings, 13 storeys above ground

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
1.01	1	55.0	0.0	0.0	0.0
1.05	2	85.0	0.0	0.0	0.0
2.03	1	52.0	0.0	0.0	0.0
2.07	2	80.0	0.0	0.0	0.0
3.02	2	76.0	0.0	0.0	0.0
3.06	2	85.0	0.0	0.0	0.0
4.01	1	55.0	0.0	0.0	0.0
4.05	2	77.0	5.0	0.0	0.0
4.09	1	40.0	0.0	0.0	0.0
5.04	1	39.0	0.0	0.0	0.0
5.08	2	87.0	0.0	0.0	0.0
6.03	1	52.0	0.0	0.0	0.0
6.07	2	80.0	0.0	0.0	0.0
7.02	2	76.0	0.0	0.0	0.0
7.06	2	85.0	0.0	0.0	0.0
8.01	1	55.0	0.0	0.0	0.0
8.05	2	77.0	5.0	0.0	0.0
8.09	1	40.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
1.02	2	76.0	0.0	0.0	0.0
1.06	2	90.0	0.0	0.0	0.0
2.04	1	39.0	0.0	0.0	0.0
2.08	2	87.0	0.0	0.0	0.0
3.03	1	52.0	0.0	0.0	0.0
3.07	2	80.0	0.0	0.0	0.0
4.02	2	76.0	0.0	0.0	0.0
4.06	2	85.0	0.0	0.0	0.0
5.01	1	55.0	0.0	0.0	0.0
5.05	2	77.0	5.0	0.0	0.0
5.09	1	40.0	0.0	0.0	0.0
6.04	1	39.0	0.0	0.0	0.0
6.08	2	87.0	0.0	0.0	0.0
7.03	1	52.0	0.0	0.0	0.0
7.07	2	80.0	0.0	0.0	0.0
8.02	2	76.0	0.0	0.0	0.0
8.06	2	85.0	0.0	0.0	0.0
9.01	1	55.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
1.03	1	50.0	0.0	0.0	0.0
2.01	1	55.0	0.0	0.0	0.0
2.05	2	77.0	5.0	0.0	0.0
2.09	1	40.0	0.0	0.0	0.0
3.04	1	39.0	0.0	0.0	0.0
3.08	2	87.0	0.0	0.0	0.0
4.03	1	52.0	0.0	0.0	0.0
4.07	2	80.0	0.0	0.0	0.0
5.02	2	76.0	0.0	0.0	0.0
5.06	2	85.0	0.0	0.0	0.0
6.01	1	55.0	0.0	0.0	0.0
6.05	2	77.0	5.0	0.0	0.0
6.09	1	40.0	0.0	0.0	0.0
7.04	1	39.0	0.0	0.0	0.0
7.08	2	87.0	0.0	0.0	0.0
8.03	1	52.0	0.0	0.0	0.0
8.07	2	80.0	0.0	0.0	0.0
9.02	2	76.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
1.04	2	71.0	5.0	0.0	0.0
2.02	2	76.0	0.0	0.0	0.0
2.06	2	85.0	0.0	0.0	0.0
3.01	1	55.0	0.0	0.0	0.0
3.05	2	77.0	5.0	0.0	0.0
3.09	1	40.0	0.0	0.0	0.0
4.04	1	39.0	0.0	0.0	0.0
4.08	2	87.0	0.0	0.0	0.0
5.03	1	52.0	0.0	0.0	0.0
5.07	2	80.0	0.0	0.0	0.0
6.02	2	76.0	0.0	0.0	0.0
6.06	2	85.0	0.0	0.0	0.0
7.01	1	55.0	0.0	0.0	0.0
7.05	2	77.0	5.0	0.0	0.0
7.09	1	40.0	0.0	0.0	0.0
8.04	1	39.0	0.0	0.0	0.0
8.08	2	87.0	0.0	0.0	0.0
9.03	1	52.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
9.04	1	39.0	0.0	0.0	0.0
9.08	2	87.0	0.0	0.0	0.0
G.03	1	43.0	0.0	0.0	0.0
10.01	1	55.0	0.0	0.0	0.0
10.05	2	77.0	5.0	0.0	0.0
10.09	1	40.0	0.0	0.0	0.0
11.04	1	39.0	0.0	0.0	0.0
11.08	2	87.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
9.05	2	77.0	5.0	0.0	0.0
9.09	1	40.0	0.0	0.0	0.0
G.04	1	41.0	0.0	3.0	3.0
10.02	2	76.0	0.0	0.0	0.0
10.06	2	85.0	0.0	0.0	0.0
11.01	1	55.0	0.0	0.0	0.0
11.05	2	77.0	5.0	0.0	0.0
11.09	1	40.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
9.06	2	85.0	0.0	0.0	0.0
G.01	3	112.0	0.0	11.0	11.0
G.05	3	95.0	5.0	6.0	6.0
10.03	1	52.0	0.0	0.0	0.0
10.07	2	80.0	0.0	0.0	0.0
11.02	2	76.0	0.0	0.0	0.0
11.06	2	85.0	0.0	0.0	0.0
12.01	3	116.0	0.0	0.0	0.0

Dwelling no.	No. of bedrooms	Conditioned floor area (m ²)	Unconditioned floor area (m ²)	Area of garden & lawn (m ²)	Indigenous species (min area m ²)
9.07	2	80.0	0.0	0.0	0.0
G.02	2	100.0	0.0	0.0	0.0
G.06	2	107.0	0.0	0.0	0.0
10.04	1	39.0	0.0	0.0	0.0
10.08	2	87.0	0.0	0.0	0.0
11.03	1	52.0	0.0	0.0	0.0
11.07	2	80.0	0.0	0.0	0.0

Description of project

The tables below describe the dwellings and common areas within the project

Common areas of unit building - Building1

Common area	Floor area (m²)	Common area	Floor area (m²)	Common area	Floor area (m²)
Basement 1	1272.0	GF Carpark	588.0	Basement 2	1367.0
Lift car (No. 1)	-	Lift car (No. 2)	-	Garbage room	53.0
Bulky Waste	5.0	Common room	86.0	Substation	21.0
GF Plant Room	9.0	GF Service Core	5.0	Level 1 WC	2.0
Level 1 Service Core	4.0	Level 2 Service Core	4.0	Level 3 Service Core	4.0
Level 4 Service Core	4.0	Level 5 Service Core	4.0	Level 6 Service Core	4.0
Level 7 Service Core	4.0	Level 8 Service Core	4.0	Level 9 Service Core	4.0
Level 10 Service Core	4.0	Level 11 Service Core	4.0	Level 12 Plant Rooms	115.0
Level 12 Service Core	4.0	Ground floor lobby	47.0	Level 1 lobby	46.0
Level 12 lobby	23.0	Level 2 lobby	38.0	Level 3 lobby	38.0
Level 4 lobby	38.0	Level 5 lobby	38.0	Level 6 lobby	38.0
Level 7 lobby	38.0	Level 8 lobby	38.0	Level 9 lobby	38.0
Level 10 lobby	38.0	Level 11 lobby	38.0		

Schedule of BASIX commitments

1. Commitments for Residential flat buildings - Building1

(a) Dwellings

- (i) Water
- (ii) Energy
- (iii) Thermal Comfort

(b) Common areas and central systems/facilities

- (i) Water
- (ii) Energy

2. Commitments for multi-dwelling houses

3. Commitments for single dwelling houses

4. Commitments for common areas and central systems/facilities for the development (non-building specific)

- (i) Water
- (ii) Energy

Schedule of BASIX commitments

The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, that BASIX commitments be complied with.

1. Commitments for Residential flat buildings - Building1

(a) Dwellings

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must plant indigenous or low water use species of vegetation throughout the area of land specified for the dwelling in the "Indigenous species" column of the table below, as private landscaping for that dwelling. (This area of indigenous vegetation is to be contained within the "Area of garden and lawn" for the dwelling specified in the "Description of Project" table).	✓	✓	
(c) If a rating is specified in the table below for a fixture or appliance to be installed in the dwelling, the applicant must ensure that each such fixture and appliance meets the rating specified for it.		✓	✓
(d) The applicant must install an on demand hot water recirculation system which regulates all hot water use throughout the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below.		✓	✓
(e) The applicant must install:			
(aa) a hot water diversion system to all showers, kitchen sinks and all basins in the dwelling, where indicated for a dwelling in the "HW recirculation or diversion" column of the table below; and		✓	✓
(bb) a separate diversion tank (or tanks) connected to the hot water diversion systems of at least 100 litres. The applicant must connect the hot water diversion tank to all toilets in the dwelling.		✓	✓
(e) The applicant must not install a private swimming pool or spa for the dwelling, with a volume exceeding that specified for it in the table below.	✓	✓	
(f) If specified in the table, that pool or spa (or both) must have a pool cover or shading (or both).		✓	
(g) The pool or spa must be located as specified in the table.	✓	✓	
(h) The applicant must install, for the dwelling, each alternative water supply system, with the specified size, listed for that dwelling in the table below. Each system must be configured to collect run-off from the areas specified (excluding any area which supplies any other alternative water supply system), and to divert overflow as specified. Each system must be connected as specified.	✓	✓	✓

Dwelling no.	Fixtures					Appliances		Individual pool				Individual spa		
	All shower-heads	All toilet flushing systems	All kitchen taps	All bathroom taps	HW recirculation or diversion	All clothes washers	All dish-washers	Volume (max volume)	Pool cover	Pool location	Pool shaded	Volume (max volume)	Spa cover	Spa shaded
All dwellings	3 star (> 4.5 but <= 6 L/min)	4 star	5 star	5 star	no	-	-	-	-	-	-	-	-	-

Alternative water source									
Dwelling no.	Alternative water supply systems	Size	Configuration	Landscape connection	Toilet connection (s)	Laundry connection	Pool top-up	Spa top-up	
None	-	-	-	-	-	-	-	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must comply with the commitments listed below in carrying out the development of a dwelling listed in a table below.			
(b) The applicant must install each hot water system specified for the dwelling in the table below, so that the dwelling's hot water is supplied by that system. If the table specifies a central hot water system for the dwelling, then the applicant must connect that central system to the dwelling, so that the dwelling's hot water is supplied by that central system.	✓	✓	✓
(c) The applicant must install, in each bathroom, kitchen and laundry of the dwelling, the ventilation system specified for that room in the table below. Each such ventilation system must have the operation control specified for it in the table.		✓	✓
(d) The applicant must install the cooling and heating system/s specified for the dwelling under the "Living areas" and "Bedroom areas" headings of the "Cooling" and "Heating" columns in the table below, in/for at least 1 living/bedroom area of the dwelling. If no cooling or heating system is specified in the table for "Living areas" or "Bedroom areas", then no systems may be installed in any such areas. If the term "zoned" is specified beside an air conditioning system, then the system must provide for day/night zoning between living areas and bedrooms.		✓	✓
(e) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Artificial lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that the "primary type of artificial lighting" for each such room in the dwelling is fluorescent lighting or light emitting diode (LED) lighting. If the term "dedicated" is specified for a particular room or area, then the light fittings in that room or area must only be capable of being used for fluorescent lighting or light emitting diode (LED) lighting.		✓	✓

(ii) Energy		Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(f) This commitment applies to each room or area of the dwelling which is referred to in a heading to the "Natural lighting" column of the table below (but only to the extent specified for that room or area). The applicant must ensure that each such room or area is fitted with a window and/or skylight.		✓	✓	✓
(g) This commitment applies if the applicant installs a water heating system for the dwelling's pool or spa. The applicant must:				
(aa) install the system specified for the pool in the "Individual Pool" column of the table below (or alternatively must not install any system for the pool). If specified, the applicant must install a timer, to control the pool's pump; and			✓	
(bb) install the system specified for the spa in the "Individual Spa" column of the table below (or alternatively must not install any system for the spa). If specified, the applicant must install a timer to control the spa's pump.			✓	
(h) The applicant must install in the dwelling:				
(aa) the kitchen cook-top and oven specified for that dwelling in the "Appliances & other efficiency measures" column of the table below;			✓	
(bb) each appliance for which a rating is specified for that dwelling in the "Appliances & other efficiency measures" column of the table, and ensure that the appliance has that minimum rating; and			✓	✓
(cc) any clothes drying line specified for the dwelling in the "Appliances & other efficiency measures" column of the table.			✓	
(i) If specified in the table, the applicant must carry out the development so that each refrigerator space in the dwelling is "well ventilated".			✓	

	Hot water	Bathroom ventilation system		Kitchen ventilation system		Laundry ventilation system	
Dwelling no.	Hot water system	Each bathroom	Operation control	Each kitchen	Operation control	Each laundry	Operation control
All dwellings	gas instantaneous 5.5 star	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off

Dwelling no.	Cooling		Heating		Artificial lighting						Natural lighting	
	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/ toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
G.01, G.05, 12.01	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	3	1	yes	yes	yes	yes	0	no
2.08, 3.08, 4.08, 5.08, 6.08, 7.08, 8.08, 9.08, 10.08, 11.08	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	2	1	yes	yes	yes	yes	0	yes
2.09, 3.09, 4.09, 5.09, 6.09, 7.09, 8.09, 9.09, 10.09, 11.09	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1	1	yes	yes	yes	yes	0	yes

Dwelling no.	Cooling		Heating		Artificial lighting						Natural lighting	
	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
1.04, 1.05, 2.05, 2.06, 3.05, 3.06, 4.05, 4.06, 5.05, 5.06, 6.05, 6.06, 7.05, 7.06, 8.05, 8.06, 9.05, 9.06, 10.05, 10.06, 11.05, 11.06	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	2	1	yes	yes	yes	yes	1	no

Dwelling no.	Cooling		Heating		Artificial lighting						Natural lighting	
	living areas	bedroom areas	living areas	bedroom areas	No. of bedrooms &/or study	No. of living &/or dining rooms	Each kitchen	All bathrooms/toilets	Each laundry	All hallways	No. of bathrooms &/or toilets	Main kitchen
1.02, 1.06, 2.02, 2.07, 3.02, 3.07, 4.02, 4.07, 5.02, 5.07, 6.02, 6.07, 7.02, 7.07, 8.02, 8.07, 9.02, 9.07, G.02, G.06, 10.02, 10.07, 11.02, 11.07	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	2	1	yes	yes	yes	yes	0	no
All other dwellings	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1-phase airconditioning 2 Star (new rating)	1	1	yes	yes	yes	yes	0	no

Dwelling no.	Individual pool		Individual spa		Appliances & other efficiency measures							
	Pool heating system	Timer	Spa heating system	Timer	Kitchen cooktop/oven	Refrigerator	Well ventilated fridge space	Dishwasher	Clothes washer	Clothes dryer	Indoor or sheltered clothes drying line	Private outdoor or unsheltered clothes drying line
All dwellings	-	-	-	-	gas cooktop & electric oven	-	no	-	-	-	no	no

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) The applicant must attach the certificate referred to under "Assessor details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for a final occupation certificate for the proposed development.			
(b) The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
(c) The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX Certificate, including the details shown in the "Thermal Loads" table below.			
(d) The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Thermal Comfort Protocol requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor, to certify that this is the case.			
(e) The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.			
(f) The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.		✓	✓
(g) Where there is an in-slab heating or cooling system, the applicant must: (aa) Install insulation with an R-value of not less than 1.0 around the vertical edges of the perimeter of the slab; or (bb) On a suspended floor, install insulation with an R-value of not less than 1.0 underneath the slab and around the vertical edges of the perimeter of the slab.	✓	✓	✓
(h) The applicant must construct the floors and walls of the development in accordance with the specifications listed in the table below.	✓	✓	✓

Dwelling no.	Thermal loads	
	Area adjusted heating load (in mJ/m ² /yr)	Area adjusted cooling load (in mJ/m ² /yr)
1.01	23.0	12.0
1.02	16.0	12.0
1.03	28.0	12.0
1.04	15.0	11.0
1.05	55.0	12.0
1.06	55.0	10.0
2.01	19.0	12.0
2.04	14.0	15.0
2.05	14.0	11.0
2.06	29.0	12.0
2.07	34.0	11.0
2.08	30.0	16.0
G.01	44.0	12.0
G.02	56.0	9.0
G.03	58.0	15.0
G.04	37.0	18.0
G.05	46.0	12.0
G.06	46.0	7.0
11.01	46.0	15.0
11.02	26.0	18.0
11.03	26.0	8.0
11.05	31.0	9.0
11.06	38.0	8.0
11.07	45.0	8.0
11.08	48.0	12.0
11.09	37.0	11.0
2.02, 2.09	14.0	13.0

Dwelling no.	Thermal loads	
	Area adjusted heating load (in mJ/m ² /yr)	Area adjusted cooling load (in mJ/m ² /yr)
7.01, 8.01	27.0	9.0
7.02, 8.02	23.0	17.0
7.04, 8.04	22.0	10.0
7.05, 8.05	21.0	8.0
7.09, 8.09	22.0	11.0
9.01, 10.01	37.0	15.0
9.02, 10.02	24.0	17.0
9.03, 10.03	25.0	8.0
9.04, 10.04	23.0	10.0
9.09, 10.09	23.0	11.0
11.04, 12.01	28.0	10.0
3.01, 4.01, 5.01, 6.01	25.0	9.0
3.05, 4.05, 5.05, 6.05	20.0	8.0
3.06, 4.06, 5.06, 6.06	35.0	7.0
3.07, 4.07, 5.07, 6.07	41.0	8.0
3.08, 4.08, 5.08, 6.08	32.0	11.0
7.06, 8.06, 9.06, 10.06	37.0	8.0
7.07, 8.07, 9.07, 10.07	42.0	8.0
7.08, 8.08, 9.08, 10.08	33.0	11.0
2.03, 3.02, 4.02, 5.02, 6.02	19.0	8.0
3.04, 3.09, 4.04, 4.09, 5.04, 5.09, 6.04, 6.09	21.0	10.0
All other dwellings	22.0	8.0

(b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

Central systems	Size	Configuration	Connection (to allow for...)
Central water tank - rainwater or stormwater (No. 1)	5000.0	To collect run-off from at least: - 816.0 square metres of roof area of buildings in the development - 0.0 square metres of impervious area in the development - 0.0 square metres of garden/lawn area in the development - 0.0 square metres of planter box area in the development (excluding, in each case, any area which drains to, or supplies, any other alternative water supply system).	- irrigation of 480.0 square metres of common landscaped area on the site - car washing in 0 car washing bays on the site
Fire sprinkler system (No. 1)	-	So that fire sprinkler test water is contained within the fire sprinkler system for re-use, rather than disposed.	-
Fire sprinkler system (No. 2)	-	-	-

Central systems	Size	Configuration	Connection (to allow for...)
Fire sprinkler system (No. 3)	-	-	-

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Basement 1	ventilation exhaust only	carbon monoxide monitor + VSD fan	fluorescent	time clock and motion sensors	No
GF Carpark	ventilation exhaust only	carbon monoxide monitor + VSD fan	fluorescent	time clock and motion sensors	No
Basement 2	ventilation exhaust only	carbon monoxide monitor + VSD fan	fluorescent	time clock and motion sensors	No
Lift car (No. 1)	-	-	compact fluorescent	connected to lift call button	No
Lift car (No. 2)	-	-	compact fluorescent	connected to lift call button	No
Garbage room	ventilation exhaust only	-	fluorescent	manual on / manual off	No
Bulky Waste	ventilation exhaust only	-	fluorescent	manual on / manual off	No
Common room	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	motion sensors	No
Substation	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
GF Plant Room	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
GF Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 1 WC	ventilation exhaust only	interlocked to light	compact fluorescent	manual on / manual off	No
Level 1 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 2 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 3 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 4 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 5 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 6 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 7 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 8 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 9 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 10 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 11 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 12 Plant Rooms	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Level 12 Service Core	ventilation exhaust only	interlocked to light	fluorescent	manual on / manual off	No
Ground floor lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 1 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 12 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 2 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 3 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 4 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 5 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No

Common area	Common area ventilation system		Common area lighting		
	Ventilation system type	Ventilation efficiency measure	Primary type of artificial lighting	Lighting efficiency measure	Lighting control system/BMS
Level 6 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 7 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 8 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 9 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 10 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No
Level 11 lobby	ventilation (supply + exhaust)	time clock or BMS controlled	compact fluorescent	time clock and motion sensors	No

Central energy systems	Type	Specification
Lift (No. 1)	gearless traction with V V V F motor	Number of levels (including basement): 15
Lift (No. 2)	gearless traction with V V V F motor	Number of levels (including basement): 15

4. Commitments for common areas and central systems/facilities for the development (non-building specific)

(b) Common areas and central systems/facilities

(i) Water	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a showerhead, toilet, tap or clothes washer into a common area, then that item must meet the specifications listed for it in the table.		✓	✓
(b) The applicant must install (or ensure that the development is serviced by) the alternative water supply system(s) specified in the "Central systems" column of the table below. In each case, the system must be sized, be configured, and be connected, as specified in the table.	✓	✓	✓
(c) A swimming pool or spa listed in the table must not have a volume (in kLs) greater than that specified for the pool or spa in the table.	✓	✓	
(d) A pool or spa listed in the table must have a cover or shading if specified for the pool or spa in the table.		✓	
(e) The applicant must install each fire sprinkler system listed in the table so that the system is configured as specified in the table.		✓	✓
(f) The applicant must ensure that the central cooling system for a cooling tower is configured as specified in the table.		✓	✓

Common area	Showerheads rating	Toilets rating	Taps rating	Clothes washers rating
All common areas	no common facility	no common facility	no common facility	no common laundry facility

(ii) Energy	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(a) If, in carrying out the development, the applicant installs a ventilation system to service a common area specified in the table below, then that ventilation system must be of the type specified for that common area, and must meet the efficiency measure specified.		✓	✓
(b) In carrying out the development, the applicant must install, as the "primary type of artificial lighting" for each common area specified in the table below, the lighting specified for that common area. This lighting must meet the efficiency measure specified. The applicant must also install a centralised lighting control system or Building Management System (BMS) for the common area, where specified.		✓	✓
(c) The applicant must install the systems and fixtures specified in the "Central energy systems" column of the table below. In each case, the system or fixture must be of the type, and meet the specifications, listed for it in the table.	✓	✓	✓

Notes

1. In these commitments, "applicant" means the person carrying out the development.
2. The applicant must identify each dwelling, building and common area listed in this certificate, on the plans accompanying any development application, and on the plans and specifications accompanying the application for a construction certificate / complying development certificate, for the proposed development, using the same identifying letter or reference as is given to that dwelling, building or common area in this certificate.
3. This note applies if the proposed development involves the erection of a building for both residential and non-residential purposes (or the change of use of a building for both residential and non-residential purposes). Commitments in this certificate which are specified to apply to a "common area" of a building or the development, apply only to that part of the building or development to be used for residential purposes.
4. If this certificate lists a central system as a commitment for a dwelling or building, and that system will also service any other dwelling or building within the development, then that system need only be installed once (even if it is separately listed as a commitment for that other dwelling or building).
5. If a star or other rating is specified in a commitment, this is a minimum rating.
6. All alternative water systems to be installed under these commitments (if any), must be installed in accordance with the requirements of all applicable regulatory authorities. NOTE: NSW Health does not recommend that stormwater, recycled water or private dam water be used to irrigate edible plants which are consumed raw, or that rainwater be used for human consumption in areas with potable water supply.

Legend

1. Commitments identified with a "✔" in the "Show on DA plans" column must be shown on the plans accompanying the development application for the proposed development (if a development application is to be lodged for the proposed development).
2. Commitments identified with a "✔" in the "Show on CC/CDC plans and specs" column must be shown in the plans and specifications accompanying the application for a construction certificate / complying development certificate for the proposed development.
3. Commitments identified with a "✔" in the "Certifier check" column must be certified by a certifying authority as having been fulfilled. (Note: a certifying authority must not issue an occupation certificate (either interim or final) for a building listed in this certificate, or for any part of such a building, unless it is satisfied that each of the commitments whose fulfilment it is required to monitor in relation to the building or part, has been fulfilled).



Our Ref: *Andrew Ison/hh: DA-2013/56/03

A & S & S Mohebbaty
PO Box 294
EDGECLIFF NSW 2027

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979
SECTION 96(2)
MODIFICATION OF DEVELOPMENT CONSENT NO 13/56/03

**13A Church Street, Mascot
Lot 1 in DP 547700**

Please be advised that your Application 13/56/03 submitted under the provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/56 has been considered by the Bayside Planning Panel.

The Application has been determined as follows:-

- i) Amend Condition 1 to refer to the amended plans and reference documents;
- ii) Amend Conditions 2 and 3 to refer to the updated Section 94 contributions;
- iii) Amend Condition 141 to refer to the subject modification application;
- iv) Delete Condition 142 requiring roof mounted solar panels.

Notes:

The Conditions are imposed, taking into account the matters for consideration in determining a Development Application under Section 79C of the Environmental Planning and Assessment Act, 1979, to protect the amenity of the neighbourhood and so that the development will not be contrary to public interest.

Eastgardens Customer Service Centre
Westfield Eastgardens
152 Bunnerong Road
Eastgardens NSW 2036, Australia
ABN 80 690 785 443 Branch 004

Rockdale Customer Service Centre
444-446 Princes Highway
Rockdale NSW 2216, Australia
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T (02) 9562 1666 F 9562 1777
E council@bayside.nsw.gov.au
W www.bayside.nsw.gov.au

Postal address: PO Box 21, Rockdale NSW 2216



Telephone Interpreter Services - 131 450

Τηλεφωνικές Υπηρεσίες Διερμηνέων

بخدمه الترجمة الهاتفية

電話傳譯服務處

Служба за переводување по телефон

RIGHT OF APPEAL:

Section 97AA of the Act confers on an applicant who is dissatisfied with the determination of a Consent Authority in respect of an Application under Section 96(2) of the Act, a right of appeal to the Land and Environment Court within six (6) months after the date on which you receive this Notice.

Date of Determination: 8 May 2018

Yours faithfully

A handwritten signature in black ink, appearing to read 'Chris Mackey', with a long horizontal flourish extending to the right.

CHRISTOPHER MACKEY
COORDINATOR, DEVELOPMENT ASSESSMENT

Premises: 13A Church Street, Mascot

DA No: 2013/56/03

SCHEDULE OF CONSENT CONDITIONS**GENERAL CONDITIONS**

1. 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).

Drawing N°	Author	Date Received
<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>		
<i>11170-01 Issue A</i>	<i>Simmons Architects</i>	<i>13 May 2014</i>
<i>11170-02 Issue I</i>		
<i>11170-03 Issue O</i>		
<i>11170-04 Issue F</i>		
<i>11170-05 Issue D</i>		
<i>11170-06 Issue D</i>		

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11170-07 Issue A		
11170-08 Issue E		
Landscape Plans L/01 Issue A L/02 Issue B L/03	ATC	15 November 2013
Survey Plan Ref No. 582AA 01	Mitchell Land Surveyors Pty Ltd	28 March 2013
Stormwater Plans C01_B C02_B C03_B C04_A	Alan L Wright & 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
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
Traffic Report	Integral Services group	August 2009 received by Council 20 May 2013
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. 474684M	Department of Planning	28 March 2013 received by Council 28 March 2013
Access Report	PSE Consulting	7 May 2013 received by Council 20 May 2013
Design Verification	Simmons Architects	21 March received by Council 28 March 2013
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)**

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

a) Landscape Bond	\$10,000.00
b) Landscape Bond Preparation Fee	\$550.00
c) Waste Levy	\$5,000.00
d) Section 94 Contribution	\$1,600,000.00 \$1,821,458.36
e) Damage Deposit	\$50,000.00
f) Development Control	\$11,200.00
(DA-13/56/03)	

3. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2005-2010 to be paid prior to the issue of Construction Certificate:

- a) Section 94 Contribution 2005 – 2010

- i) Residential component **~~\$1,600,000~~ \$1,821,458.36**

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. (DA13/56/03)

4. This Consent relates to land in Lot 1 in DP 547700 (subject to right of way) and, as such, building works (other than public domain work) must not encroach on to adjoining lands or the adjoining public place.
5. Prior to the release of the Construction Certificate the required Long Service Leave Levy payable under Section 34 of the Building and Construction Industry Long Service Payment 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.

6.
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia; and
 - b) All air-conditioning units shall be appropriately treated to ensure that they are concealed from view; and
 - c) It is a condition of this consent that BCS Performance Provision FP1.5 applies to the Class 7 part of the building.
7. 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.
8.
 - a) A detailed Site Contamination Investigation shall be carried out by an appropriately qualified contamination consultant in accordance with the requirements of the relevant NSW EPA Guidelines approved under the Contaminated Land Management Act 1997 including the EPA Guidelines for the site for the proposed development and shall be submitted to Council prior to the commencement of any excavation of the site soils. If investigations find that remediation is required, a Remedial Action Plan (RAP) must be submitted to Council prior to Council making a determination. Council reserves the right to require a site audit of the RAP.
 - b) The detailed Site Contamination Investigation must address whether a Risk Assessment is required to manage the potential contaminated groundwater identified in the Soil Contamination Audit Investigation report dated 30 October 2009 prepared by Pacific Environmental and the Addendum to Soil Contamination Audit Investigation prepared by Pacific Environment dated 13 May 2010. If deemed appropriate a Risk Assessment must be prepared prior to the issue of an Occupation Certificate. Depending on the findings of the detailed site assessment an RAP may be required.
 - c) The RAP will be required to cover the eventuality that the site groundwater, if encountered, be monitored for hydrocarbon contamination.
 - d) The RAP will also require that all site contaminated groundwater be removed during excavation and construction activities and be transported to a NSW APE licensed waste facility or be discharged to sewer via a trade waste agreement with Sydney Water or meets ANECC 2000 Water Quality Guidelines for Fresh

and Marine Water for the 95% protection trigger values for Marine Water to discharge to Council's stormwater system.

- e) A site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 is requested by Council prior to the issue of the Occupation Certificate.
- 9. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about the contamination and remediation must be notified to Council and the accredited certifier immediately.
- 10. 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 construction works.
- 11. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 12. 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;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operations (Waste) Regulation 2005.
- 13. It is a condition of approval that the Applicant must, at no cost or expense to Council:
 - a) Dedicate the portion of land for the Church Avenue road widening, the dimensions of which will extend for the full width of the site and to a depth, which is determined by measuring from the centreline of Church Avenue, a horizontal distance of 12 metres and as detailed in the Botany Bay Development Control Plan 2013 and determined;
 - b) Upgrade the public domain and installation of new footpath area with new paving installed by the applicant and at the applicant's expense. All improvements shall be in accordance with the approved landscape plan and Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupational Certificate; and
 - c) The existing above ground electricity and telecommunications cables within the road reserve and within the site shall be replaced at the applicant's expense, by underground cable and appropriate street light standards in accordance with the energy provider's guidelines. The applicant shall bear the cost of the new installation. These works and payment shall be completed prior to the issue of the Occupation Certificate;

- d) Shall ensure that all drainage from the property shall be led to the existing pit(s) in Church Avenue and shall include all associated construction within the roadway area; and
 - e) Land dedication, road construction, kerb and gutter, drainage, street trees and associated works including the footpath construction to be completed prior to the issue of the Occupation Certificate for the development under this consent being DA 13/056.
14. Submit a further Development Application for the construction of the road widening sections of, and public domain works in, Church Avenue (including the undergrounding of existing above ground electricity and telecommunication cables in Church Avenue, adjoining the site together with the provision of appropriate street light standards, drainage (if any) kerb and gutter, footway, bicycle paths, landscaping, traffic signs). Details shall be submitted by the applicant to Council's satisfaction.
15. The application required in (14) is to be accompanied by a detailed streetscape/public domain landscape plan for Church Avenue Road verges. A suitably qualified landscape architect shall prepare the public domain plan with relevant qualifications in landscape architecture.
16. All costs for the construction, submission of a Development Application and documentation, deed preparation and execution and design shall be borne by the applicant.

CONDITIONS THAT HAVE TO BE SATISFIED PRIOR TO DEMOLITION

17. Prior to the issue of Demolition, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's Infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the 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.
18. A dilapidation Report of the immediate adjoining properties including photographic survey prepared by a Practising Structural or Geotechnical Engineer, must be prepared and submitted as follows:
- a) a copy of the dilapidation report together with the accompanying photographs shall be given to the above owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the commencement of excavation and any dewatering and demolition works. The report should be agreed to by the adjacent building owners as a fair record of existing conditions prior to commencement of works;

- b) a second Dilapidation Report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifying Authority and the Council prior to the issue of an Occupation Certificate;
- c) any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner;
- d) it is a condition of consent that should demolition and/or construction works cause rise to public safety and/or workplace safety, work must halt until absolute safety is restored.

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

- 19. During demolition works, the applicant/builder is required to ensure the protection and preservation of all building fencing between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 20. Prior to the commencement of works, the Applicant shall contact "Dial Before you Dig on 1100" to obtain a Service Diagram for and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council for our records.
- 21. The Applicant shall conduct all demolition/construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made to Council's Customer Service Department.
- 22. The use of any part of Council's road reserve or other Council lands must have prior approval of Council. For example, should the development require a building waste container(s) (building skip), then such container shall not be placed or left on a public road or road related area (e.g. footpath, nature strip, shoulder, road reserve, public car parks, service stations etc.) without prior approval of Council's Engineering and Regulatory Services Department.
- 23. The operations of the demolition shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
- 24. The approved Waste Management Plan for the site dated 28/03/13 shall be complied with at all times during demolition works.

25. 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.

26.

a) Demolition 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 operation must not exceed the background level by more than 20dB(A).

b) Demolition period greater than 4 weeks and not exceeding 26 weeks

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

c) Time Restrictions for Demolition Works:

Monday to Friday	07:00am to 5:00pm
Saturday	07:00am to 01:00pm
No demolition/construction to take place on Sundays or Public Holidays.	

d) Silencing:

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

27. The demolition and use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property.

a) 'offensive noise' as defined in the Protection of the Environmental Operations Act 1997;

b) transmission of vibration to any place of different occupancy above the requirements of AS2670;

c) a sound pressure LA_{eq} period at any noise sensitive position of any other premises or occupancy greater than the recommended amenity noise criteria detailed in the Department of Environment and Conservation, New South Wales Industrial Noise Policy;

d) a sound pressure LA_{eq} , 15 min at any noise sensitive position greater than the intrusiveness criteria determined in accordance with the Department of Environment and Conservation, New South Wales (EPA) Industrial Noise Policy and does not contain any tones, low frequency or impulsive factors as defined in the Department of Environment and Conservation, New South Wales (EPA) Industrial Noise Policy table 4.1;

- e) the following additional criteria:
- i) the operation of all plant and equipment shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA_{90} level (in the absence of the noise under construction);
 - ii) the operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LA_{eq} 50dB(A) night time;
 - iii) the operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LA_{eq} 65dB(A) day time/night time;
 - iv) for assessment purposes, the above LA_{eq} sound levels shall be a
28. There shall be no loss of support to the Council's nature strip area as a result of the demolition within the site. Details prepared by the Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to commencement of works.
29. If the work involved in the demolition of a building:
- a) are likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - b) involves the enclosure of a public place:
 - i) a hoarding or fence must be erected between the work site and the public place;
 - ii) if necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place;
 - iii) any such hoarding, fence or awning is to be removed when the work has been completed.
30. Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
- 31.
- a) Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - i) demolition 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:-
 - a) to a public sewer; or

- b) if connected to a public sewer or an accredited sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this clause must be completed before any work is commenced.
- 32. 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;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an afterhours contact telephone number; and
 - e) any sign is to be removed when the work has been completed.
- 33. All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and
 - a) all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property; and
 - b) if the 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 must be provided and: -
 - ii) adequate provision must be made for drainage.
- 34. The following shall be complied with:
 - a) Soil and Water Management Plan shall be prepared in accordance with the requirements of Southern Sydney Regional Organisation of Councils (SSROC)'s booklet '*Do It Right On-Site'- Soil and Water Management for the Construction Industry*. A copy of the Soil & Water Management Plan/Waste Management Plan shall be kept on-site at all times and made available to Council Officers on request;
 - b) the Waste Management Plan shall require that all demolished materials from the site being recycled and reused wherever possible rather than being placed in landfill.
- 35. A Lead Management Work Plan shall be prepared in accordance with *AS2601-2001 Demolition of structures* by a person with suitable expertise and experience and submitted to the Principal Certifying Authority for approval prior to the commencement of works. The Lead Management Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust

- nuisance and the disposal methods for hazardous materials. The Lead Management Work Plan shall be prepared in accordance with:
- a) AS 4361:1998 Guide to lead paint management;
 - b) Australian Standards AS 2601:2001 "*Demolition of Structures*";
 - c) Lead Safe a renovator's guide to the dangers of lead, NSW EPA, 1998 (booklet).
36. In relation to the demolition of the existing building (or part of a building) on the site:
- a) The demolisher shall:-
 - i) lodge with Council, and at least forty-eight (48) hours prior to the commencement of work (due to the potential impact on Council's infrastructure):-
 - ii) written notice, indicating the date when demolition of the building is to commence:
 - 1 the person's full name and address;
 - 2 details of Public Liability Insurance;
 - 3 compliance with Australian Standard 2601-2001 "*Demolition of Structures*";
 - 4 have a current public liability/risk insurance to cover claims up to \$10 million, and policy of such shall be submitted to Council for its records;
 - 5 this Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
37. 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.
38. The following shall be complied with:
- a) 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;
 - b) vibration levels induced by the demolition activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building;
 - c) the upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
39. No demolition materials shall be burnt or buried on the site.

40. During demolition the nature strip in front of the premises and for the full width of the site, shall be maintained at all times and kept clean and tidy.
41. All vehicles associated with the demolition works are to be parked wholly within the subject site and not upon Church Avenue or other public roads contiguous with the site.
42. All unloading and loading of vehicles associated with the demolition works is to occur wholly within the subject site and not to Church Avenue or any other public places or street.
43. The demolisher shall:-
 - a) cause motor vehicles leaving the site with demolition material and the like to have their loads covered; and
 - b) ensure that the wheels of vehicles leaving the site do not track soil and other waste material on to the public roads adjoining the site.
44. Any proposed demolition works shall be carried out in accordance with the requirements of AS2601-2001. *"Demolition of Structures"*. Amongst others, precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
 - a) protection of site workers and the general public;
 - b) erection of hoardings where appropriate;
 - c) asbestos handling and disposal where applicable;
 - d) any disused service connections shall be capped off;
 - e) the disposal of refuse is to be to an approved waste disposal depot.
45. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with AS2601-2001 Demolition of structures. Removal, cleaning and disposal of lead-based paint shall conform with relevant EPA guidelines including the Lead Safe a renovator's guide to dangers of lead, NSW EPA, 1998. Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work shall be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition shall not be performed during high winds, which may cause dust to spread beyond the site boundaries.
46.
 - a) A Work Plan shall be prepared in accordance with Australian Standard AS 2601-2001, Demolition of Structure by a person with suitable expertise and experience and submitted to Council for approval prior to commencement of any demolition or site works. The Work Plan shall outline the identification of any hazardous materials, including surface coated with lead paint,

method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- b) Hazardous or intractable 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 and Conservation and with the provisions of;
 - i) New South Wales Occupational Health and Safety Act 2000;
 - ii) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - iii) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - iv) Protection of the Environmental Operations Act 1997 (NSW) and
 - v) Department of Environment and Climate Change (DECC) Waste Classification Guidelines 2008.
47. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover etc.
48. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building material is prohibited.
- 49.
- a) Care must be taken to protect Council's roads, including the made footway, kerbs etc., and where plant and vehicles enter the site, the footway shall be protected against damage by deep-sectioned timber members laid crosswise, held together by hoop iron straps and chamfered at their ends;
 - b) This construction shall be maintained safe and in a state of good repair and condition throughout the course of construction;
 - c) Any damage to Council's road reserve will be repaired and the full cost shall be borne by the Applicant.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

50. The proposed development is to comply with the General Terms of Approval dated 3 July 2013 issued by Sydney Airport Corporation Limited (SACL). The conditions are as follows:
- a) Height Restrictions:
 - i) the PROPERTY DEVELOPMENT at 13 CHURCH AVENUE, MASCOT lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations 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;
 - ii) 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, have no objection to the proposed development to a maximum height of 46.94 metres above Australian Height Datum (AHD);

- iii) the approved height is inclusive of all its over-runs, vents chimneys, aerials, TV antennae, construction cranes etc.;
- iv) should you wish to exceed 46.94 metres above Australian Height Datum (AHD), a new application must be submitted;
- v) 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 be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161;
- vi) 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;
- vii) Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct;
- viii) Information required by SACL prior to any approval is to include:
 - 1 the location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - 2 the swing circle of any temporary structure/equipment used during construction;
 - 3 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;
 - 4 the period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- ix) any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No.293, which now apply to this Airport;
- x) for further information on Height Restrictions please call Peter Bleasdale on (02) 9667 9246;
- xi) 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;
- xii) the height of the prescribed airspace at the site is 51 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airport (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, "a thing to be used in erecting the building, structure

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or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved."

- b) Bird and Obstacle Hazard Management:
 - i) the area in which the proposed development is located is in the vicinity of Sydney (KS) Airport;
 - ii) to minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are used in any landscaping design;
 - iii) any landscaping design must minimise the attractiveness for foraging birds, i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted;
 - iv) all trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.
- c) Planning for Aircraft Noise and Public Safety Zones:
 - i) current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land planning tool for Sydney Airport was endorsed by Airservices Australia on 13 March 2009 (Sydney Airport 2029 ANEF);
 - ii) whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

51. The following conditions are imposed by Sydney Water:

- a) the approved Building Plans must be submitted to a Sydney Water Quick Check agent 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. Plans will be appropriately stamped.
- b) Sydney Water will assess the impact of the development when the proponent applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of the development and to assess if amplification and/or changes to the system are applicable. The proponent must fund any adjustments needed to Sydney Water Infrastructure as a result of any development;
- c) the proponent should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development. The Water Servicing Coordinator must ensure submitted infrastructure designs are sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

52. The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 25 June 2013. 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 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 behaviour. The system is obliged to conform to Federal, State or Territory Privacy and Surveillance Legislation;
- 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) 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;
- iv) it is crucial even in the development stage that these cameras are installed as soon as power is available to the site;
- v) any proposed landscaping and vegetation should adhere to the following principles:
 1. shrubs, bushes, plants should remain under 900mm in height;
 2. branches of larger 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.

b) Lighting:

- i) 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 Standards AS: 1158;
- ii) 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);

- iii) 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;
 - iv) 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;
 - v) 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 \$5,500) for an individual and 100 penalty units (currently \$11,000) 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, trespassers will be prosecuted;
 - 2. warning, these premises are under electronic surveillance.
 - iii) directional signage should be strategically 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) 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;
 - vii) graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
- d) Space Management:
- 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 development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information 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 (e.g. Locking bars, electronic locking devices and detection devices) Dead locks are required 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 the side that face the person seeking egress, by a single hard 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 which 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 efficiency under conditions of light to heavy usage. The

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standard covers lock sets for typical windows, such as wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms);

- 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 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.

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

53. Plans submitted with the Construction Certificate shall demonstrate compliance with the following:
 - a) All residential unit size excluding balconies as minimum must be as following:
 - i) Studio = 60m²
 - ii) 1 bedroom = 75m²
 - iii) 2 bedroom = 100m²
 - b) Adaptable units must be provided in accordance with Section 4C.6.1 of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDCP 2013 (Section 4C.6.1). Details to be submitted with the Construction Certificate.
54. It is a condition of this consent that the person acting on this consent must obtain a report from a Geotechnical Engineer that the erection of the building will not:-
 - a) have an impact on the stability of the building stock of the locality, nor,
 - b) have an adverse impact on the water table, again in relation to the locality and any undue rise and or fall other than by natural circumstances.
55. The Applicant is to enter into an agreement with Council, to be prepared by Council's solicitors, at the applicant's expense, providing for the lodgement of a bond in the sum of \$10,000.00, for a period of five (5) years after practical completion of landscape works, to ensure establishment and maintenance of the landscaping in accordance with the plan. The lodgement of the bond shall not preclude the Council from initiating legal proceedings, should the landscaping not be established and maintained in accordance with this Consent, and is not

intended to limit the period of compliance with the landscaping requirements to five (5) years.

- a) The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.
 - b) The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.
56. The proposed development is to comply with the recommendations provided by the Roads and Maritime Services (RMS) dated 9 July 2013. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:
- a) the swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement;
 - b) the number of car and bicycle parking spaces should be provided to Council's satisfaction;
 - c) the layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1-20004, AS2890.2-2002 for heavy vehicles usage and AS2890.6:2009 for the disabled;
 - d) a Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate;
 - e) all vehicles are to enter and leave the site in forward direction.
- 57.
- a) Prior to the issue of the Construction certificate, the applicant must obtain and complete to the satisfaction of the NSW Office of Water, an Application for a Water Licence.
 - b) Proof of a Part 3A Permit having been issued for the proposed works must be submitted to the Principal Certifying Authority and to Council prior to the issue of the Construction Certificate and prior to any works commencing on the site.
 - c) The licence is to be submitted to Council for Council's records.

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- d) The basement must be designed and built to achieve when complete a 'fully tanked' structure.

Note: The reason for this is that no works that can impact upon groundwater can commence before a licence is obtained (See Condition No. 67 for the General Terms and Approval issued by the NSW Office of Water on 19 June 2013).

- 58. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of the Construction certificate. This plan shall be implemented prior to the commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 59. Prior to the issue of the Construction Certificate The landscape area shown on the plan A Total Concept (ATC) Issue B dated February 2010 shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by the City of Botany Bay Council's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect and shall include, but not be limited to:
 - a) A planting plan at 1:100 scale showing all plant locations, groupings and centres and a plant schedule listing all plants by botanical name with plant numbers, spacings, pot sizes and staking.
 - b) The scheme shall be in accordance with DCP 2013 and all other Council specifications for public domain inclusions.
 - c) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls. Planter box external finishes. Areas of paving, schedule of materials, edge treatments and sectional construction details. All fencing, privacy screening and pergolas – elevations and materials. Details of other landscape elements such as furniture (required), pedestrian lighting, water features and so on. Provide sectional construction details and elevations.
 - d) Planter box on slab sectional construction details. All planter boxes on podium to be 900-1m soil depth to support healthy, well developed canopy trees. The planter box on slab details must indicate the waterproofing treatment extent.
 - e) A detail is to be provided for turf on slab showing soils depths and drainage.
 - f) Provide irrigation details (irrigation required for common area and setbacks).
 - g) Canopy trees shall be used extensively throughout the site – private courtyards, through the centre of the site and in setbacks. Trees must be of an appropriate scale to complement and scale with the building form (setbacks, communal open space) and to provide amenity for users of the space. 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. All trees on the site to be min. 100 litre, 200 litre preferred. All street trees to be 400 litre.
- h) The Blueberry Ash across the rear boundary are to be replaced with Native Quandong, pot sizes 100L. The *Metrosideros Tahiti* should be replaced with a more shade tolerant hedge plant.
 - i) All public domain work shall be in accordance with Council specification – tree planting, landscaping and turfing, footpath location and dimensions etc.
 - j) An alternative configuration for the stormwater absorption trench within the front setback is required in liaison with the Hydraulics Engineer and Applicant. The trench shall be relocated or re-configured to allow substantial landscaping including trees and shrubs within the setback. Note that a second row of street trees is required on the southern side of the public footpath between the footpath and property boundary in accordance with Council specification (*Michelia dolstopa*).
 - k) Show the location of electrical kiosks/substations and fire booster assemblies and their locational impact on landscape areas.
60. The building shall be designed in accordance with AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction. The report is to include any required noise attenuation to the structure of the building to meet the above standard and acoustically treated mechanical ventilation, if necessary, to comply with the above standard. If the applicant chooses to install air conditioning to meet the mechanical ventilation requirements, the installation must be designed to meet the additional requirements, applying to air conditioners on residential properties contained in the Protection of the Environment Operations (Noise Control) Regulation 2000. (Information attached in the Advisory section). Details shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.
61. Prior to the issue of the Construction Certificate the following required section(s) are to be submitted and approved by Council. All driveways/access ramps/vehicular crossings shall conform to the current version of Australian Standards AS 2890.1 and Council requirements. With regard to Industrial and Multi Unit Housing, 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. With regard to other housing, only a centre line longitudinal section is required. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The section shall also show the clear height from the ramp to any overhead structure.
62. 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.

- b) the proposed phases of construction works on the site and the expected duration of each construction phase;
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
 - d) the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
 - e) the proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
 - f) the proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
 - h) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent;
 - i) proposed protection for Council and adjoining properties;
 - j) the location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation; and
 - k) the location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
63. Prior to the issue of a Construction Certificate, the Applicant is to submit payment for a Tree Maintenance Bond of \$7,500.00. The duration of the Bond shall be limited to a period of 12 months after planting of the street trees. At the completion of the 12 months period the Bond shall be refunded pending a satisfactory inspection by Council. If the 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 the work.
64. 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 the 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.
65. 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.

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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.

Note: All underground parking structures are to be "tanked" so that there is no intrusion of waters into the structure.

- 66. The access pits(s) to On Site Detention Tank (OSD) shall have a solid lid to avoid a potential trip hazard as a result of perforated grates.
- 67. 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 Traffic Authority) for approval. The plan shall:
 - a) be prepared by a RMS accredited consultant;
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police; and
 - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

- 68. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the adjacent Council drainage pipeline. The camera and its operation shall comply with the following:
 - a) the internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner;
 - b) the CCTV camera shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;

- c) distance from the manholes shall be accurately measured;
 - d) the inspection survey shall be conducted from manhole to manhole; and
 - e) the written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior the commencement of any works. A written acknowledgement shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
69. 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 level of services;
 - b) negotiate with the utility authorities (e.g. Ausgrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - i) the additional load on the system; and
 - ii) the relocation and/or adjustment of the services affected by the construction. Any costs in 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.
70. All services (Utility, Council etc.) within the road reserve (including footpaths) shall be relocated/adjusted to match the proposed/existing levels.
71. A suitable intercom system linked to all units within the development shall be provided at all vehicle accesses to the development to ensure that 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 prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.
- 72.
- a) Suitable street lighting to a high decorative standard shall be provided to the street boundaries of the site so as to provide safety and illumination for residents of the development;
 - b) The street Lighting (electricity cables) shall be undergrounded at the applicant's expense and shall meet relevant electricity authority requirements and plans and specifications of such are to be approved by Council prior to the issue of a Construction Certificate;
 - c) The Council footpath in Church Avenue if to be upgraded with new paving installed by the applicant at the applicant's expense. All improvements shall be in accordance with Council Specifications and requirements for the Church Avenue Public Domain, and shall be constructed and completed prior to the issue of an Occupational Certificate. The footpath shall be maintained in a clean and tidy state at all times by the occupiers.

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73.

- a) Planter boxes constructed over a concrete slab shall be built so as to ensure soil depth strictly 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. Turfed areas require a min. 5% cross fall.
- b) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent 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.
- c) Drainage sell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes and which complies with AS 4419 and AS 3743. Install drip irrigation. Pop-ups may be provided to lawn areas provided they use recycled water.
- d) Planter boxes shall be finished externally with a suitable paint or render to coordinate with the colour schemes of the building.

74.

- a) Any electrical kiosk required by the energy provider shall be located in an unobtrusive and discreet location away from vehicle and pedestrian entrances to the property, preferably towards a side boundary, and/or setback into the site off the street boundary, and shall be softened with built screens and/or landscaping so as not to reduce streetscape and visual amenity.
- b) The location of and screening treatment surrounding the kiosk shall be approved by Council's Landscape Architect prior to installation.
- c) Fire booster valves shall be housed within the external face of the building structure and/or screened from view from the public domain area. Booster shall be located in an unobtrusive and discreet location away from vehicle and pedestrian entrances to the property.

75. The consent given does not imply that works can commence until such time that:-

- a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
 - i) the consent authority; or
 - ii) an accredited certifier; and
- b) the person having the benefit of the development consent;-
 - i) has appointed a principal certifying authority; and

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- ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - b) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the erection of the building.
 - c)
- 76. The following car a parking spaces shall be made available to residents and visitors;
 - a) a total of one hundred and thirty four (138) car parking spaces on site; and
 - b) the following conditions apply to the car parking:
 - i) the on-site car parking spaces, exclusive of service and visitor spaces, are not to be used by those other than the occupants, tenant or resident of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, licence or transfer ownership of any car parking spaces to those other than an occupant, tenant, lessee or resident of a unit in the building.
 - ii) prior to Construction Certificate under the Environmental Planning and Assessment Act 1979 a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyance Act 1919, to the effect of (a) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
 - iii) any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act 1973, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking pat-lots in the strata scheme.
- 77. 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 dated 28 March 2014 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*.

78. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified Architect to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
79. The Architect is to conform in writing that the apartment sizes in metres squared (sq.m) and the balconies comply with Council's Building Design and Construction Development Control Plan.
80. As this development involves an excavation below the watertable these works are subject to a Council Drainage Charge for discharge of site dewatering to storm water and as such an application is required to be submitted to Council.
- Note:** Council will not give permission for contaminated groundwater to be discharged into its stormwater system. To discharge groundwater into the Council's stormwater drain the applicant must supply the following:
- a) an Application is to be made to Council for permission to discharge site dewatering to Council's stormwater drainage system;
 - b) a copy of a current bore licence from Department of Natural Resources for dewatering;
 - c) a report from a suitably qualified person is to be provided together with results from NATA approved laboratory confirming that the quality of water meets the 95% freshwater trigger values applying to typically slightly-moderately disturbed systems as detailed in the Australian and New Zealand Environment and Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand, Paper No 4, October 2000;
 - d) any proposed treatment to be applied to the water prior to being discharged.
81. It is a condition of approval that the Applicant must, at no cost or expense to Council:
- a) dedicate the portion of land for Church Avenue road widening, the dimensions of which will extend for the full width of the site including the right of way and to a depth, which is determined by measuring from the centreline of Church Avenue, a horizontal distance of 12 metres and as detailed in the Mascot Station Precinct Development Control Plan;
 - b) upgrade the public domain and installation of new footpath area with new paving installed by the applicant and at the applicant's expense. All improvements shall be in accordance with the approved landscape plan and Council's Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupational Certificate; and
 - c) shall ensure that all drainage from the property shall be led to the existing pit(s) in Church Avenue and shall include all associated construction within the roadway area; and

- d) land dedication, road construction, kerb and gutter, drainage, street trees and associated works including the footpath construction to be completed prior to the issue of the Occupation certificate for the development under this consent being DA 13/056.
82. The following conditions from the General Terms of Approval dated 19 June 2013 by the NSW Office of Water and must be complied with:
- a) General:
 - i) an authorisation shall be obtained for the take of groundwater as part of the activity, groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The 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;
 - ii) the design and construction of the structure shall preclude the need for permanent dewatering by waterproofing those areas that may be impacted by any water table (i.e. a fully tanked structure) with adequate provisions for unforeseen fluctuations of water table levels to prevent potential future inundation;
 - iii) construction methods and materials used in and for construction shall not cause pollution of the groundwater.
 - b) Prior to excavation:
 - i) measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of 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;
 - ii) 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 calculation method shall be included in the report;
 - iii) a copy of a valid development consent for the project shall be provided to the NSW Office of Water;
 - iv) groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing 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;
 - v) the method of disposal of pumped water shall be nominated (i.e. street 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 (tailwater) must comply

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with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority;

- i) contaminated groundwater shall not be reinjected into any aquifer. 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 (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.
 - c) During excavation:
 - i) piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge;
 - ii) 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;
 - iii) pumped groundwater (tailwater) shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewer 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 (tailwater) shall be complied with;
 - iv) dewatering shall be undertaken in accordance with 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;
 - v) 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 precautions.
 - d) Following excavation:
 - i) all monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with the detailed interpreted hydrogeological report identifying all actual resource and third party impacts.
83. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- a) the rooms for the storage of garbage and recyclable materials shall be fully enclosed and adequately ventilated;
 - b) constructed with a concrete floor, concrete or cement rendered walls coved to the floor;

- c) the floor shall be graded to an approved sewer connection incorporating a sump and galvanised grate cover or basket in accordance with the requirements of Sydney Water Corporation;
 - d) washing facilities shall be provided within close proximity to the garbage and recycling storage area.
84. The *principal contractor* 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 Southern Sydney Regional Organisation of Councils, 2001; and
 - c) "Managing Urban Stormwater – Soils and Construction" published by the NSW Department of Housing 4th Edition" ('The Blue Book');
 - d) where there is any conflict The Blue Book takes precedence;
 - i) 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 a 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.
 - ii) 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.
 - iii) 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.
 - iv) 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."
 - v) 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.
85. The wind mitigating treatments, as recommended in the Pedestrian Wind Environment Statement Report (Windtech, Dated: 13 May 2013) shall be incorporated into the design of the building as part of the construction certificate.

86. Signs incorporating the international symbol of access for disabled persons must be provided to identify each accessible:
- a) entrance;
 - b) lift or bank of lifts; and
 - c) sanitary facility;
 - d) this requirement shall be submitted to the Principal Certifying Authority prior to the release of a Construction certificate.
- 87.
- a) Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - i) erection of a building 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 a standard flushing toilet; and
 - ii) must be connected:-
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some sewerage management facility approved by the Council.
 - c) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
88. The proposed traffic movements and parking arrangements within and adjoining the development shall conform to the current versions of Council's off-street parking DCP; Australian Standard AS 2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) unless otherwise stipulated by another condition of this Consent.
- 89.
- a) Existing structures and or services on this and adjoining properties shall not be endangered during any demolition 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; and

- b) As the development involves demolition that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) protect and support the adjoining premises from possible damage from demolition;
 - ii) when necessary, underpin the adjoining premises to prevent any such damage.

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

- 90. All management measures recommended and contained within the Soil and Water Management Plan (SWMP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004)*. This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.
- 91. The principal contractor or owner building must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) the Soil and Water Management Plan;
 - b) "Managing Urban Stormwater – Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environmental Operations Act 1997.
- 92. Erosion and sediment control devices are to be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the project, where necessary.
- 93. 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.
- 94. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the

site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the development, where necessary.

95. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
- c) Permit for roads and footways occupancy (long term/ short term)
- d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
- f) Permit to place skip/waste bin on footpath and/or nature strip
- g) Permit to use any part of Council's road reserve or other Council lands

DURING WORKS

96. 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.

97. Building works associated with the erection of the building shall be carried out between the following hours:
Monday to Friday, inclusive – 7:00am to 5:00pm
Saturday – 7:00am to 1:00pm
Sunday and Public Holidays – No work.
98. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
99. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) protection of site workers and the general public;
 - b) erection of hoardings where appropriate;
 - c) asbestos handling and disposal where applicable;
 - d) any disused service connections shall be capped off;
 - e) the disposal of refuse is to be to an approved waste disposal depot.
100. 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).
101. 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.
- 102.
- 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 and brushes and mixing mortar shall not be carried out on park/road reserve or in any

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- other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition;
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
103. During Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (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 specifications and AUS-SPEC at no cost to Council.
104. If groundwater is encountered during excavation works, site de-watering shall be subject to the following requirements:
- a) site de-watering to be undertaken under the guidance of an experienced professional engineer;
 - b) the groundwater extracted from the dewatering process is to be passed through a sand filter prior to its disposal to the street water table. The discharged water is to be visually clear of suspended solids; and
 - c) the pump used to de-water must be electricity powered.
 - d) For any water from site dewatering to be permitted to go to stormwater the water must meet ANZEC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
105. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with an approved Traffic Management Plan and Construction Management Plan at all times.
106. 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.

107. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
108. 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.
- 109.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) protect and support the adjoining premises from possible damage from the excavation, and
 - ii) where necessary, underpin the adjoining premises to prevent any such damage.
110. 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 operation must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 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 06:00pm
 - 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.

111. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.

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

112. The building and land shall display a conspicuous street number of legible numerals that has been allocated by Council for the allotment.
113. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the above report in condition 60 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
114. All vehicular crossings are to be constructed prior to the issuing of an Occupational Certificate (or the completion of work or the use of the building). The applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted.
115. Landscaping shall be installed in accordance with the Council approved landscape plan only, as stamped by Council's Landscape Architect. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times. 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.
- The Church Avenue public footpath shall be constructed in accordance with Council. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture. Construction hold points and Council inspections are required at the following points :

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- a) after formwork installation and to prior pouring the concrete blinding slab,
- b) at the commencement of paving works, and
- c) at final completion.

Council approval of public domain works is required prior issue of Occupation Certificate.

116. New street trees at the pot size specified shall be installed in the Church Avenue road the approved landscape plan and Council specification. The trees shall be sourced from a reputable supplier that grows to NATSPEC. A Dial-Before-You-Dig enquiry is required prior planting - Council is not liable for any damage to subsurface infrastructure during public domain works.
- a). The trees shall be planted in an area measuring approx. 1 metre square ensuring adequate space for the root ball, backfilled with water holding additive and fertiliser and mulched to a depth of 75mm and at a diameter of 1 metre. Trees are to be double staked.
 - b). Two hold point inspections are required: prior to planting trees to ensure plant stock is suitable and post planting.
117. The Applicant is to submit payment for a Public Works Defects Liability Bond of \$10,000.00. The duration of the Bond shall be limited to a period of 12 months after Council approval of all public domain works. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the new public domain work by Council. If rectification or maintenance work is required in this period then Council will forfeit all or part of the bond to undertake the required work, unless the Applicant undertakes this work.
118. All works completed by the applicant on Council's Road Reserve or other Council lands are subject to a 6 months defect liability period from the date of final completion. The date of final completion will be determined by Council's Engineering and Regulatory Services Department.
119. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the plans approved under the Development Application, with relation to drainage, car parking structures, boundary and road reserve levels, have been strictly adhered to.
120. Prior to the issuing of the Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
121. Prior to the issue of the Occupational Certificate the boundary fences adjoining the site shall be replaced with suitable and decorative fence or wall in accordance with Council requirements.

122. 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 of 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.
123. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a close circuit television (CCTV) inspection and then report on the existing condition of the adjacent Council drainage pipeline. The camera and its operation shall comply with the following:
- a) the internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner;
 - b) the CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
 - c) distance from the manholes shall be accurately measured; and
 - d) the inspection survey shall be conducted from manhole to manhole.
 - e) the written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council prior to the commencement of any works. A written acknowledgement shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
124. 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.
125. Prior to the issue of the Occupation Certificates, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
126. Prior to the issue of the Occupation Certificate, the redundant vehicular crossing, together with any necessary works shall be removed and the footpath, nature strip and kerb and gutter shall be reinstated in accordance with Council's specification.
127. Prior to the issue of the Occupational Certificate, the applicant shall reconstruct the footpath and kerb and guttering along the full site frontage in accordance with Council's standard drawings E01, E06 and CHUR RW/SS1.
128. Prior to the issue of the Occupation certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

129. Prior to the issue of the Occupation Certificate:

- a) the construction of the stormwater drainage system of the proposed development shall be completed generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA.
- b) documentation 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 accepted practice.

130. Any damage not shown in the photographic survey and dilapidation survey submitted to Council before site works have commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense, prior to occupancy of the development.

131. 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.

132.

- a) 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; and
- b) Conditioned numbered 8(e), 13 and 112-131 are all pre-conditioned to the issue of the Occupational Certificate;
- c) The terms of the Voluntary Planning Agreement must be complied with prior to the issue of the Occupational Certificate.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

133. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The Owners Corporation or building owner shall be responsible for movement of the waste and recycling containers to the footpath for weekly collections, and the return of waste and recycling containers to the waste storage area. The Owners Corporation or building owner shall be responsible for cleaning the waste storage area, dry arrestor pit and waste collection containers.

134. An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for

a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

135. Ongoing maintenance of the nature strip shall be undertaken by the occupier, owner or strata. Maintenance includes mowing, watering and maintaining an even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees located on the nature strip under any circumstances at any time. Pruning is undertaken by Council only.
136. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
137. 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.
138. A subdivision application must be accompanied by the following documentation that indicates:
 - a) The requirement for the employment of a person to manage the collection of waste material by Council, including, but not limited to bin placement at the road edge and retrieval of bins soon after collection of contents, cleansing of bins, storage of bins in the compound and the like.
 - (a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under this Development Consent.
 - b) Responsibilities with regard to the operation maintenance of artificial features at the property in accordance with the plans and details approved under this Development Consent.
 - c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times.
 - d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are 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 by 12.00 noon.

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- e) The Owners Corporation obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000.
 - f) The Owners Corporation/Executive Committee obligations to ensure all 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.
139. 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.
140. All vehicles shall enter and exit the premises in a forward direction.
141. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 13/056 dated 28 March 2013 and as amended by Section 96(1) Application No. 13/056/01 received by Council on 18 June 2014 **and as amended by Section 96(2) application No. 13/56/03 received by Council 24 November 2017** and that any alteration, variation, or extension to the use, for which this approval has been given, would require further Approval from Council. **(DA13/56/03)**
- 142 ~~**Prior to the issue of the Construction Certificate, subject to the approval of CASA, the applicant is to provide roof mounted solar collector panels below a height of 46-94m AHD, to the rooftop of the building, of which 20% of power generated shall be returned to the Ausgrid network together with tariff rebates. Details of the panel system are to be provided with a Construction Certificate including the approval from the Civil Aviation Safety Authority. (DA13/56/03)**~~
- 143 The development must on completion contain within the basement carpark 15 carparking spaces for use by visitors.

Certified by Christopher Mackey
Coordinator, Development Assessment



Bayside Local Planning Panel

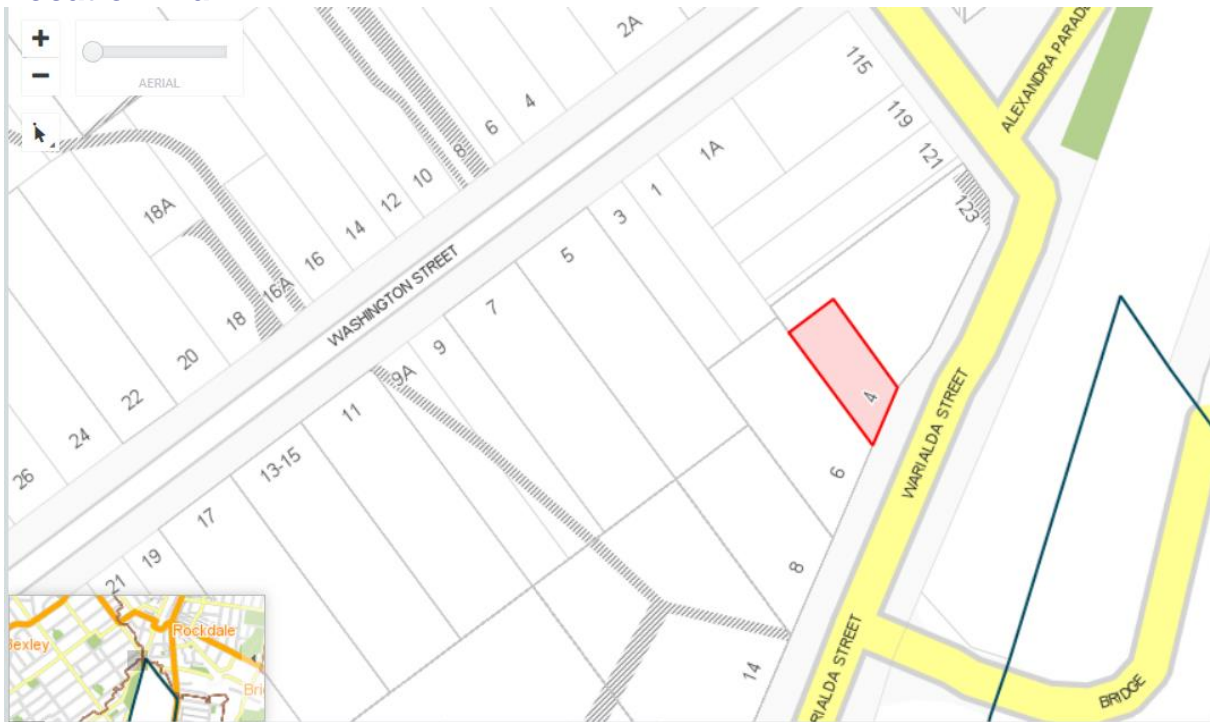
9/07/2019

Item No	6.2
Application Type	Section 4.55 (1A) Modification
Application No	DA-2015/427/B
Lodgement Date	30/05/2019
Property	4 Warialda Street, Kogarah
Ward	Rockdale
Owner	Mitre Rostankovski
Applicant	Mitre Rostankovski
Proposal	Section 4.55 (1A) Application to change the external brick colour.
No. of Submissions	Nil
Cost of Development	Nil
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:
 - 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 take 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 be APPROVED. The proposal is modified in the following manner:
 - a By amending condition 2;
 - b By deleting condition 13.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Amended Materials and Finishes Schedule
- 3 Materials & Finishes submitted with DA - 4 Warialda Street Kogarah [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2015/427/B
Date of Receipt:	30 May 2019
Property:	4 Warialda Street, KOGARAH (Lot 1 DP 1117810)
Owner:	Mr Mitre Rostankovski
Applicant:	Mr Mitre Rostankovski
Proposal:	Modification to change the external brick colour
Recommendation:	Approved
No. of submissions:	Nil.
Author:	Nitin Thomas
Date of Report:	19 June 2019

Key Issues

The key issue related to this application are:

- Suitability of amended brick colour / streetscape presentation;

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 been notified (or not notified because not required); and
 - iv. 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 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-2015/427/B seeking to modify development consent DA-2015/427 to change the external brick colour at 4 Warialda Street, Kogarah be APPROVED. The proposal is modified in the following manner:
 - i. By amending condition 2;
 - ii. By deleting condition 13.

Background

History

Council's records show that the following applications were previously lodged for the subject site:

- DA-2015/427 for the construction of a four (4) storey residential flat building comprising of seven (7) residential units and basement level car parking and the demolition of all existing structures, approved via Deferred Commencement on the 9th of November, 2016.
- CC-2017/256 for Stage 1- bulk excavation and earthworks, basement blockwork, slab and columns, Under assessment by Council.
- DA-2015/427/A regarding a Section 4.55 (1A) modification application to delete on (1) car stacker from the approved basement level and to amend the external stairs along the northern boundary, Withdrawn on the 10th of August, 2018.
- BC-2019/12 for Unapproved Development regarding the construction of concrete slabs and columns for residential unit.

***Note:** It is noted that the Building Information Certificate (BC-2019/12) has been submitted to Council and is currently under assessment as a result of unauthorised construction works having commenced without obtaining a Stage 2 Construction Certificate for construction.

Proposal

Council is in receipt of a development application DA-2015/427/B at 4 Warialda Street, Kogarah which seeks consent to carry out minor modifications to the existing residential flat building.

Specifically, the proposed modification consists of:

- Changing the external brick colour from Brahman Granite by Bowral (Dry Pressed) to Bowral Brown by Bowral (Dry Pressed) within the materials and finishes schedule.

There are no proposed changes to the approved building design. The building entrance, basement parking, floor plan, building height and FSR will be retained as previously approved.

The proposed amendment will require the amendment of Condition 2 to reflect changes to the brick colour and the deletion of Condition 13. Condition 13 is proposed to be deleted as the amended Schedule of Materials and Finishes which accompanies this application has been updated to reflect the approved elevations and sections as required, and submission to the PCA's satisfaction is no longer required.

Condition 13 reads as follows:

13. An amended Schedule of Colours and Materials, which correctly reflects the approved Elevations/ Section AA plan (revision A), shall be submitted to the satisfaction of the PCA.

Site location and context

The subject site is known as Lot 1 DP 1117810, 4 Warialda Street, Kogarah. The site has a rectangular shape with a skewed front boundary with a width of 14.96m. The side boundaries have widths of 25.40m to the northern boundary and 32.78m to the southern boundary. The total site area is

369.50sq.m. The topography of the site is such that it is steep and falls towards the front.



Figure 1: Location of subject site 4 Warialda Street Kogarah

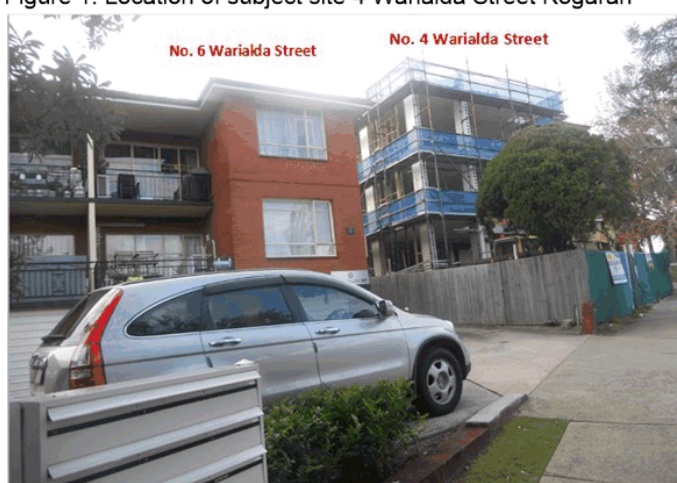


Figure 2: Subject site No. 4 Warialda Street Kogarah (right)

The subject site contains scaffolding for the four-storey residential flat building (see figure 2) which is under construction (see figure 2). The site is located on the north western side of Warialda Street between Harrow Road to the north and Hegerty Street to the south-west.

Adjoining development to the sides include residential flat buildings at No.6 Warialda Street and No.123 Harrow Road, Kogarah which are both red brick with hipped roofs. There is a mix of three storey and four storey residential flat buildings within close proximity to the subject property, including a mix of medium density residential towards the north and lower density on the opposite side of the railway line. Furthermore, a portion further south-west of the site is zoned RE1- Public Recreation (1 Warialda Street, Kogarah).

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental*

Planning and Assessment Act, 1979.

S4.55 (1A) - Modification

Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 states:

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

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

Comment: the proposed modifications are minor in nature, including the change of brick colour to the external facade from Brahman Granite by Bowral (Dry Pressed) to Bowral Brown by Bowral (Dry Pressed). In this regard, the proposed modifications are of minimal environmental impact.

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

Comment: The application is only for minor modifications to the development consent. The proposal remains as previously approved, namely a mixed use development. 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 has not been required to be notified in accordance with the provisions of Part 8 of the Rockdale Development Control Plan 2011.

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

Comment: No submissions have been received by Council in relation to the proposed modification.

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.

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 provisions of SEPP 55 have been considered in the assessment of the development application. The proposal relates to the change of materials and the conclusions reached in the original application being that "the subject site is considered to have satisfied the provisions of SEPP 55 and is considered to be suitable for residential purposes as proposed".

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

The application is minor in nature and is not required to be considered to the Design Review Panel.

Consideration has been given to the design quality principles as well as the relevant parts of the Apartment Design Guide, as per the below:

1. The design quality of the development when evaluated in accordance with the design quality principles.

The design quality principles have been considered in the assessment of the proposal and are found to be satisfactory as indicated below.

Principle 1 – Context and Neighbourhood Character

The proposed change in brick colour will ensure that the high density residential context and neighbourhood character will be complemented as the proposed brick colour is consistent with the prevailing streetscape.

Principle 2 – Built Form and Scale

The proposed modification to change the brick colour will not impact on the built form and scale of the residential flat building.

Principle 3 – Density

The modification will not result in an increase in density for the site.

Principle 4 - Sustainability

The sustainability of the approved residential flat building will remain as previously approved and will not be impacted as a result of the proposed brick colour change.

Principle 5 – Landscape

The approved landscaping for the site will not be impacted as a result of the proposed modification.

Principle 6 – Amenity

The amenity of the residential flat building will not be impacted as a result of the proposed modification.

Principle 7 - Safety

The safety aspects of the building will not be impacted as a result of the proposed modification.

Principle 8 - Housing Diversity and Social Interaction

The housing diversity and social interaction of the approved building will not be altered as a result of the proposed modifications.

Principle 9 – Aesthetics

The proposed modification of brick colour will not alter the composition of building elements and will ensure that a range of materials and finishes are provided within the built form which respect the surrounding buildings as well as the changing character of the streetscape.

Conclusion:

The proposed modification of brick colour is considered acceptable with regards to the design quality principles of the SEPP.

2. Apartment Design Guide (ADG)

Consideration has been given to the objectives and design guidance contained within the Apartment Design, particularly with regards to *Part 4M - Facades*. In this regard, the proposed change in brick colour is considered acceptable as it will not alter the approved composition of materials and the amended brick colour respects the colours and materials used in buildings within the surrounding streetscape. Therefore, the proposal is acceptable with regards to the objectives of the ADG.

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
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	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 is for modifications to an approved residential flat building which constitutes a permissible development only with development consent. The objectives of this zone are:

- *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 modification is consistent with the objectives of the zone as it will provide for the housing needs of the community within a high density residential context, and is therefore considered acceptable.

4.3 Height of buildings

The proposed modification does not alter the approved height of the development which, at 14.29m, does not exceed the maximum 14.5m height shown for the land on the Height of Buildings Map. Accordingly, the height of the building satisfies the objectives of this clause.

4.4 Floor space ratio - Residential zones

The Gross floor area of the approved residential flat building is to be retained at 428.79sqm over a site area of 369.5sqm. In this regard, the approved floor space ratio (FSR) for the building is 1.16:1 and exceeds the maximum FSR for the land (1:1) as shown on the Floor Space Ratio Map. The original application (DA-2015/427) was supported with a Clause 4.6 Variation Statement to vary the development standard. Accordingly, the FSR for the proposed modification is unaltered and is therefore acceptable.

6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the proposed modification does not involve any additional excavation works within the site.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.9 Lot size and Site Consolidation - Residential flat buildings	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
5.1 Building Design - General	Yes	Yes - see discussion

4.1.9 Lot size and Site Consolidation - Residential flat buildings

It has been identified previously that the subject site is located within an isolated site and consists of a lot width < 24m. The proposed modification to the external building facade does not impact on the nature of the limitation of the site. Therefore, in this instance the proposed modification is acceptable.

4.2 Streetscape and Site Context - General

The proposal is located in a R4 High Density Residential Zone. The immediate context consists of a mix of residential flat buildings of face brick construction. The proposed brick colour will complement the existing brick colour used for these buildings located within the vicinity of the site and is therefore appropriate in this context. The proposal therefore provides an acceptable streetscape outcome.

5.1 Building Design - General

The proposed modification does not substantially alter the design of the overall building, other than a change in the colour of the brick work. The proposal will retain its structural components in relation to bulk, scale, roof pitch and height as per the previous approval (DA-2015/427). Therefore, the proposed modification is considered acceptable in relation to maintaining the overall building design.

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

The relevant matters pertaining to the likely impacts of the development have been assessed under the original proposal. There are no further matters raised in this application that would alter the conclusions reached in the original assessment

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposed modification, as well as 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 proposed development.

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 has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal as amended does not create unreasonable impacts on surrounding properties or the locality. As such it is considered that the development application is in the public interest.

Schedule 1 - Draft Conditions of consent

General Conditions

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

1. The term of this consent is limited to a period of five (5) years from the date of the

original approval. The consent will lapse if the development does not commence within this time.

2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn By	Date
Basement Plan, drawing no. DA 1.99 Issue G	CMT Architects	2 August 2016
Ground Floor Plan, drawing no. DA 2.00 Issue G	CMT Architects	2 August 2016
Ground Floor Adaptable Plan, drawing DA 2.00-1, Issue B	CMT Architects	13 November 2015
First Floor Plan, drawing no. DA 2.01, Issue F	CMT Architects	2 August 2016
Second Floor Plan, drawing no. DA 2.02, Issue G	CMT Architects	2 August 2016
Third Floor Plan, drawing no. DA 2.03, Issue F	CMT Architects	2 August 2016
Roof Plan, drawing no. DA 2.04, Issue F	CMT Architects	14 July 2016
North Elevation/ South Elevation, drawing no. DA 4.00, Issue E	CMT Architects	13 November 2015
East Elevation/ West Elevation, drawing no. DA 4.01, Issue F	CMT Architects	14 July 2016
Section AA, drawing no. DA 4.02, Issue E	CMT Architects	2 August 2016
Amended Materials & Finishes (as amended in red)	CMT Architects	N.D.

[Amendment B - S4.55(1A) amended on 09/07/2019]

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 629382M_02 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>.

- The balconies incorporated into the development shall not be enclosed at any future time, without consent from Council.
- 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.
- 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.
- Excavation, filling of the site or construction of retaining walls are not permitted unless approved by a separate Development Consent and authorised by a subsequent construction certificate.
- 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.
- 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.
- Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

1 space per apartment (including 1 adaptable space)

Non-Allocated Spaces

2 visitor spaces (1 dual carwash / visitor and 1 dual visitor / van loading unloading space)

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) deleted on 09/07/2019].**
- The approved architectural plans include inconsistencies with the finished floor levels. The proposed building shall be constructed in accordance with the following finished floors (FFL):

Basement plan, revision: G, dated: 2 August 2016,	FFL of 8.50m
Ground Floor Plan, revision: G, dated: 2 August 2016,	FFL of 12.70m for ground floor corridor, and FFL of 12.60m for ground floor terraces
First Floor Plan, revision: F, dated: 2 August 2016,	FFL of 15.60m
Second Floor Plan, revision: F, dated: 2 August 2016,	FFL of 18.50m
Third Floor Plan, revision: F, dated: 2 August 2016,	FFL of 21.60m
Roof Plan, revision: f, dated: 2 August 2016	FFL of 24.70m for the roof, and FFL of 25.10m for the lift and street facing louvre system overrun.

Development specific conditions

The following conditions are specific to the Development Application proposal.

15. Provide permanently illuminated exit signs to the existing building on or near exit doors in accordance with Part E4.5 of the Building Code of Australia and AS/NZS 2293.1:2005.
16. All carwash, engine degreasing and steam cleaning shall be conducted in a washbay which is graded to an internal drainage point and connected to the sewer with the approval of Sydney Water.
17. All condensation from the air conditioning unit shall be discharged into the sewerage system.
18. Ceiling heights for all 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.
19. All services required for the site, including hydrants, boosters and the like shall be integrated into the building envelope so as not to visually detract from the streetscape.
20. Vehicle access within the car stacker shall be restricted to B85 vehicles not exceeding the size description from AS2890.1. Vehicles greater in size than the B85 are not permitted to enter car stacker. A sign shall be installed adjacent to the car stacker with the maximum height of the vehicle allowed in the car stacker.
21. Parking spaces shall not be enclosed without further approval of Council.
22. 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.
23. 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.
24. 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.
25. 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.
26. Temporary dewatering of the site to construct the subsurface structure is not permitted.
27. 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.

28. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
29. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
30. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1 and AS2890.6.
31. A 1.8 metre high privacy screen measured from fixed floor level shall be installed on the north-west face of the balconies of unit 1.03, and unit 2.02.
32. 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.
33. 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.
34. The development shall comply with the rail / road noise and vibration criteria as detailed within the Acoustic Report prepared by Koikas Acoustics dated 23 April 2015.

With regards to acoustic amelioration between intertenancy floors and walls within the development the following minimum equivalent AAAC Star Rating within the below specified areas of the development shall be implemented on site.

- 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.
- BCA standard 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.

35. a) In order to ensure the design quality excellence of the development is retained:
 - i. CMT Architects 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 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.

36. All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building. Any electrical kiosks or fire booster valves shall be located in unobtrusive locations toward site boundaries and away from entrances into the building. Utilities shall be softened with landscaping so as not to detract from the overall appearance of the development and amenity of the streetscape. Details demonstrating compliance with this requirement shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.
37. 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.
38. Balustrades shall be constructed from a solid/opaque material.
39. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
40. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the car stacker system. The registered proprietor will:

Registered Proprietor will
 - a. Keep the system clean and free of rubbish and debris;
 - b. Maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner;
 - c. Carry out the matters referred to in paragraphs (b) and (c) at the proprietor's expense;
 - d. Not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - e. 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 an emergency) to enter and inspect the system for compliance with the requirements of this clause;
 - f. Comply with the terms on any written notice issued by the Council in respect to the requirements of this clause within the time stated on the notice.
41. All car stackers shall be parklift 440-200/195-2600kg or similar to accommodate B85 vehicles in both levels.
42. One (1) visitor space shall be signposted for shared use as loading and unloading area (van space).
43. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1:2004.
44. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS2890.1:2004.
45. The following habitable windows contained in the proposed development shall have window sill heights of 1.7m measured from fixed floor level, or shall be obscured to a height of 1.7m measured from fixed floor level.
 - a) Unit G.01 – south facing dining room window
 - b) Unit 1.03 – south facing bedroom window, and north facing living room window
 - c) Unit 2.01 – south facing kitchen window and living room window

- d) Unit 2.02 - south facing bedroom window, and north facing living room window
- e) Unit 3.01 – south facing kitchen window and living room window
- 46. The third floor rooftop terrace shall include a non-trafficable area of 1.5 metres in width measured from the building edge surrounded the terrace. The non-trafficable area shall include landscape planter beds and a tree as depicted on the approved third floor plan prepared by CMT architects.
- 47. The horizontal aluminium adjustable louvres on the southern facade of the building (refer to approved south elevation plan prepared by CMT Architects provides) to unit G.01 at level 1 shall be fixed. The louvres shall be fixed in a way to prevent direct sight lines and overlooking into adjoining the development to the south.
- 48. Provide permanently illuminated exit signs to the existing building on or near exit doors in accordance with Part E4.5 of the Building Code of Australia and AS/NZS 2293.1:2005.
- 49. Prior to the issue of the Construction Certificate the sum of \$1001.50 is payable to Council for removal and replacement of the street tree, however as contractors quotes are usually only valid for periods of up to 30 days, this amount is indicative only and is subject to revision prior to payment.

Prior to issue of the construction certificate

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

- 50. 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 \$5949.50. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
- 51. The following detail is to be illustrated upon Construction Certificate drawings and approved by the PCA Prior to the issue of the Construction Certificate:
 - a) Deletion of the louvers to the southern wall of the kitchen to unit G.01. This wall shall be provided as masonry brickwork to match the proposed building, with an operable highlight window provided along the southern wall with a minimum sill height of 1.7.
- 52. 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.
- 53. 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.

54. A Section 94 contribution of \$57 038.07 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Kogarah Regional Open Space Fund Amend 5 \$5458.60
Kogarah City Wide Open Space Fund Amend 5 \$8633.70
Kogarah Local Open Space Fund Amend 5 \$32715.18
Kogarah Local TC & Streetscape Fund Amend 5 \$566.69
Kogarah City Wide TC & Streetscape Fund Amend 5 \$970.29
Kogarah Pollution Control Management Amend 5 \$4994.07
Kogarah Administration & Management Amend 5 \$332.01
Child Care Services Amend 5 \$203.47
Community Services Amend 5 \$217.97
Library Services Amend 5 \$2946.09

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 2 Bryant Street, Rockdale.

55. 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.
56. 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 one residential unit, and between this unit and its allocated car parking space. The allocated parking space will be located in close proximity to the access points of the building. The adaptable unit is to be unit G.03. 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.
57. The applicant shall confer with Energy Australia to determine if an electricity distribution substation is required. Written confirmation of Energy Australia's requirements shall be obtained prior to issue Construction Certificate.
58. The applicant shall confer with Energy Australia to determine if satisfactory clearances to any existing overhead High Voltage mains will be affected. Written confirmation of Energy Australia's requirements shall be obtained prior to issue

Construction Certificate.

59. 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.

The new Tap in online self-service replaces our Quick Check Agents as of 30 November 2015.

The service provides 24/7 access to a range of services, including:

- - building plan approvals
- - connection and disconnection approvals
- - diagrams
- - trade waste approvals
- - pressure information
- - water meter installations
- - pressure boosting and pump approvals
- - changes to an existing service or asset, eg relocating or moving an asset.

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

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

Certifying Authority must ensure that Sydney Water has approved the plans before issue of any Construction Certificate.

60. 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.
61. An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".
62. Prior to issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
63. A Waste Management Plan shall be prepared and implemented in accordance with Development Control Plan No. 53.
64. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. Car wash bay shall be 3.5m wide and 5.5m in length. 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.
65. Prior to the issue of the Construction Certificate, detailed amended drainage design plans for the management of stormwater are to be submitted to Principal Certifying

Authority for assessment and approval.

Amended stormwater design and plans shall be submitted to Certifying Authority for assessment. The amended design shall address the following issues:

- (a) The internal depth of the OSD tank shall be kept to a minimum depth of 1m.
- (b) The basement pump storage shall be designed in accordance with section 4.2.4 of Council's Technical Specification - Stormwater Management.

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.

- 66. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.
- 67. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

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

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

COPIES OF THE CMP AND TMP SHALL BE SUBMITTED TO COUNCIL.

- 68. As the basement floor proposed is 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) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and provide a geotechnical report. The report must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include:

- Location and level of nearby foundations/footings (site and neighbouring)
- Proposed method of excavation
- Permanent and temporary support measures for excavation
- Potential settlements affecting footings/foundations
- Ground-water levels (if any)
- Batter slopes
- Potential vibration caused by method of excavation
- Tanking and waterproofing the basement structures including the absorption pit.
- De-watering including seepage and off site disposal rate (if any)

(b) Confirm construction methodology

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

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

(d) 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.

69. A further assessment of accessible building features in section 5 of the Access Report prepared by Cheung Access dated 21 May 2015 shall be undertaken prior to issue of a Construction Certificate, to ensure intended compliance with Part D3 BCA (2013) and AS4299 (1995).

70. Landscaping

The following shall be detailed upon the Landscape Plan and approved by the PCA prior to the issue of the Construction Certificate:

a) Raised landscape planters are to be provided along the boundary of the ground floor terrace associated to unit G.03. The planters are to have a minimum width of one (1) metre and a minimum depth of 900mm and maximum depth of 1200mm to enable provision of appropriate screen planting and one (1) medium sized deciduous tree.

b) 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.

c) The front setback area shall incorporate tree planting which does not conflict with the on site detention system.

71. The kitchen door to south facing balconies of units 2.01 and unit 3.01 on the second and third floor of the building are to be deleted. The 'balcony' spaces are to

be converted to non trafficable areas incorporating stones, pebbles or the like. Full height louvres to the edges of the building in these locations are to be deleted. Details are to be illustrated upon Construction Certificate drawings and approved by the PCA prior to the issue of the Construction Certificate.

Prior to commencement of works

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

72. 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) prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.

73. 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.

74. 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.

75. 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.

76. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.

77. 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.

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

During demolition / excavation / construction

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

81. 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.
82. 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.
83. 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:
 - i. after excavation for, and prior to the placement of, any footings, and
 - ii. prior to pouring any in-situ reinforced concrete building element, and
 - iii. prior to covering the framework for any floor, wall, roof or other building element, and
 - iv. prior to covering waterproofing in any wet areas, and
 - v. prior to covering any stormwater drainage connections, and
 - vi. 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.

84. 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.

85. 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.

86. 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.
87. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
88. 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.
89. 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.

90. 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.
91. 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.
92. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.

93. 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.
94. 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.
- 95. 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.
- 96. Removal of the Callistemon street tree to enable construction of the new vehicle crossing is approved, subject to a replacement tree being planted by Council in a suitable location.
As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be deemed a breach of Council's Development Consent and may be subject to legal action.
- 97. All existing trees located within the site may be removed.
- 98. 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.

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.

- 99. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 100. 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.
- 101. 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.

102. 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.
103. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
104. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
105. 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.
106. 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.
107. On completion of the building works the applicant shall contact Council's Customer Service Centre on 9562 1666 to arrange planting of the replacement street tree.
108. 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".
109. 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.
110. The width of the single driveway shall be a maximum of 5.0 metres at the boundary.

111. 1 bollard shall be installed in dedicated shared space for the disable parking space as per AS2890.6:2009.
112. 9 off-street car spaces (including 2 visitor spaces) shall be provided in accordance with the submitted plan. Visitor spaces shall be sealed and linemarked to the satisfaction of Certifying Authority. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
113. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development.
114. 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.
115. Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments.

Acoustic recommendations in relation to traffic and plant emissions contained in the Acoustic Report referred to in this consent shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
116. Prior to issue of an Occupation Certificate, a measurement report from a qualified acoustic consultant shall be submitted, demonstrating compliance with the noise criteria. As a minimum, this report shall provide the L_{Amax} and L_{Aeq} noise levels of at least ten consecutive trains, measured in the habitable room potentially most affected by train noise. The report shall include the calculated maximum L_{Aeq} (1 hour) noise levels for day and night-time periods, taking into account the maximum number of trains per hour and the types of trains in each period.
117. 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.
118. 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.

119. The air conditioning system shall be certified by a suitably qualified and experienced engineer at the completion of installation prior to the issue of an Occupation Certificate.
120. 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.
121. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
122. 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.
123. 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 in front of the basement entry. 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.
124. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
125. 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.
126. 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.
127. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the mechanical parking system (car stacker system)

facility to provide for the maintenance of the parking facility.

Roads Act

128. 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.

129. 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.
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. 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.
133. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

Development consent advice

- a. 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. *Telstra Advice – Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

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. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- e. If Council is the Principal Certifying Authority for the development, a drainage inspection fee shall be paid prior to the issue of the 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.

NB: This fee does not include a confined space entry into the on-site detention tank. Where a confined space entry is required, an additional fee is payable. A confined space entry will be required where:

- a) Information provided in the works-as-executed drawing and engineering certification is inconclusive as to the compliance of the system with the approved plans; and/or
- b) Visual inspection from outside the tank is inconclusive as to the compliance of the system with the approved plans.

- f. 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 2 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.
- g. 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.
- h. 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.

- i. 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.
- j. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- k. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- l. In the event of any inconsistency between conditions of this approval and the

drawings/documents referred to in condition 2, the conditions of this approval prevail.

MATERIALS & FINISHES - 4 Warialda Street KOGARAH

S4.55(1) SUBMISSION



- a** **paint to concrete**
(white – T123-2W) by TAUBMANS **(Edges of slabs)**



- b** **aluminium framed balustrades**
(clear anodised) by NU-LITE



- c** **aluminium framed glazing**
(clear glass & anodised) by TREND3



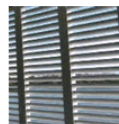
- d** **off-form Concrete** **(Pre-cast concrete)**



- e** **brickwork**
(dry pressed boral brown) by BORAL



- f** **aluminium framed roller door**
(clear anodised) by ABLE DOORS3



- g** **fixed louvres / screens** **(Aluminium as per elevations)**
(clear & bronze anodised) by SCREENMASTER



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MATERIALS & FINISHES - 4 Warialda Street KOGARAH



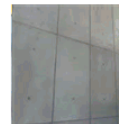
a **paint to concrete**
(white – T123-2W) by TAUBMANS



b **aluminium framed balustrades**
(clear anodised) by NU-LITE



c **aluminium framed glazing**
(clear glass & anodised) by TREND3



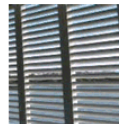
d **precast concrete panels**



e **brickwork**
(brahman granite) by BORWAL



f **aluminium framed roller door**
(clear anodised) by ABLE DOORS3



g **fixed louvres / screens**
(clear & bronze anodised) by SCREENMASTER



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Bayside Local Planning Panel

9/07/2019

Item No	6.3
Application Type	Development Application
Application No	DA-2018/333
Lodgement Date	07/12/2018
Property	1109 Botany Road, Mascot
Ward	Mascot
Owner	Coco Tech Pty Ltd
Applicant	AGM Studio
Proposal	Demolition of existing building and construction of two (2) x five (5) storey residential flat buildings containing a total of 16 x 2 bedroom units; at grade and basement parking and roof top terrace at the rear.
No. of Submissions	Six (6)
Cost of Development	\$4,599,843
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Bayside Local Planning Panel exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 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 be 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.
-

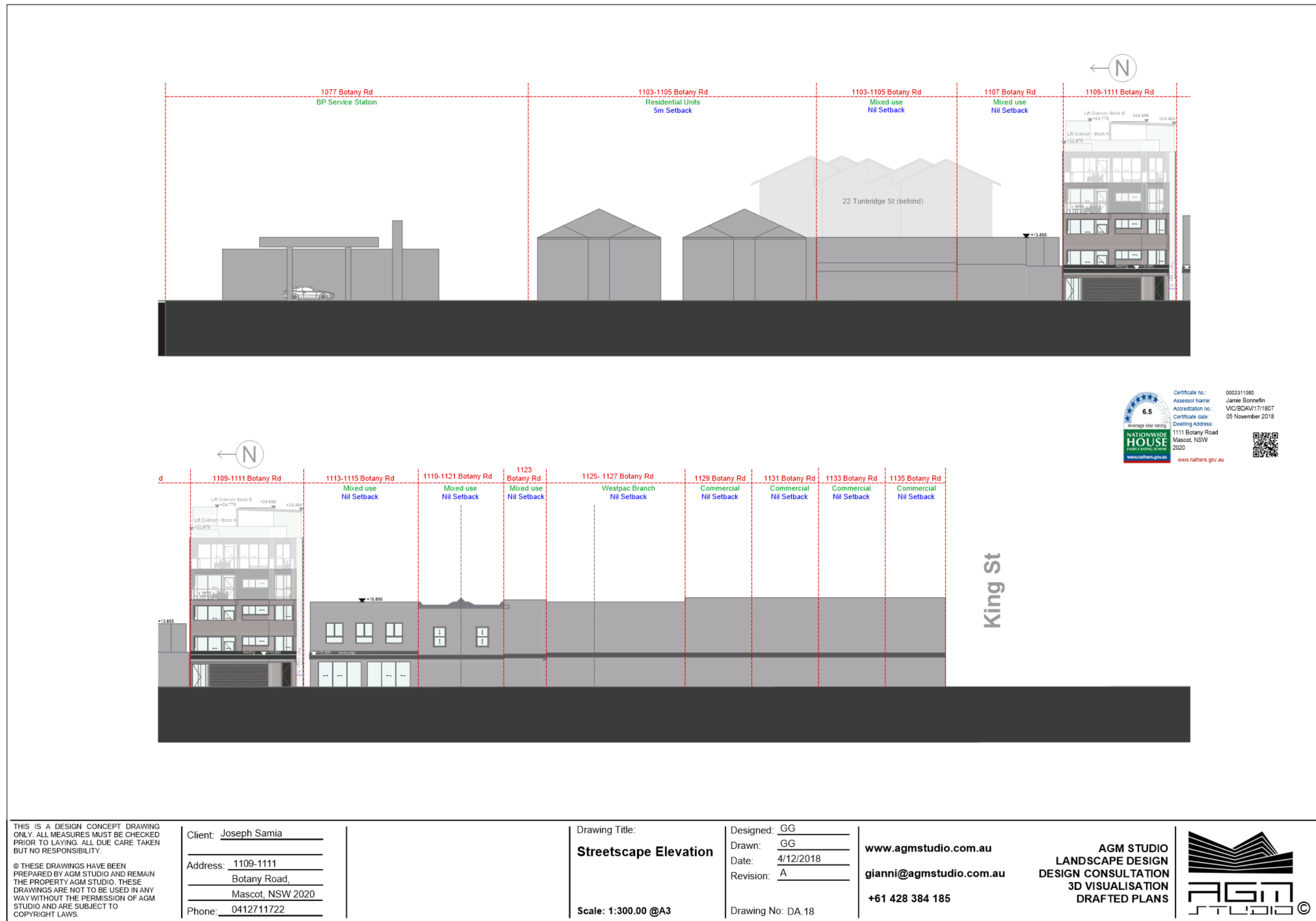
Location Plan



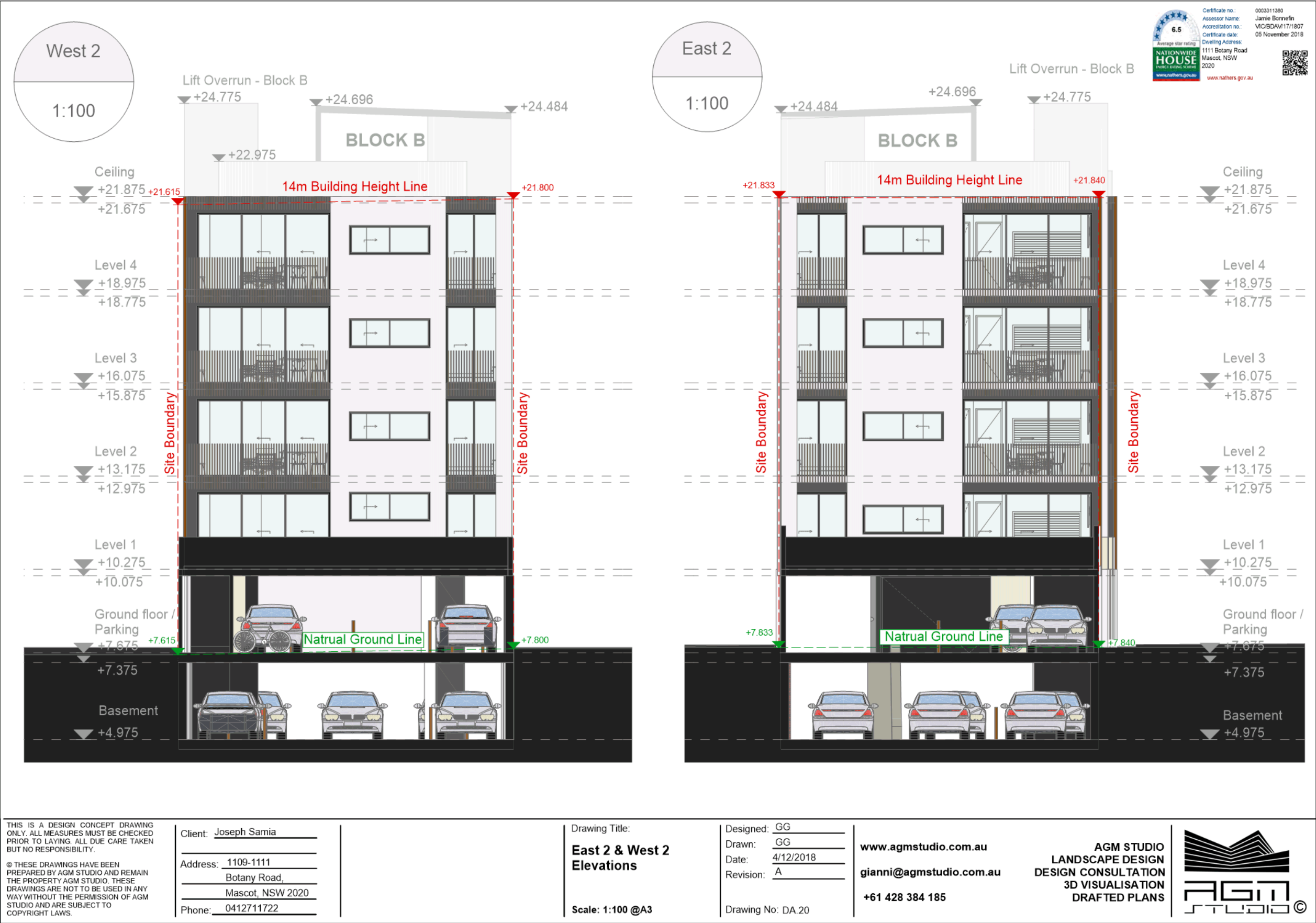
Attachments

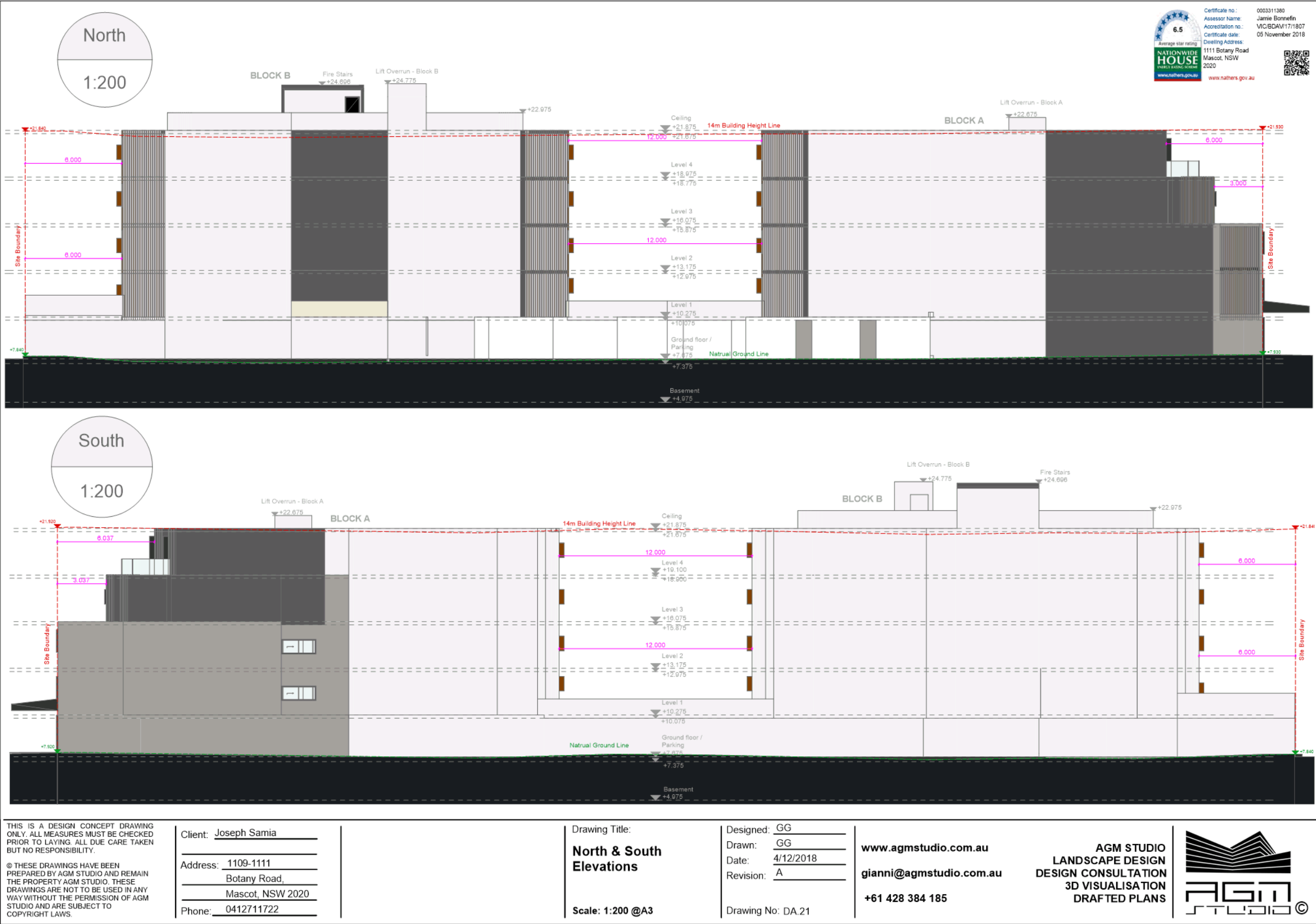
- 1 Site Plan [↓](#)
- 2 Elevations [↓](#)
- 3 Clause 4.6 - Building Height [↓](#)
- 4 Design Review Panel Minutes [↓](#)
- 5 Planning Assessment Report [↓](#)
- 6 Statement of Environmental Effects - 1109-1111 Botany Rd Mascot [↓](#)
- 7 Sepp 65 Architects Design Statement [↓](#)











Justification under Clause 4.6 of Botany Bay Local Environmental Plan
2013 – Exceptions to Development Standards.

Clause 4.3 Height of Buildings

Building Height control 14m.

Proposal Building Height 16.7m

1.0 Introduction

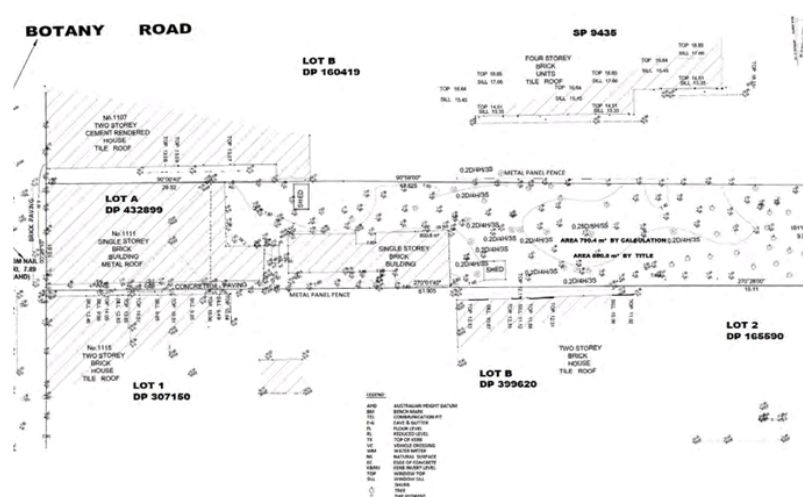
The site is located on the eastern side of Botany Road north of the intersection with King Street. The site has an area of 791m² and is regular in shape with a frontage to Botany Road in the west of 10.61m and a common eastern boundary of 9.95m. The site has a common northern boundary of 77.11m and a common southern boundary of 77.01m.

The site comprises one allotments and is known as 1109 - 1111 Botany Road (Lot A DP 432899). The land falls from west to east from RL7.95 on the Botany Road frontage to RL7.21 in the north-east (740mm).



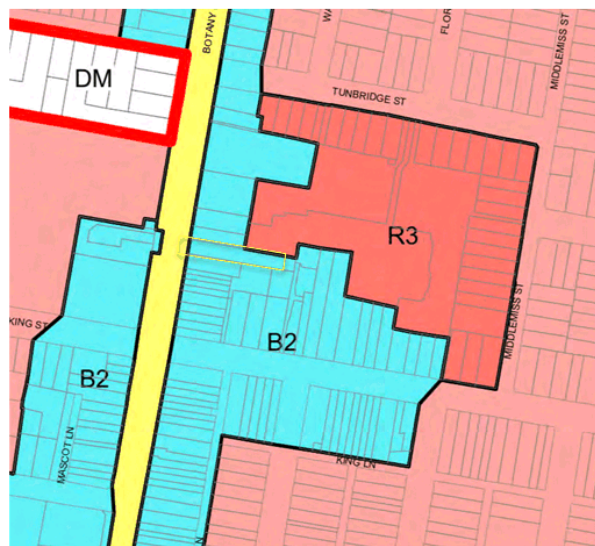
Aerial Photo Context

Source: RPData 2018



East West Surveyors Extract 2018

The subject site forms of a larger precinct most of which has recently been rezoned B2 allowing for mixed use development and R3 for Medium Density development and is an area in transition. The extent of the rezoning is reflected in the extract below.



Extract Botany Bay LEP 2013 Zoning Map 1

Subject Site Outlined in Yellow

It is proposed to demolish the structures and construct an infill development with a streetwall to Botany Road which adopts the height, form and scale frontage of the adjoining sites which extend south to the intersection with King Street. The proposal responds sympathetically to the form and scale of this development by adopting the parapet height, awning, rhythm and pattern of punched openings within a predominately solid rendered masonry faced. The proposal provides for the upper level setback from the streetwall parapet consistent with the planning controls.



Proposed Development Montage

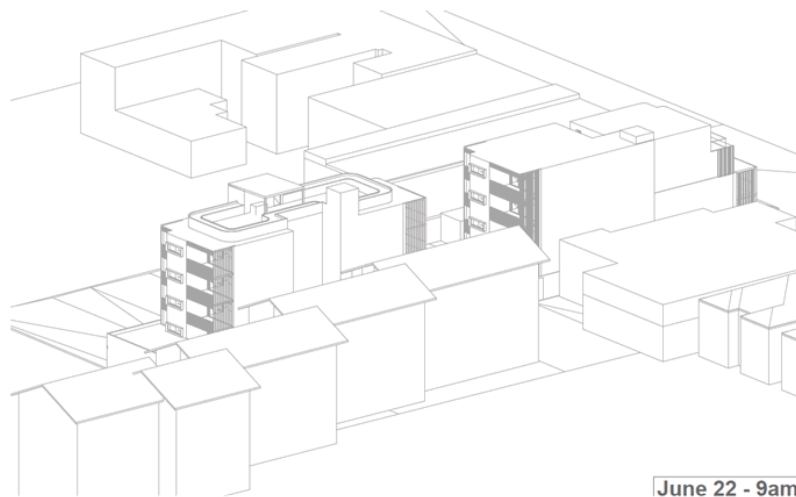
The proposed development comprises at total of 16 dwellings x 2 bed units and parking for 23 cars at ground and basement level with access from Botany Road. The proposal comprises two buildings, the first addressing Botany Road and the second centrally located on the site consistent with the pattern of development on the surrounding sites.

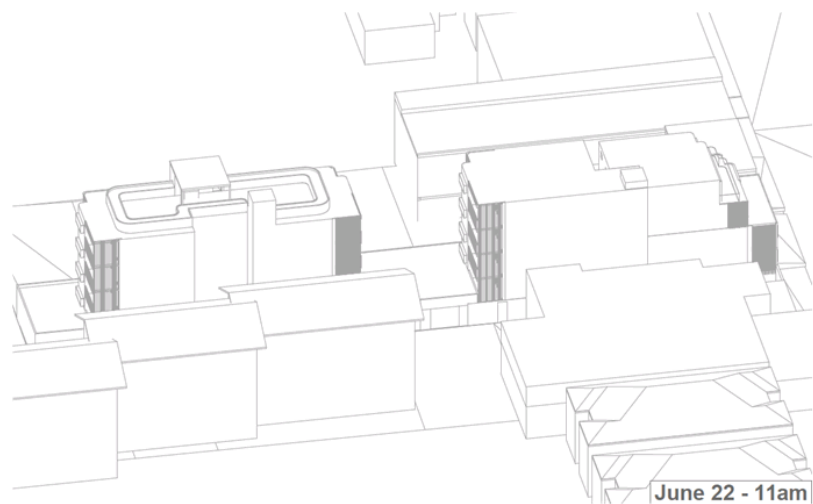
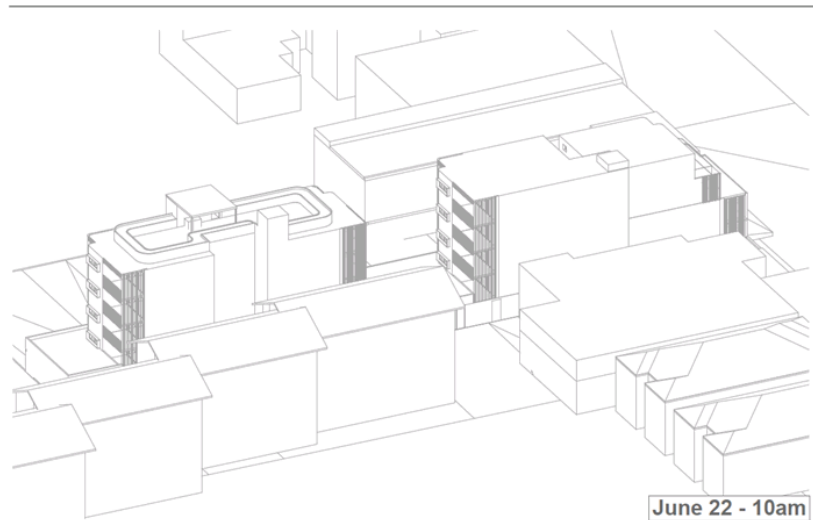
The subject site has a height control of 14m. The proposal has a height of 16.7m for the lift and stair providing access to the communal space. It is noted that the residential portion of the development is within the 14m height control area with the exception of a portion of the roof slab and lift overrun.

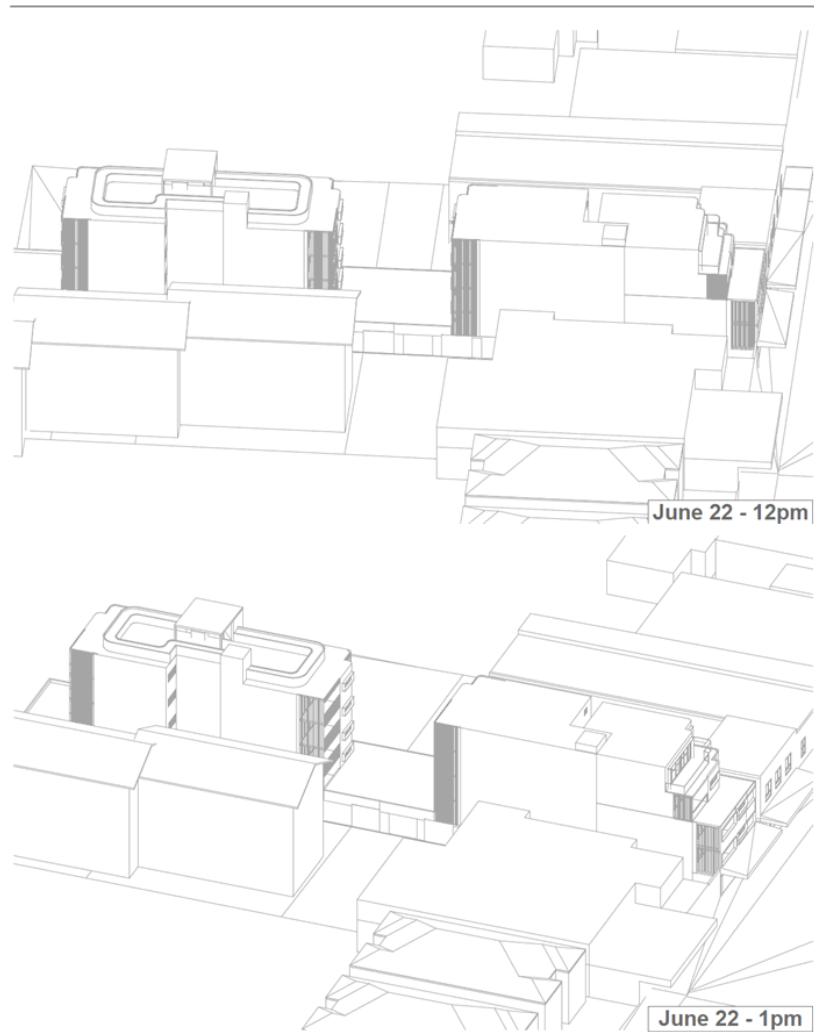


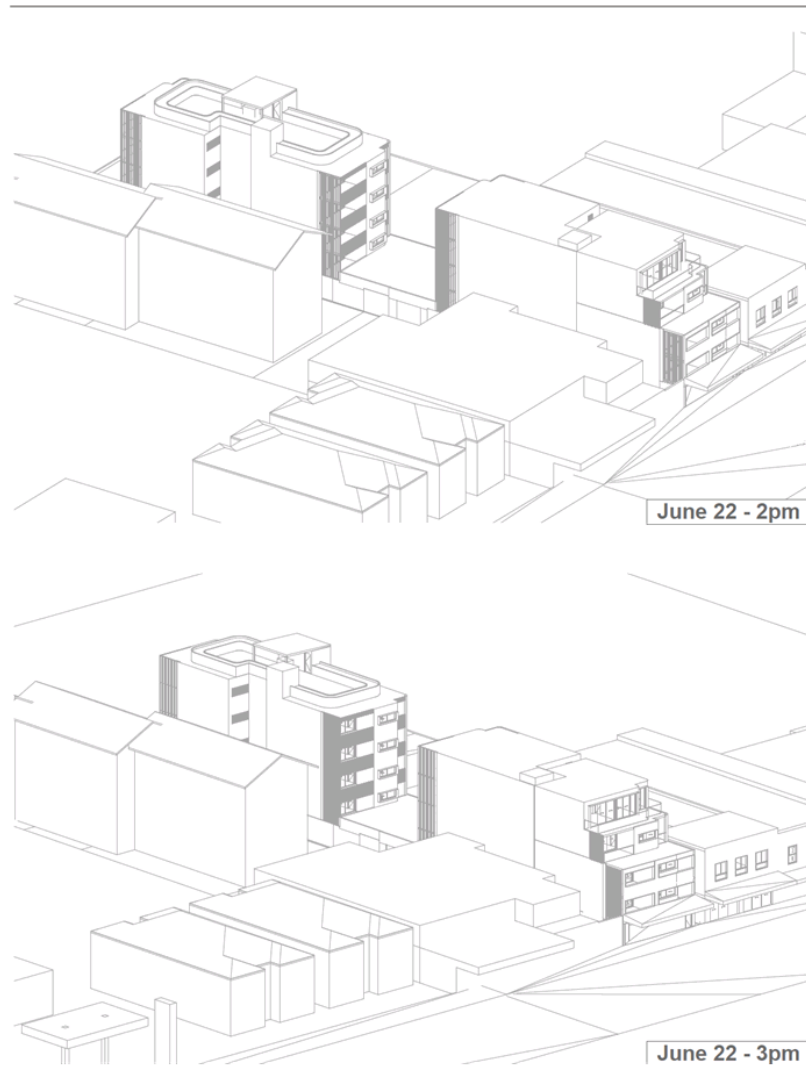
14m Height blanket

It is acknowledged that the increase in height has some minor shadow impact and as part of the assessment process the applicant has provided views from the sun for the proposal and the height blanket diagram to allow the assessment of solar access. It is clear that the impact of shadows arise predominantly from the compliant portions of the building.









The assessment of the solar impacts must be considered in the context of the B2 zoning of the site and immediate context. It should also be considered in the context where the building within the R3 zone is located to the north and no shadow effect arises from the proposal.

A consideration of the views from the sun shows that each of these units achieve 2 hours of solar access to their balconies and windows.

In this instance it is the upper level communal open space and its access which has been incorporated, by relocating the ground level space which would otherwise be shadowed and of low amenity. It is considered that on balance this is a better planning outcome where solar access, amenity and equitable access for all occupants are of such high regard.

Clause 4.6 of the Botany Bay Local Environmental Plan 2013 (BBLEP) enables Council to grant consent for development even though the development varies a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clauses 4.6 (3) and (4)(a)(ii) require that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard, namely:

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

The consent authority's satisfaction to those matters must be informed by the objective of providing flexibility in the application of the relevant control to achieve better outcomes for and from the development in question.

The Land and Environment Court has given consideration to the matters that must be addressed in relation to whether a variation to development standards should be approved. While these cases originally referred to the former SEPP 1, the principles still remain relevant, more recently,

further guidance on the approach to apply to applications to vary development standards under clause 4.6 of the Standard Instrument was provided by the Land and Environment Court. This Clause 4.6 gives consideration to the matters raised in:

- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;
- Turland v Wingecarribee Shire Council [2018] NSWLEC 1511;
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;
- Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386; and
- Moskovich v Waverley Council [2016] NSWLEC 1015.
- Wehbe v Pittwater Council [2007] NSW LEC 827; and
- Winten Property Group Ltd v North Sydney Council [2001] 130 LGERA 79 at 89;

In accordance with the above requirements, this Clause 4.6 variation request:

2. identifies the development standard to be varied;
3. identifies the variation sought;
4. establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
5. demonstrates there are sufficient environmental planning grounds to justify the contravention;
6. demonstrates that the proposed variation is in the public interest; and
7. provides an assessment of the matters the secretary is required to consider before providing concurrence.

This Clause 4.6 variation request relates to the development standard for Height of Buildings under Clause 4.3 of the BBLEP and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Mersonn dated December 2018 as well as the supplementary documentation submitted to Council. This Clause 4.6 variation request demonstrates that compliance with the Height of Buildings development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to

justify variation to the standard.

2.0 Development Standard to be Varied

The development standard that is sought to be varied as part of this application is Clause 4.3 of the BBLEP, relating to the Height of Buildings. Under the BBLEP 2013, the site is afforded Height of Buildings of 14m.

3.0 Nature of the Variation Sought

The maximum Height of Buildings on the site under the BBLEP for this application is 14m. The proposed building on the site has a height of 16.7m, and is in excess of the maximum Height of Buildings development standard applicable under the BBLEP and requires a variation to the maximum Height of Buildings development standard through clause 4.6.

The proposed development seeks consent to exceed the Height of Buildings development standard applicable under the BBLEP by 19.28%.

It is well established in case law that the extent of the numerical variation does not form part of the test required to be exercised under Clause 4.6. Decisions in respect of *Micaul Holdings P/L V Randwick City Council* (55% exceedance of height and 20% exceedance of FSR) and *Moskovich V Waverley Council* (65% exceedance of FSR) support this.

4.0 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The five methods outlined in *Wehbe* include:

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).*
- 3. The underlying object or purpose would be defeated or thwarted*

if compliance was required and therefore compliance is unreasonable (Third Method).

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Method).

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Method).

In this instance, the First Method is of particular assistance in establishing that compliance with a development standard is unreasonable or unnecessary.

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action v Woollahra Municipal Council* [24] and *Turland v Wingecarribee Shire Council* [42]).

In this instance part of the upper level of the proposed development exceeds the Height of Buildings development standard and therefore require a further variation to that standard.

4.1 The objectives of the development standard are achieved notwithstanding the non-compliance (First Method)

The objectives of Clause 4.3 Height of Buildings in BBLEP 2013 are;

(1) The objectives of this clause are as follows:

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

The proposal is considered to be sited in a coordinated and cohesive manner responding to the built form of Botany Bay. Addressing the B2 zone with zero lot alignment and stepped building form and splitting the rear of the building to maintain openness between the forms for the outlook from the adjoining R3 dwellings but orienting units perpendicular to their orientation. The proposal is considered to satisfy this objective.

The taller building is located centrally and to the rear of the site so as not to compete with the Botany Road streetwall while simultaneously retaining an open aspect for the dwellings adjoining within the R3 land.

It is demonstrated in the plans that the proposal minimises any overshadowing, loss of privacy and visual impacts for the neighbouring properties consistent with the objectives of this clause. The proposal presents as a building predominantly within the maximum height of buildings as it presents to the street. The height of the proposal is considered to be consistent with the desired character of the locality and the surrounding buildings and public areas will continue to receive satisfactory exposure to sky and sunlight. The proposal provides an appropriate built form and land use intensity consistent with the objectives of this clause. It is considered that these objectives are met by the proposal.

The height of the proposal is considered to be consistent with and appropriate to the condition of the site and its context. The desired

character of the locality and the surrounding buildings and public areas will continue to receive satisfactory exposure to sky and sunlight. The proposal provides an appropriate built form and land use intensity consistent with the objectives of this clause.

The assessment of the solar impacts must be considered in the context of the recent B2 zoning of the site and immediate context. It should also be considered in the context where the adjoining building within the R3 zone orients its units north-south in preference to the solar aspect rather than the street. A consideration of the views from the sun shows that each of these units achieve 2 hours of solar access to their balconies and windows.

In this instance it is the part upper level which has been incorporated to accommodate communal open space with high amenity and equitable access, by relocating the massing in a compliant scheme would provide lesser amenity and poorer levels of equitable access. It is considered that on balance this is a better planning outcome where communal amenity of such high regard is achieved.

It is demonstrated in the plans that the proposal minimises any overshadowing, loss of privacy and visual impacts for the neighbouring properties consistent with the objectives of this clause. The proposal does not give rise to any significant view affectation. The proposed external works to the building are at the rear of the site and located to minimise any view impacts.

The SEE details that the proposal is largely consistent with the relevant environmental planning instruments and does not give rise to any adverse environmental impacts in respect to overshadowing, traffic, heritage, wind, reflectivity, stormwater, flooding, noise, waste, economic and social impacts.

It is considered that these objectives are met by the proposal.

5.0 There are sufficient environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of the BBLEP requires the departure from the development standard to be justified by demonstrating:
That there are sufficient environmental planning grounds to justify contravening the development standard.

There are sufficient environmental planning grounds to justify a flexible approach to the application of the Height of Buildings control as it applies to the site. In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site.

The applicable circumstances that relate to the site are discussed below.

The proposal seeks flexibility in the application of the standard where the breach to the height control arises from a building, which is consistent in bulk and scale with the desired future character. A compliant building would unnecessarily excavate and step the whole of the building form in order to achieve the height control while providing a lower level of communal amenity. This is considered to achieve flexibility consistent with the objectives of this clause.

The solution to upper level communal open space and equitable access provides a better planning outcome for both the occupants and the neighbours and retains an acceptable level of solar access for the neighbouring buildings.

The proposal provides for a better outcome in making available communal space on the building, which benefits from high amenity and high levels of solar access and outlook. This is considered to be a better outcome consistent with the objectives of this clause.

A consideration of the application and the submitted shadow diagrams demonstrate that no significant overshadowing, privacy, view or bulk and scale amenity impacts arise from the proposal. It is considered that the

proposal is the better planning outcome encouraged by the provisions of Clause 4.6.

The proposed works above the height have no significant view impact and cause no overshadowing, nor bulk or scale impacts to the existing surrounding dwellings.

In the circumstances where there are sound environmental and site specific sufficient environmental planning grounds reasons for the breach to the height control it is considered to justify contravention of the control and consequently the exception to the height control standard under Clause 4.6 is considered acceptable.

In this regard, there are sufficient environmental planning grounds to justify contravening the development standard. The proposed additional height sought in this Clause 4.6 better allows the built form on the site to achieve the desired future character of the locality, as expressed under the DCP, as compared to the do nothing scenario.

6.0 It is in the public interest because it is consistent with the objectives of the particular standard and the zone.

6.1 Consistency with the objectives of the development standard.

The proposed development is consistent with the objectives of the FSR development standard, for the reasons discussed in Section 4.1 of this report.

6.2 Consistency with the Zoned B2 – Local Centre Zone objectives.

The objectives for development in this zone are;

1 Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other*

development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

- *To ensure uses support the viability of centres.*

The proposed development improves the provision of high density housing for the needs of the community without compromising amenity of the surrounding area. The proposal is consistent with the desired pattern of land use and density achieves a reasonably high level of residential amenity.

The proposal provides a variety of housing types in an area which is undergoing a rapid transition in housing stock from apartments to single dwellings. This serves to integrate residential and business uses in accessible locations so as to maximise public transport patronage and encourage walking and cycling consistent with the objectives of the zone.

The proposal contributes to the viability of the centre by redeveloping a redundant use consistent with the objectives of the plan.

The proposal is considered to meet the objectives for development in the zone.

The proposal is considered consistent with the objectives of the standard and for development in this zone as required by this subclause.

7.0 Secretary's Concurrence.

Under Clause 4.6(5) of NSLEP 2012, the Secretary's concurrence is required prior to any variation being granted. The following section provides a response to those matters set out in Clause 4.6(5) of the NSLEP, which must be considered by the Secretary.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning
The variation to the Height of Buildings standard of BBLEP will not raise any matter in which could be deemed to have State or

Regional significance. The extent of variation sought is minor in the context of the building heights.

The public benefit of maintaining the development standard.

Maintaining the development standard would not result in any public benefit in this situation. As detailed within the SEE, the height and bulk of the existing building is predominantly unchanged and the proposal responds to the surrounding urban context and the requirements of the Botany Bay DCP and ADG.

The current built-form provided by the existing building is generally consistent with the bulk and scale of the surrounding buildings, and requiring compliance with the Height of Buildings standard would result in an inconsistent building form.

The proposed development would allow the building as a whole to better meet the objectives of the DCP by physically responding to the characteristic building form and its context and reinforcing the character of the area in consideration of the surrounding heritage buildings. The proposed variation to the Height of Buildings standard therefore allows the site to better meet the objectives of the DCP, ADG and the desired future character of the area. DCPs are guiding documents prepared to express the desired future character; protect the public interest and are prepared through an extensive public exhibition process.

Therefore, to better meet the objectives of the DCP can be said to improve the development's presentation to the public domain and is in the public interest.

Any other matters to be taken into consideration by the Secretary
None.

8.0 Conclusion

The assessment above demonstrates that compliance with the maximum Height of Buildings development standard contained in Clause 4.3 of

BBLEP 2013 is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded on environmental planning grounds.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a superior outcome in planning and design terms. This Clause 4.6 variation demonstrates, notwithstanding the non-compliance with the maximum building height development standard, that:

- The development as proposed will deliver a superior built-form outcome in consideration of the site's characteristics and its location amongst the surrounding buildings;
- The development as proposed will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally; and
- Compliance with the development standard would be both unreasonable and unnecessary in the instance because the development is able to fully satisfy the objectives of the B2 – Local Centre Zone and the objectives of the Height of Buildings development standard.

The BBLEP 2013 applies a maximum Height of Buildings development standard for the site of 14m. The proposed development has a height of 16.7m and is therefore in excess of the maximum Height of Buildings development standard allowable under the BBLEP 2.

This variation therefore seeks consent for the proposed works as consistent with the specific site constraints and the character and form of the surrounding buildings and does not result in an over development of the site or any adverse impacts on the public domain. The proposed additional height is commensurate with surrounding developments and the built form that characterises the locality. It is also consistent with the design approach applied to other buildings within the immediate vicinity.

Consistent with the aim of Clause 4.6 to provide an appropriate degree of flexibility to achieve better outcomes for and from development, a

departure from the Height of Buildings development standard is considered appropriate in these circumstances.

Despite the numerical non-compliance with the Height of Buildings development standard, the proposed development is considered to satisfy the objectives of the development standard and the B2 – Local Centre Zone.

The proposal will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally. On this basis, the Clause 4.6 variation is considered well founded and should be supported.

In this instance it is considered appropriate to make an exception to the Height of Buildings development standard under the provisions of Clause 4.6 for the reasons outlined in the preceding discussion.

Bayside Design Review Panel

REPORT OF THE BAYSIDE DESIGN REVIEW PANEL

Meeting held on Thursday, 7 March 2019 at Bayside Council

[Panel members: Alf Lester, Sam Crawford and Dean Boone]

ITEM 3

Date of Panel Assessment:	7 March 2019
Applicant:	AGM Studio
Architect:	Gianni Georges/Alan Mhanna
Property Address:	1109-1111 Botany Road, Mascot
Description:	Demolition of existing building and construction of two (2) x five (5) storey residential flat buildings containing a total 16 x 2 bedroom units; at grade and basement parking and roof top terrace at the rear
No. of Buildings:	2
No. of Storeys:	5
No. of Units:	16 x 2 bedroom units
Consent Authority Responsible:	Bayside Council
Application No.:	DA-2018/333
Declaration of Conflict of Interest:	Nil

The Panel inspected the site, reviewed the submitted documentation and met with representatives of the applicant including Michael Ilievski (Draftsman AGM Studio), Alan Mhanna (Architect AGM Studio), Andrew Darrech (Planner Mersonn), Gianni Georges (Draftsman AGM Studio), Joe Sania (Manager AGM Studio), Patrick Nash (Council's Senior Development Planner) and Chris Mackey (Council's Coordinator Development Assessment).

Design Principle	Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The subject site is located on the eastern side of Botany Road within the Mascot local centre. The proposal is not consistent with the desired future character of the precinct in that instead of providing an active ground floor frontage, which would help conserve the Mascot shopping strip, the street presence is defined by a residential entry and vehicular access to basement and ground level car parking. Given that ground floor shops represent distinctive and characteristic elements of the Mascot local centre, the proposal fails to address context and does not meet the desired future character.</p> <p>While components of the proposed development address the wider built form guidelines, the impact of nature of the development on Botany Road fails to address the future character. The key issues identified by the Panel include:</p> <ul style="list-style-type: none"> • Continuity of retail or commercial space is not provided to Botany Road • the ground level interface does not respond to the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood • the carpark entry and exit and driveway crossing will adversely affect pedestrian activity on the Botany Road retail strip • the width of the carpark entry leaves no space for a shopfront, negatively impacting on the consistency of the street/ lot interface <p>The Panel considers that the proposed development is not consistent with the existing context and desired neighbourhood character.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The built form and scale of the development reflects the elongated nature of the subject site which has a frontage of 10.6m to Botany Road and a site depth of 77m.</p> <p>The restricted frontage and width of the site has resulted in the development proposal containing two similar residential flat buildings set within a land locked site. This results in a series of critical adverse consequences on both design and environmental grounds.</p> <ul style="list-style-type: none"> • Amenity of the public street scape is impaired given the lack of retail continuity along Botany Road • Residential access to both Blocks A and B via what is effectively a fire tunnel with no provision for natural light between the street and Buildings A and B • Inadequate building separation to meet ADG guidelines • No deep soil provision • A series of first floor landscape planter areas which are only accessible from individual apartments • Limited communal rooftop open space that is only directly accessible from one of the proposed apartment buildings • Building B exceeds the permissible height limit which will have a negative impact on adjacent property

Design Principle	Comments
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposed project has an FSR of 1.99:1 against the maximum permissible FSR of 2:1 which the Panel noted however the limited access to the site which is only from Botany Road coupled with the elongated depth of the site has resulted in a series of design and environmental inadequacies including:</p> <ul style="list-style-type: none"> • Poor street address • Inadequate parking • Lack of deep soil • Inadequate accessible communal open space • Failure to meet visual and acoustic separation requirements under ADG • Questionable fire exit provision from Building B and basement carpark • No provision for substation • No provision for commercial tenancy • No provision for fire hydrants • No effective provision for a residential lobby • Accordingly the Panel considered that the identified constraints and inadequacies reflected an overdevelopment of this site and failed to address the evident limitations of the site
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>The design does not provide for any deep soil landscaped zones for groundwater recharge and vegetation.</p> <p>The design relies on insufficient separation between non-habitable rooms of individual apartments in order to provide cross ventilation to several apartments in Block A.</p> <p>The Panel notes that there are further opportunities to include sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc. which should be pursued .</p>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and</p>	<p>The landscape design strategy is not clearly articulated in the documentation presented to the Panel. In particular, it is not clear if the landscaped carpark roof between Block A and Block B is only accessible from Units 2 & 9 (the landscape design shows a lapped and capped fence in the centre) and / or how that landscaped area would be maintained by the body corporate, given that it is only accessible via those units. Similarly there are a series of landscaped spaces within the complex above the carpark which are not readily accessible (given the elevated nature above the adjacent apartment floor levels) which would only be accessible from the adjacent apartment and hence difficult to ensure long term care and maintenance.</p> <p>The Panel considers the landscape design of the roof top communal outdoor space on Block B to be poor in that there is limited opportunity for separate groups to use the space at one time. There is insufficient</p>

Design Principle	Comments
<p>soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>space provided for the number of residents in the complex and the roof top area is not readily accessible to occupants of Block A.</p> <p>As noted above, the design does not provide for any deep soil landscaped zones for groundwater recharge and vegetation.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The Panel considers the following amenity outcomes of the current design to be unacceptable:</p> <ul style="list-style-type: none"> • The communal open space is not readily accessible to occupants of Block A (half of the residents) • There is no proper residential lobby or foyer to the building, rather there is one long narrow dark hallway accessing two lifts and a fire stair • There is no proper residential street address for a development of this scale • Block B can only be reached via a long, narrow hall without natural light or ventilation • There is no natural light or ventilation to Level, 3 and 4 of lift lobby to Block A, and insufficient light or ventilation to levels 1 and 2 • There is no natural light or ventilation to the lift lobby in Block B • Insufficient (significantly less than 6m) separation between non habitable rooms in apartments in Block A • Insufficient separation between habitable rooms and balconies on Level 5 (named level 4 on drawings) west side Block A and east side Block B. • The drawings lack any information locating air-conditioning plant – thus impact cannot be assessed.
<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The Panel has significant concerns about the safety of the development for residents and visitors:</p> <ul style="list-style-type: none"> • Vehicular crossing on busy retail/ pedestrian strip, in close proximity to a bus stop • Poor visibility into the long narrow hall that acts as resident lift lobby and foyer. • No fire escape from the basement carpark (stair from basement leads into ground floor carpark only and shares the same shaft as fire escape from apartments above) • The fire stair from Block B leads into the carpark only, not to rather than a safe outdoor space • Several car spaces (including accessible) noted on plans appear to be incapable of being accessed in a vehicle, or for a vehicle to be driven out of the space. • No space provided for fire hydrant

Design Principle	Comments
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The Panel notes that there is no diversity of apartment sizes/ types in the development. All apartments are two bedrooms.</p> <p>The lack of accessible communal open space for 50% of residents combined with limited effective lobby space adjacent to lifts will not facilitate opportunities for social interaction among residents.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The Panel notes that the planning of the apartment floors is acceptable in general terms. However the building has a very poor quality presentation at street level, which is inappropriate to its locale.</p>

RECOMMENDATION

- The design cannot be supported in its present form and should be amended as outlined above for reconsideration by the Panel.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/333
Date of Receipt:	7 December 2018
Property:	1109 Botany Road, Mascot
Owners:	Coco Tech Pty Ltd
Applicant:	AGM Studio
Proposal:	Demolition of 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.
Recommendation:	Refusal
Value:	\$4,599,843.00
No. of submissions:	Six (6)
Author:	Patrick Nash, Senior Development Assessment Planner
Date of Report:	19 June 2019

Key Issues

Bayside Council received Development Application No.2018/333 on 7 December 2018 seeking consent for 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.

The key issues identified in the assessment of the development application include:

- Inconsistency with the objectives of the B2 – Local Centre zone and the provisions of clause 6.15 – Active street frontages within Botany Bay LEP 2013. The design of the ground floor plan is comprised of car parking, void of any business/retail uses. The proposal is inconsistent with the desired future character of the Mascot Local Centre.
- Lawful vehicular access to the site has not been established, noting that the proposed development includes the provision of a new driveway at the front of the site, accessed off Botany Road which requires the approval of RMS under Section 138 of the *Roads Act 1993*. RMS has stated that they are unable to provide concurrence.
- The proposed development does not comply with the 14m building height development standard pursuant to clause 4.3 in Botany Bay LEP 2013. Council is not satisfied that compliance with the maximum allowable building height is unreasonable and unnecessary.
- Non-conformity to the FSR development standard in clause 4.4 of Botany Bay LEP 2013. No clause 4.6 exception was submitted. Accordingly, the consent authority has no power to consent to the application.
- Insufficient information to satisfy SEPP 55 and to demonstrate that the proposed does not constitute Integrated Development.
- Non-conformity with the Apartment Design Guide in respect of: deep soil landscaping, communal open space, floor to ceiling heights, building separation and natural ventilation.
- Inadequate Design Verification Statement to satisfy clause 50(1B) of the Regulations.

- Car parking shortfall and various concerns with respect to the design and layout of the car parking areas.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for refusal for reasons identified in the attached schedule.

Recommendation

It is RECOMMENDED:

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 be REFUSED pursuant to Section 4.6(1)(b) of the Environmental Planning and Assessment Act 1979 for reasons identified in the attached Schedule.
3. THAT the submitters be notified of the Bayside Local Planning Panel's decision.

Background

History

Development Application History

- **7 December 2018** – The subject development application was submitted to Council.
- **4 January 2019 to 30 January 2019** – The application was notified and advertised in accordance with the requirements of Botany Bay Development Control Plan 2013.
- **31 January 2019** – The application was referred to Roads and Maritime Services for concurrence in accordance with s138 of the Roads Act 1993 as the proposed development seeks for vehicular access to be established off a classified road.
- **8 February 2019** – Written advice was received off the RMS who advised that they are unable to provide concurrence.
- **7 March 2019** – The application was reviewed by Council's Design Review Panel (DRP).
- **30 April 2019** – Following a comprehensive assessment of the application, a letter was sent to the applicant advising of a number of design issues, including: Various concerns raised by the DRP, no provision of an active street frontage at the ground floor, lawful vehicular access to the site has not been established, building height non-compliance, insufficient floor to ceiling heights, floor space ratio non-compliance, insufficient amount of communal open space, insufficient cross ventilation, inadequate Design Verification Statement, car parking non-compliance, poor vehicular access, heritage impacts, poor landscape outcomes and insufficient information to address the

presence of groundwater on the site and land contamination. Given the extensive number of issues which are fundamental to the proposal, the applicant was requested to withdraw the DA. At the time of writing this report, the applicant has not withdrawn the application.

Proposal

The subject development application seeks consent for demolition of the existing building and construction of two (2) x five (5) storey residential flat buildings containing a total 16 x 2 bedroom units; at grade and basement parking and roof top terrace at the rear.

The proposed development is further described as follows:

Basement Plan

- 15 car parking spaces;
- 2 lifts and fire stairs; and
- Vehicle waiting bays.

Ground Floor Plan

- Vehicular access off Botany Road;
- Bin room adjacent to the street edge;
- 7 car parking spaces;
- Bicycle spaces;
- Vehicle waiting bays;
- 2 lifts and fire stairs;
- Separate pedestrian access adjacent to the northern side boundary; and
- No commercial/business tenancies.

Level 1 Plan to Level 4 Plan

- 16 x 2 bedroom apartments across two separate buildings; and
- There are inaccessible soft landscaping areas proposed on the Level 1 Plan.

Roof Plan

- Communal open space area at the rear of the site on the roof of Building B

The photomontage of the proposed development is re-produced below for reference:



Figure 1 – Photomontage of the proposed development as viewed from the opposite side of Botany Road

Site Description

The subject site is legally known as Lot A in DP 432899 and is commonly known as 1109-1111 Botany Road, Mascot. The site is a long, narrow allotment with a frontage to Botany Road of 10.61m and side boundary lengths of 77m. The total site area is 790.4m². The land falls from west to east from RL7.95 on the Botany Road frontage to RL7.21 in the north-east (740mm). The site currently accommodates an existing single storey building which appears to be disused.

The site adjoining to the south (No.1115-1119 Botany Road) comprises an existing mixed use development which addresses Botany Road and is comprised of ground floor retail and residential above. Access to this site is achieved via a Right of Way from King Street. The sites adjoining to the east comprise two battle-axe allotments containing residential buildings.

Adjoining to the north (at the front of the subject site) is No.1107 Botany Road which accommodates an existing commercial building. Adjoining to the north (at the rear of the subject site) is a multi-storey residential development that is within the R3 – Medium Density Residential zone.

The subject site is in the vicinity of a number of heritage items listed in Schedule 5 of Botany Bay LEP 2013. The closest heritage item is item number I139 Mascot Public School building group which is located on the opposite (western side) of Botany Road. Also nearby is I39 a Commercial building group at 1133-1135 Botany Road (on the corner of King Street).



Figure 2 – Aerial photo of the subject site



Figure 3 – The subject site (identified in red) as viewed from the opposite side of Botany Road

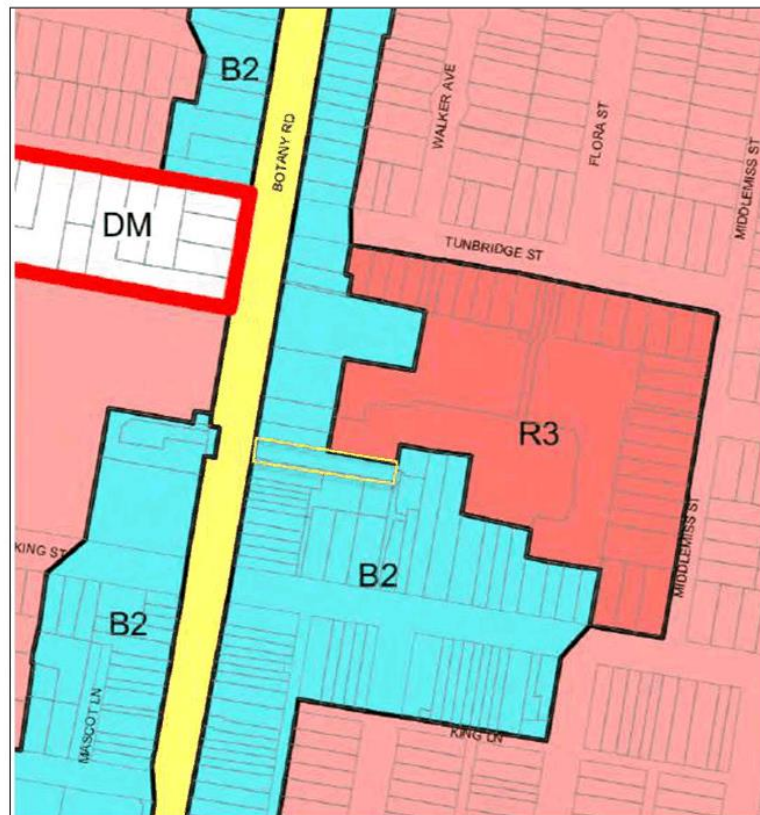


Figure 4 – BBLEP 2013 zoning map extract of the site and surrounds

Statutory Considerations

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

Part 4 Division 5 – Special procedures for integrated development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the Development Application. The information submitted with the Development Application is insufficient to determine whether or not the proposal would constitute Integrated Development in accordance with the Water Management Act 2000. This matter is addressed in greater detail under the SEPP 55 discussion.

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

The proposed development includes the removal of all existing trees on site as well as the protection of six (6) trees existing trees on the neighbouring property to the north. No concerns are raised with this aspect of the development and the proposal is satisfactory with respect to SEPP (Vegetation in Non-Rural Areas) 2017.

State Environmental Planning Policy (Infrastructure) 2007

The site is located on Botany Road which is a classified road. Vehicular access is proposed to be established via a new crossing off Botany Road.

The development application was referred to RMS for comment as a new road opening is proposed. A response was provided dated 8 February 2019 which did not provide concurrence and comments were as follows:

Roads and Maritime has reviewed the submitted application and is unable to provide concurrence under Section 138 of the Roads Act 1993 for the following reason:

1. *The use of Traffic Light Vehicle Priority System does not comply with Section 3.4 and Table 3.3 in AS 2890.1 (2004) Parking Facilities – Off-Street Car Parking. Non-compliance with this standard would cause vehicles to queue along Botany Road before being given permission to enter the access driveway by the Traffic Light Vehicle Priority System. This would impact on traffic efficiency, in particular bus operations along Botany Road.*
2. *Roads and Maritime supports Council's development control plan (DCP) parking requirements for the site. However, it is noted that the proposed development does not align with the DCP.*

In view of the above, it is considered that lawful vehicular access to the site has not been established. The application is unsatisfactory in this respect.

The applicant has provided an acoustic report to demonstrate that the proposed development is capable of achieving the relevant acoustic requirements set out in clause 102 – Impact of road noise or vibration on non-road development. No further concerns are raised in this respect.

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. 974855M, dated 5 November 2018, prepared by Certified Energy. The application satisfies SEPP (BASIX) 2004.

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 use is increasing the exposure category from commercial/industrial to residential. There will also be excavation to 3m bgl for a finished basement floor level of 2.4m bgl (RL 7.97m) for a single level of basement carpark to the boundaries of the site.

The proposal was referred to Council's Environmental Scientist to review who made the following comments:

The following reports were provided:

- 1) 'Stage 1 Environmental Investigation – 1111 Botany Road, Mascot NSW' (Report No. DD-736_2) completed by Dirt Doctors dated 13 February 2019.
- 2) 'Geotechnical Investigation Report - Proposed Multi-Storey Residential Development - 1111 Botany Road Mascot NSW' (Report No. DDR-1) completed by Dirt Doctors dated 26 November 2018.

I note that there has been no testing of any soil or groundwater at the site as part of a contaminated land assessment. The geotechnical assessment contained minimal information and did not encounter ground water. The fill from 0.4-1.9m bgl. It is unusual that groundwater or seepage was not encountered to the depth of 4.8m bgl reached in the geotechnical report as this has been detected at much shallower depths in the area. There is no information provided to confirm the composition of the fill at the site, the depth of groundwater or whether there is any contaminants of concern from on or offsite that need to be managed to protect future resident's health. There is no reference to the basement intercepting ground water.

From a site over the road groundwater was encountered at 2.5m bgl in 2014. Excavation for this development to reach a basement FFL of RL 4.975m (2.4m bgl) with excavation therefore required to at least 3m bgl. Further information of the depth and quality of groundwater at the site is required to determine if there are any treatment or design requirements for the basement construction.

Sampling and analysis would highlight if there are any issues that would alter the design of the proposed building basement, or require management measures to be incorporated into the design. The PSI has concluded that the site is only suitable subject to a detailed site assessment following demolition of the building and structures, and the completion of work cover searches. This is insufficient to meet SEPP 55.

I have the following issues with the information to date:

- *There was no planning certificate for the report.*
- *There was no dangerous good search completed.*
- *There was no mention of groundwater as a potential AEC.*
- *The applicable acid sulfate soils map was not checked. It is in a Class 4 zone and therefore assessment of ASS is required below 2m.*
- *Groundwater flow has been previously noted to be in a southerly direction, placing a potential contamination source (petrol station) less than 55m up-gradient of the site. This needs to be addressed in any Preliminary or Detailed Site Investigation.*
- *The basement is likely to be within the groundwater, and further assessment of this is required. Tanking of the basement will be required if it is within the influence of groundwater.*

SEPP 55 has not been satisfied.

In view of the above, it is considered that the requirements of SEPP 55 have not been satisfied. Additionally, the matter of groundwater remains unresolved and the application has the potential to constitute Integrated Development, thereby requiring General Terms of Approval from the NSW Office of Water and an extended notification/advertising period.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building

The provisions of State Environmental Planning Policy No. 65 'Design Quality of Residential Apartment Building' have been considered in the assessment of the application.

Design Verification Statement

The submitted Design Verification Statement stipulates that the registered architect reviewed the building design and is of the opinion that the building achieves the design quality principles of Part 2 of SEPP 65. However, clause 50(1B) of the Environmental Planning and Assessment Regulation 2000 states the following:

(1AB) The statement by the qualified designer must:

(a) verify that he or she designed, or directed the design, of the development

The Design Verification Statement does not verify that a registered architect designed, or directed the design of the development. Therefore, the application does not satisfy clause 50(1B) of the Regulations.

Design Review Panel

The application was reviewed by Council's Design Review Panel in accordance with the requirements of clause 28 (2)(b) of SEPP 65.

A copy of the minutes from the meeting are attached to the report. The Design Review Panel did not support the proposed development. The concerns raised by the DRP are summarised below under each of the Design Quality Principles below. An assessment of the proposal against the Design Quality Principles has been undertaken. The proposal is unsatisfactory with regard to these Principles for the reasons identified by the Design Review Panel.

Context and Neighbourhood Character

The subject site is located on the eastern side of Botany Road within the Mascot local centre. The proposal is not consistent with the desired future character of the precinct in that instead of providing an active ground floor frontage, which would help conserve the Mascot shopping strip, the street presence is defined by a residential entry and vehicular access to basement and ground level car parking. Given that ground floor shops represent distinctive and characteristic elements of the Mascot local centre, the proposal fails to address context and does not meet the desired future character.

Built Form and Scale

The built form and scale of the development reflects the elongated nature of the subject site which has a frontage of 10.6m to Botany Road and a site depth of 77m. The restricted frontage and width of the site has resulted in the development proposal containing two similar residential flat buildings set within a land locked site. This results in a series of critical adverse consequences on both design and environmental grounds.

- Amenity of the public streetscape is impaired given the lack of retail continuity along Botany Road.
- Residential access to both Blocks A and B via what is effectively a fire tunnel with no provision for natural light between the street and Buildings A and B.
- Inadequate building separation to meet ADG guidelines.
- No deep soil provision.
- A series of first floor landscape planter areas which are only accessible from individual apartments.
- Limited communal rooftop open space that is only directly accessible from one of the proposed apartment buildings.
- Building B exceeds the permissible height limit which will have a negative impact on adjacent property.

Density

The proposed project has an FSR of 1.99:1 against the maximum permissible FSR of 2:1 which the Panel noted however the limited access to the site which is only from Botany Road coupled with the elongated depth of the site has resulted in a series of design and environmental inadequacies including:

The proposed project has an FSR of 1.99:1 against the maximum permissible FSR of 2:1 which the Panel noted however the limited access to the site which is only from Botany Road coupled with the elongated depth of the site has resulted in a series of design and environmental inadequacies including:

- Poor street address
- Inadequate parking
- Lack of deep soil
- Inadequate accessible communal open space
- Failure to meet visual and acoustic separation requirements under ADG
- Questionable fire exit provision from Building B and basement carpark
- No provision for substation

- No provision for commercial tenancy
- No provision for fire hydrants
- No effective provision for a residential lobby

Sustainability

The design does not provide for any deep soil landscaped zones for groundwater recharge and vegetation. The design relies on insufficient separation between non-habitable rooms of individual apartments in order to provide cross ventilation to several apartments in Block A.

The Panel notes that there are further opportunities to include sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc. which should be pursued.

Landscape

The landscape design strategy is not clearly articulated in the documentation presented to the Panel. In particular, it is not clear if the landscaped carpark roof between Block A and Block B is only accessible from Units 2 & 9 (the landscape design shows a lapped and capped fence in the centre) and / or how that landscaped area would be maintained by the body corporate, given that it is only accessible via those units. Similarly there are a series of landscaped spaces within the complex above the carpark which are not readily accessible (given the elevated nature above the adjacent apartment floor levels) which would only be accessible from the adjacent apartment and hence difficult to ensure long term care and maintenance.

The Panel considers the landscape design of the roof top communal outdoor space on Block B to be poor in that there is limited opportunity for separate groups to use the space at one time. There is insufficient space provided for the number of residents in the complex and the roof top area is not readily accessible to occupants of Block A.

Amenity

The Panel considers the following amenity outcomes of the current design to be unacceptable:

- The communal open space is not readily accessible to occupants of Block A (half of the residents)
- There is no proper residential lobby or foyer to the building, rather there is one long narrow dark hallway accessing two lifts and a fire stair
- There is no proper residential street address for a development of this scale
- Block B can only be reached via a long, narrow hall without natural light or ventilation
- There is no natural light or ventilation to Level, 3 and 4 of lift lobby to Block A, and insufficient light or ventilation to levels 1 and 2
- There is no natural light or ventilation to the lift lobby in Block B
- Insufficient (significantly less than 6m) separation between non habitable rooms in apartments in Block A
- Insufficient separation between habitable rooms and balconies on Level 5 (named level 4 on drawings) west side Block A and east side Block B.
- The drawings lack any information locating air-conditioning plant – thus impact cannot be assessed.

Safety

The Panel has significant concerns about the safety of the development for residents and visitors:

- Vehicular crossing on busy retail/ pedestrian strip, in close proximity to a bus stop
- Poor visibility into the long narrow hall that acts as resident lift lobby and foyer.
- No fire escape from the basement carpark (stair from basement leads into ground floor carpark only and shares the same shaft as fire escape from apartments above)
- The fire stair from Block B leads into the carpark only, not to rather than a safe outdoor space
- Several car spaces (including accessible) noted on plans appear to be incapable of being accessed in a vehicle, or for a vehicle to be driven out of the space.
- No space provided for fire hydrant

Housing Diversity and Social Interaction

The Panel notes that there is no diversity of apartment sizes/ types in the development. All apartments are two bedrooms. The lack of accessible communal open space for 50% of residents combined with limited effective lobby space adjacent to lifts will not facilitate opportunities for social interaction among residents.

Aesthetics

The Panel notes that the planning of the apartment floors is acceptable in general terms. However the building has a very poor quality presentation at street level, which is inappropriate to its locale.

In view of the above, the proposed development is inconsistent with the Design quality principles set out in Schedule 1. Consequently, the application fails to satisfy clause 28(2)(b) of SEPP 65.

Apartment Design Guide

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.

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, ceiling heights and building separation.

An assessment against the ADG has been carried out. The key points of non-compliance with the ADG are discussed below:

2F – Building separation

Part 2F of the ADG requires 18m building separation between habitable rooms/balconies for storeys five to eight. The proposed uppermost level (i.e. – the 5th storey) contains 12m internal building separation as measured from balcony to balcony and therefore is insufficient. It is noted that whilst 4 storeys are residential apartments are proposed, the proposed ground floor meets the definition of *storey* contained within Botany Bay LEP 2013.

Part 3D - Communal and public open space

Part 3D of the ADG requires development to have a minimum of 25% of the site area as communal open space. 144m² (18% of the site area) is proposed on the roof top which does not achieve the 25% minimum. There are soft landscaping areas on Level 1 but these do not appear to be accessible for all residents and therefore cannot be classified as communal spaces. There is insufficient space provided for the number of residents in the complex and the roof top area is not readily accessible to occupants of Block A. The design of the development does not satisfy Part 3D of the ADG.

Part 3E – Deep soil zones

Part 3E of the ADG requires a minimum of 7% (55m²) of the site area to be provided as a deep soil zone. The proposed development does not contain any deep soil landscaping and is therefore non-compliant in this respect.

Part 3J – Bicycle and car parking

The subject site is not located within 800 metres of a railway station or light rail stop in the Sydney Metropolitan Area. As a result, this part of the ADG is not applied for establishing the required car parking rate.

Part 4B – Natural ventilation

At least 60% of apartments are required to be naturally cross ventilated. No diagrams demonstrating which apartments would achieve cross ventilation have been supplied. In any case, the Design Review Panel has identified that the design relies on insufficient building separation between non-habitable rooms of individual apartments in order to provide cross ventilation to several apartments in Block A. This outcome does not promote an acceptable level of residential amenity and is not supported.

Part 4C – Ceiling heights

Part 4C of the ADG requires development to have the following floor to ceiling heights:

- Habitable rooms: 2.7m
- Non-habitable rooms: 2.4m
- Located in mixed use areas: 3.3m for ground and first floors

Figure 4C.5 indicates that the provision of a 3.1m floor to floor height is required to ensure that a final 2.7m floor to ceiling height can be achieved. A 2.9m floor to floor height is proposed which does not accord with this requirement and is not supported.

The ground floor has a 2.4m floor to ceiling height which falls well short of the 3.3m requirement and fails to promote future flexibility of use.

The development already exceeds the maximum building height of 14 metres therefore compliance with the minimum floor to ceiling height requirements would further exacerbate the extent of the breach.

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 of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned B2 - Local Centre zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as a residential flat building is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	No	<p>The objectives of the B2 Local Centre:</p> <ul style="list-style-type: none"> • To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area. • To encourage employment opportunities in accessible locations. • To maximise public transport patronage and encourage walking and cycling <p>The proposed development does not accord with the above objectives in that it fails to provide a retail/business component to service the needs of people in the local area. Further, the absence of a retail/business element would fail to encourage employment opportunities.</p>
What is the height of the building?	No	<p>A maximum height of 14 metres applies to the subject site.</p> <p>The maximum height of the development does not comply with Council's</p>

Relevant Clauses of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Does the height of the building comply with the maximum building height?		requirements under the Botany Bay Local Environmental Plan 2013. The lift overrun has a maximum height of 17.3m (RL24.775). A Clause 4.6 variation was provided with the application and is discussed in greater detail in the report below.
What is the proposed Floor Space Ratio? Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	No	The maximum allowable FSR is 2:1 (1580m ²). <u>Applicant's calculations:</u> GFA: 1579.8m ² FSR: 2:1 <u>Council's calculation:</u> GFA: 1583.5m ² . The Floor Space Ratio of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. The non-compliance is 3.5m ² . A clause 4.6 variation has not been provided with the development application.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area? The subject property is in the vicinity of a number of heritage items listed in Schedule 5 of Botany Bay LEP 2013. The closest heritage item is item number 1139 Mascot Public School building group, King Street Mascot, Local significance. The significant buildings face King Street and	No	The site is not a heritage item however is located in close proximity to a number of heritage items. Refer to DCP discussion later in this report.

Relevant Clauses of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
are not visible from the subject site. Also nearby is 139 a Commercial building group at 1133-1135 Botany Road (on the corner of King Street), Local significance.		
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 	No	<p>The site is located within a Class 4 ASS zone. The proposed development is seeking to excavate greater than 2 metres below ground. The submitted Geotechnical Report does not address acid sulfate soils. There is insufficient information provided to satisfy the requirements of clause 6.1.</p>
<ul style="list-style-type: none"> 6.2 – Earthworks 	No	<p>Council's Environmental Scientist is not satisfied that sufficient regard has been provided to the potential impacts associated with the earthworks proposed. Refer to previous SEPP 55 discussion.</p>
<ul style="list-style-type: none"> 6.3 – Stormwater Management 	No	<p>Council's Development Engineer has reviewed the application and advised that additional information is required with respect to stormwater. This was conveyed in Council's letter dated 1 April 2019. To date, this has not been addressed.</p>
<ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise 	Yes	<p>The site falls within the 25-30 ANEF contour. An acoustic report has been provided which is acceptable.</p>

Relevant Clauses of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none">6.15 – Active Street frontage	No	Refer to discussion below.

Non- compliance with Clause 4.4 - Building Height

The applicant seeks to vary the building height of 14 metres under the BBLEP 2013. The proposed development has a maximum height of 17.3 metres (RL24.77 – RL7.4) as measured to the top of the lift overrun in Block B. This represents a variation of 3.3m or 23.5%. The communal open space area and lift overrun in Block A also encroach into the allowable height limit. The full extent of the height breach is demonstrated in the plan extract below where the 14m height limit is dashed in red:



Figure 5: North elevation extract

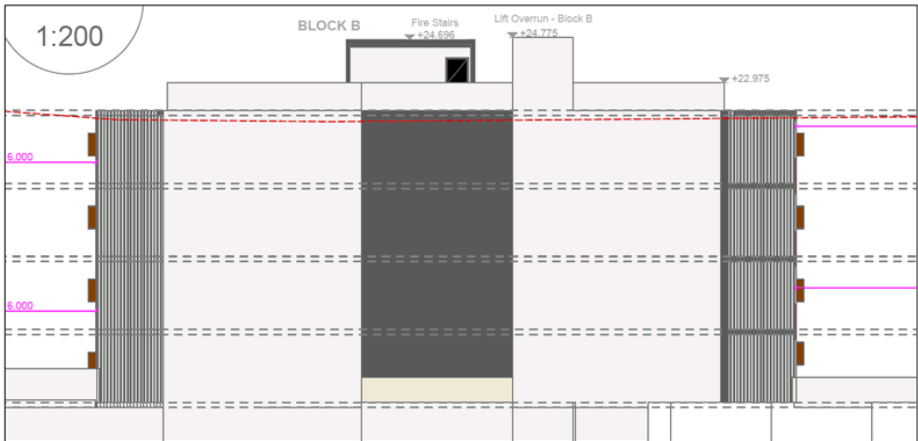


Figure 6: North elevation extract – Block B (rear)

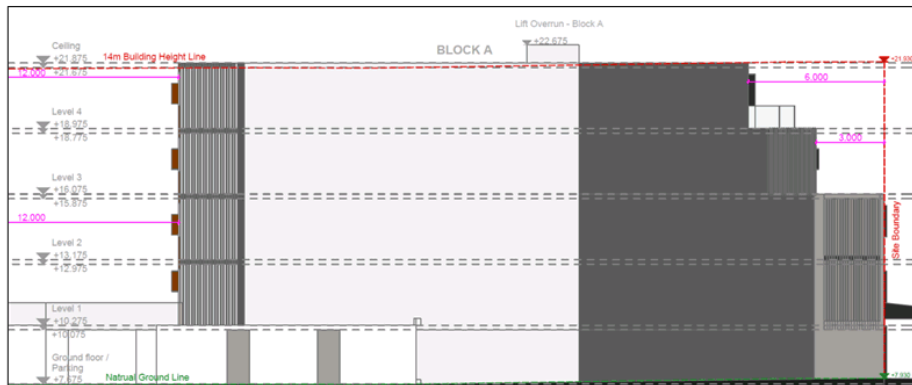


Figure 7: North elevation extract – Block A (front)

Clause 4.6 provides flexibility to vary the development standards specified within the LEP where it can be demonstrated that the development standard is unreasonable or unnecessary in the circumstances of the case and where there are sufficient environmental grounds to justify the departure. Clause 4.6 states the following:

(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.

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

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

The applicant has provided a clause 4.6 exception which has been included as an attachment in this report.

Officer's comment:

Council is not satisfied that compliance with the maximum allowable building height is unreasonable and unnecessary. The following comments are made in this respect:

- Compliance with the minimum floor to ceiling height requirements (refer to previous ADG discussion) would further exacerbate the extent of the height breach by at least an additional 800mm.
- The building elements in breach of the maximum allowable height, would be visible, to varying degrees, from surrounding properties and contributes to some additional

overshadowing. In particular, the building elements in breach of the height limit within Block B would be visible from adjoining properties to the north and south as indicated in the aerial photo below:



Figure 9: Aerial view of the site and surroundings

Consequently, this aspect of the proposal is considered to be discordant with objectives (b) and (d) within clause 4.3(1) of Botany Bay LEP 2013 which seeks to minimise visual impact and loss of solar access to existing development and ensure that taller buildings are appropriately located. The first *Wehbe* method (i.e. – the objectives of the standard are achieved notwithstanding non-compliance with the standard) is not satisfied.

- Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. The proposal development is not considered to be consistent with the objectives of the height development standard (see above). Additionally, it is not consistent with the objectives of the B2 – Local Centre zone in that the development fails to provide a retail/business/entertainment/community use and would not encourage employment opportunities having regard to the poor resolution of the ground floor plan.
- The subject site is located within the Mascot Local Centre (Botany Road) within Part 5.2.2.8 of BBDCP 2013. The desired future character (see Figure 26 later in this report) of this area stipulates a maximum of 4 storeys. The proposed development is inconsistent with this requirement as a total of 5 storeys are proposed which is contingent upon a variation to the building development standard.

- Council is not satisfied that the requirements of clause 4.6(4)(a)(i) have been satisfied. The applicant's written request has not adequately demonstrated that compliance with the height development standard is unreasonable and unnecessary and there are not sufficient environmental planning grounds to justify the variation sought.

The clause 4.6 exception to vary the building height development is not supported and is not in the public interest.

Clause 6.15 – Active Street Frontage

The site has been marked as 'Active Street Frontage' within the BBLEP 2013. The following relevant extracts from clause 6.15 are re-produced below:

(3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.

(4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:

- (a) entrances and lobbies (including as part of mixed use development),*
- (b) access for fire services,*
- (c) vehicular access.*

*(5) In this clause, a building has an **active street frontage** if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.*

The design of the ground floor does not satisfy the provisions of this clause as it is void of any business or retail presence. As a result, the proposed development fails to promote uses that attract pedestrian traffic, is inconsistent with the desired future character of the Mascot Local Centre and not achieve the objectives of the clause which seek to promote uses that attract pedestrian traffic along certain ground floor street frontages.

In view of the above, development consent must not be granted in accordance with clause 6.15(3) of BBLEP 2013.

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

There are no current Draft EPIs applicable to this development

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

Botany Bay Development Control Plan 2013

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

Part 3A –Parking and Access

A total of 36 car parking spaces are required to be provided (32 for residents and 4 visitor spaces). The proposed development provides a total of 23 car parking spaces, which represents a short fall of 13 spaces and is not supported. In addition to this, Council's Development Engineer has raised the following concerns with respect to the car parking layout:

- The proposed ramp intersection areas do not allow for single swept path turns in accordance with AS2890.1:2004 Section 2.5.2C. Most vehicles in the basement would require extensive manoeuvring in order to enter and exit parking Module. The proposed U- Turn Concept is not supported. Additionally, the proposed parking system encourages reversing in almost every manoeuvre which is not supported.
- Parking spaces located at the end of the parking aisle are required to provide a 1m blind aisle.

The proposed development does not satisfy Part 3A – Parking and Access.

Part 3B – Heritage

The site is located in close proximity to a number of heritage items. The application was referred to Council's Heritage Advisor who provided the following comments:

The subject property is in the vicinity of a number of heritage items listed in Schedule 5 of Botany Bay LEP 2013. The closest heritage item is item number I139 Mascot Public School building group, King Street Mascot, Local significance. The significant buildings face King Street and are not visible from the subject site. Also nearby is I39 a Commercial building group at 1133-1135 Botany Road (on the corner of King Street), Local significance. The development has the greatest potential to have a heritage impact upon this property. The buildings between the subject site and heritage item I39 on the corner of King Street are relatively uniform in height with commercial on the ground floor, awning separating the upper level and a parapet street front wall.

The proposed development has kept the consistent height at the street front and set back the upper levels. The first set back is 3 metres and the top is 6 metres, the building height is 14 metres. The building has the same front height but does not have the same repetition of fenestration with similar sill heights and lintel heights. On the ground level there is no commercial development and the whole of the ground floor facing Botany Road is the entrance to the car park and the bin room with a small entrance door for residents. The development is intrusive in the context of the Mascot Town Centre as it breaks the consistency of the commercial shop front development from 1105 Botany Road to 1135 Botany Road. The heritage item at 1133-1135 is part of this consistent grouping of commercial ground floor shops, the proposed garage entrance will detrimentally impact the context of the heritage item.

The development as a whole is satisfactory however the entrance to the car park needs to be reduced to provide at least half the ground floor width in order to provide a commercial shop frontage consistent with the shop fronts to the south. This recommendation is in order to reduce the adverse impact upon the context of heritage item I39.

The proposal is not supported.

Part 3C – Access and Mobility

The proposal provides for two disabled car parking spaces on the ground floor plan, lift access and three adaptable apartments.

Part 3E – Subdivision and Amalgamation

The proposal does not seek consent for subdivision.

Part 3G- Stormwater Management

Council's Development Engineer reviewed the stormwater plans and has found it insufficient for the following reasons:

A copy of Drains model is to be provided to Council for assessment. Additionally a 10KI rainwater tank is to be provided in accordance with Botany Bay Development control Plan, Part 10 section 4.2. The overflow from the OSD tank must be designed for 100 year ARI assuming 50% blockage factor.

No amended documentation relating to the above has been received by the applicant therefore the points of concern raised have not been addressed and form part of the refusal of the application.

Part 3J – Aircraft Noise and OLS

The site is located within the 25-30 ANEF Contour. The application was supported by an acoustic assessment report which demonstrates that the development is capable of complying with the applicable noise criteria.

Part 3K – Contamination

Refer to SEPP 55 section above which discusses the contamination of the site.

Part 3L – Landscaping and Tree Management

Concerns are raised with respect to landscaping and tree management.

The landscape design strategy is not clearly articulated in the documentation presented to the Panel. In particular, it is not clear if the landscaped carpark roof between Block A and Block B is only accessible from Units 2 & 9 (the landscape design shows a lapped and capped fence in the centre) and / or how that landscaped area would be maintained by the body corporate, given that it is only accessible via those units. Similarly there are a series of landscaped spaces within the complex above the carpark which are not readily accessible (given the elevated nature above the adjacent apartment floor levels) which would only be accessible from the adjacent apartment and hence difficult to ensure long term care and maintenance.

Part 3N – Waste Minimisation and Management

A waste management plan/strategy was not provided. In any case, it is observed that there is no bulk storage provided, there are no chutes provided and the bin room proposed at the front of the ground floor plan appears to be undersized. As a result, the proposed development does not satisfy Part 3N of BBDCP 2013.

Part 4C – High Density Residential

The subject development is identified as a high density development with residential 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. The variation(s) to these controls have been addressed below:

Part 4C.4.1 Dwelling Mix and Layout

Control C1 stipulates that development of ten or more apartments are to provide a range of apartment sizes, including studio, 1, 2, and 3+ apartments so as to meet the needs of residents and accommodate a range of household types. The proposed development contains 16 x 2 bedroom apartments and therefore does not conform to this guideline. Insufficient evidence has been provided to justify the dwelling mix proposed.

Part 5 – Business Centres

The subject site is located within the Mascot Local Centre (Botany Road) within Part 5.2.2.8 of BBDCP 2013. The following comments are made in respect of the proposal's departure against the objectives and/or planning controls within this part of the DCP:

- 1) The design of the development does not contain a commercial/retail tenancy on the ground floor. As a result, the proposed development fails to promote uses that attract pedestrian traffic and is inconsistent with the desired future character of the Mascot Local Centre. The objectives of the desired future character of the Mascot Local Centre seek:
 - a) *To retain and conserve the Mascot shopping strip and encourage a viable and attractive Local Centre by improving the public domain and the public/private interface.*
 - b) *To protect the distinctive and characteristic elements of Mascot Local Centre shops and ensure the integration of these features into subsequent uses.*
 - c) *To improve and extend the pedestrian environment and to encourage appropriate outdoor uses with good solar access, such as cafes.*
- 2) The development is proposed on a long, narrow allotment which is severely constrained. The proposal therefore does not accord with Control C3 which states that *Redevelopment is encouraged through logical lot consolidation of sites and infill development.*
- 3) The scale of the development is inconsistent with the requirements of Figure 26 (re-produced below) in that:
 - A total of 5 storeys are proposed in lieu of 4. Additionally, the overall height exceeds 14m;
 - 3 storeys are proposed at the front of the site, rather than 2; and
 - The submitted drawings indicate a top RL of 15.89 for the adjoining building to the south at 113 Botany Road. However, the survey plan provided do not provide a top parapet RL for that building. It is unclear where this level is from.

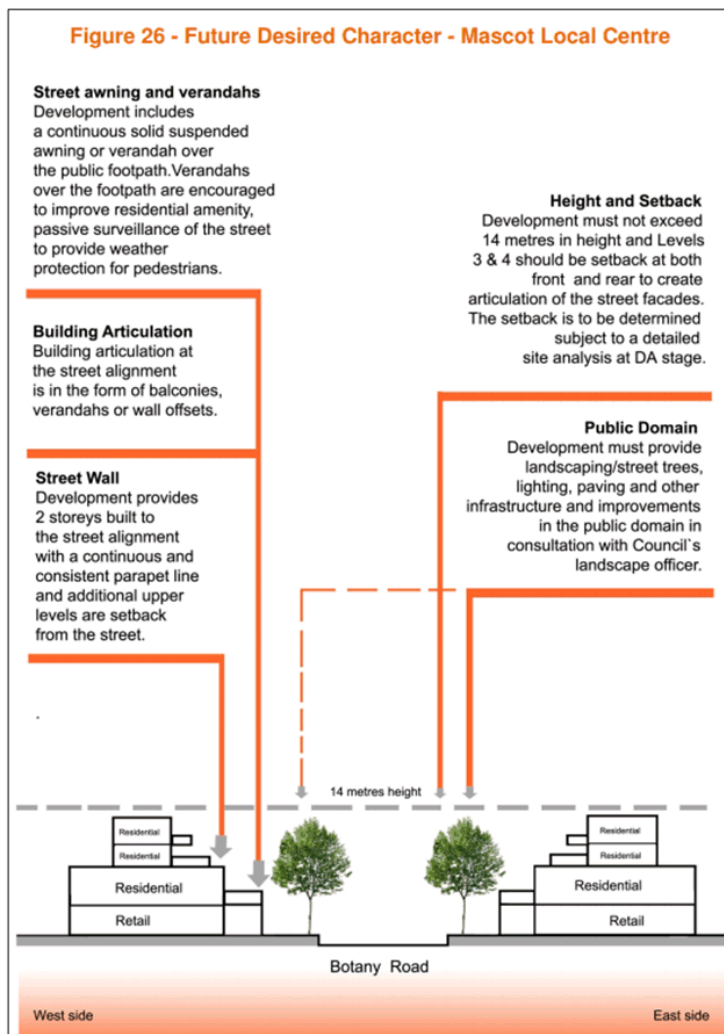


Figure 26 – Desired future character: Mascot Local Centre

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

The provisions of the Regulations have been considered in the assessment of the application. No concerns have been identified.

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

The likely impacts of the development have been outlined throughout the report and proposal is found to be unacceptable.

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

The proposed development is not considered to be suitable for the site having regard to the extent of non-compliance with the applicable planning controls. Whilst the proposed development is permissible in the zone, it does not satisfy the objectives of the zone and is inappropriate in the context.

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 from 7 January 2019 until 30 January 2019. Six (6) objections have been received and a summary of the issues is provided below:

Concern: Excessive building height

Response: Refer to discussion within the report. The non-compliant building height is not supported.

Concern: Visual intrusion due to blank walls, minimal articulation and building setbacks

Response: The unarticulated blank walls would cause unreasonable impacts for the adjoining allotments to the south, noting that the adjoining site at 197-199A King Street is the subject of a Pre-DA application submitted to Council for a multi storey boarding house.

Concern: Heritage impacts

Response: The likely heritage impacts of the proposal have been addressed in the main body of the report and considered to be unsatisfactory.

Concern: Insufficient landscaping to the transition zone to R3 to the north

Response: The proposed development is unable to accommodate any deep soil landscaping due to the constraints of a long, narrow allotment. The proposal does not conform to the requirements of Part 3E – Deep soil zones of the ADG and this constitutes a reason for refusal.

Concern: Excessive FSR and site coverage

Response: Refer to discussion within the report.

Concern: Privacy impacts

Response: The likely privacy impacts of the development have been considered but are not considered to warrant reason for refusal of the application.

Concern: Traffic congestion

Response: The proposed development provides an insufficient amount of on-site parking and the vehicular access arrangements to the site are unresolved.

Concern: Loss of sunlight

Response: The insufficient setbacks of Building B and additional height proposed would contribute to overshadowing impacts upon the neighbouring sites to the south which are considered to be unreasonable.

Concern: Limited apartment mix

Response: Refer to discussion within the report.

Concern: Restricted basement layout/footprint

Response: Council's Engineer has raised various concerns with respect to vehicle movements within the car parking area. This matter constitutes a reason for refusal.

Concern: Noise and air pollution

Response: These matters have been considered in the assessment of the application and are capable of being addressed through conditions of consent, however, the application is not supported for other reasons.

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, should consent be granted.

Conclusion

Bayside Council received Development Application No.2018/333 on 7 December 2018 seeking consent for 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.

The proposed development results in a significant number of non-compliances with the applicable planning controls.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for refusal for reasons identified in the attached schedule.

Attachment**Schedule 1 – Reasons for refusal****Premises: 1109-1111 Botany Road, Mascot****DA No: 2018/333****REASONS FOR REFUSAL**

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.

15. Insufficient/inadequate information has been provided in the development application to address contamination, groundwater and acid sulfate soils. Additionally, there are inconsistencies in the RL's shown in the section drawings.

Statement of Environmental Effects
Demolition and Construction of a
Residential Strata Unit Building.
1109 - 1111 Botany Road, Mascot

December 2018

Mersonn Pty Ltd
6/20 Wylde Street
Potts Point NSW 2011

Macintosh HD:Users:andrew.Desktop:SEEBotany.docx

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1.0 Introduction

This report has been prepared on behalf of Joseph Samia by Mersonn Pty Ltd and is submitted to Bayside Council in support of a development application to demolish the existing buildings and to construct a residential strata unit development comprising 16 x 2 bed units in a four level residential building with basement parking and associated landscaping at 1109 - 1111 Botany Road, Mascot.

The subject site comprises Lot A DP 432 899 being 1109 - 1111 Botany Road. The site has frontage to Botany Road and currently accommodates a series of single storey buildings previously used as a butchery which are of little architectural merit and do not fit with the form or street wall height characteristic of the Botany Road in this locality.



1109 - 1113 Botany Road atypical of the Mascot Centre.

It is proposed to demolish the structures and construct an infill development with a streetwall to Botany Road which adopts the height, form and scale frontage of the adjoining sites which extend south to the intersection with King Street. The proposal responds sympathetically to the form and scale of this development by adopting the parapet height, awning, rhythm and pattern of punched openings within a predominately solid rendered masonry faced. The proposal provides for the upper level setback from the streetwall parapet consistent with the planning controls.



Proposed Development Montage

The proposed development comprises at total of 16 dwellings x 2 bed units and parking for 23 cars at ground and basement level with access from Botany Road. The proposal comprises two buildings, the first addressing Botany Road and the second centrally located on the site consistent with the pattern of development on the surrounding sites.

This Statement has been prepared pursuant to Section 4.12 of the Environmental Planning and Assessment Act, 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2000. The purpose of this document is to describe the existing improvements on the site, detail the proposed development, review the applicable planning regime relating to the proposal, assess the degree of compliance and examine the environmental effects of the development when measured against the Evaluation Criteria prescribed under Section 4.15(1) of the Environmental Planning and Assessment Act, 1979. In respect of the assessment of the proposal, where impacts are identified, measures proposed to mitigate any harm to environmental amenity have been addressed in this report.

This report should be read in conjunction with the following plans and reports:

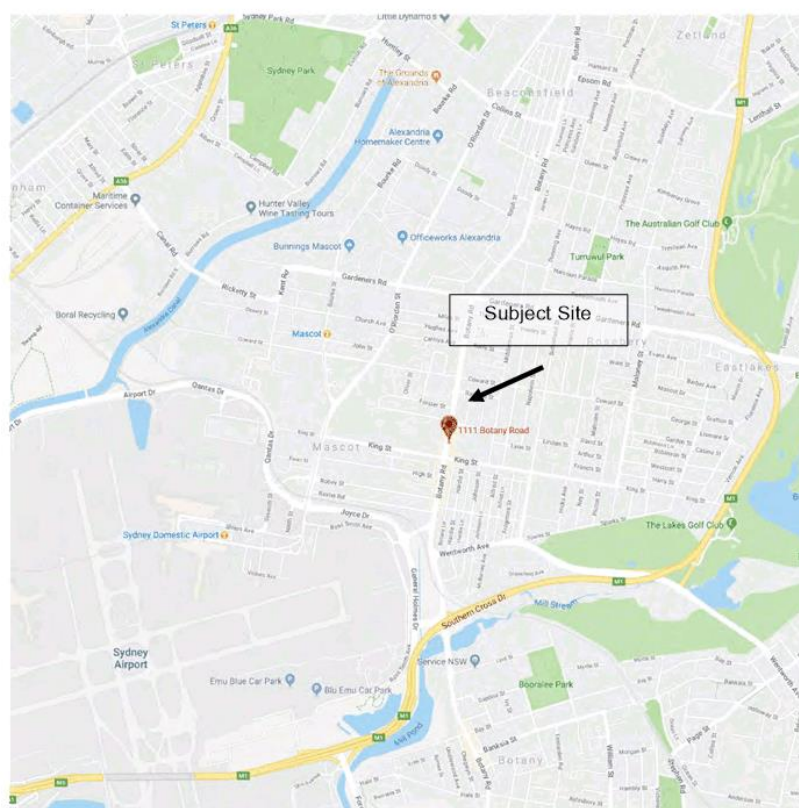
- Architectural plans prepared by AGM Studio;
- Shadow diagrams prepared by AGM Studio;
- SEPP 65 Design Verification prepared by Alan Mhanna Architect;
- Landscape Plan prepared by Aspect;
- Survey Plan prepared by East West Surveyors;
- BASIX Certificate prepared by Certified Energy;
- Stormwater Concept Plan prepared by Alpha Engineering;
- Traffic report prepared by Greys;
- Access report prepared by Building Certificates Australia;
- Acoustic report prepared by Day Design Pty Ltd;
- Arborist report prepared by The Tree Guardian;
- BCA report prepared by Building Certificates Australia;
- **Environmental Site Assessment prepared by Dirt Doctors;**
- Geotechnical report prepared by Dirt Doctors;
- Cost Estimate by RealEst;



Source: RPData 2018

2.0 The Site and Context

The site is located on the eastern side of Botany Road north of the intersection with King Street. The site has an area of 791m² and is regular in shape with a frontage to Botany Road in the west of 10.61m and a common eastern boundary of 9.95m. The site has a common northern boundary of 77.11m and a common southern boundary of 77.01m.

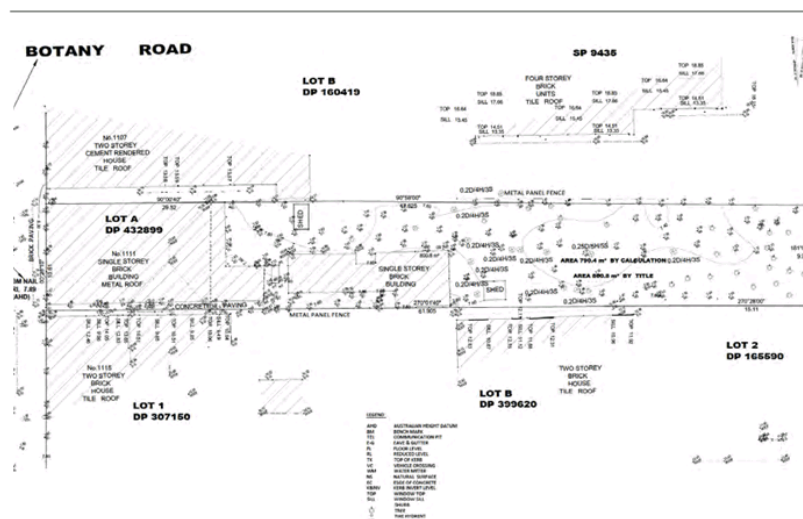


Location Plan
GoogleMaps 2018

The site comprises one allotments and is known as 1109 - 1111 Botany Road (Lot A DP 432899). The land falls from west to east from RL7.95 on the Botany Road frontage to RL7.21 in the north-east (740mm).

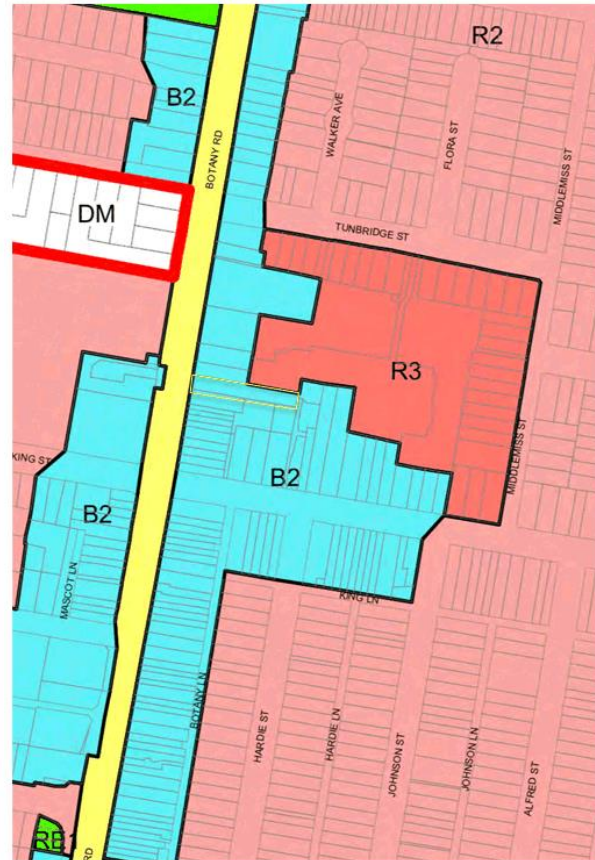


Aerial Photo Context
Source: RPData 2018



East West Surveyors Extract 2018

The subject site forms of a larger precinct most of which has recently been rezoned B2 allowing for mixed use development and R3 for Medium Density development and is an area in transition. The extent of the rezoning is reflected in the extract below.



Extract Botany Bay LEP 2013 Zoning Map 1
Subject Site Outlined in Yellow



1109 - 1111 Botany Road view east of Botany Road frontage.



Subject site 1109 - 1111 Botany Road view north-east of Botany Road frontage.



Subject site view south-east of Botany Road frontage.



Interface with the subject site, view south-east of Botany Road frontage.



Interface with the subject site, view north-east of Botany Road frontage.



View south-east of Mascot centre Botany Road frontage



View south of Mascot Centre toward Botany Road and King Street intersection.



View north of Mascot Centre from Botany Road and King Street intersection.



View north on Botany Road from King Street intersection.

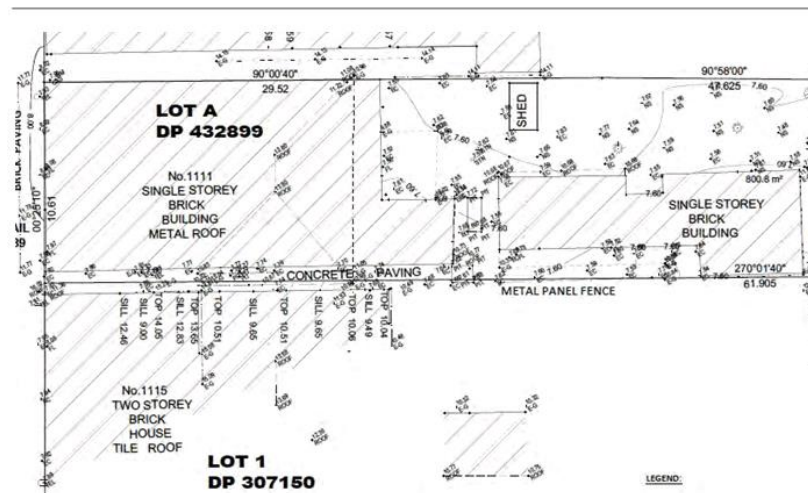
1115 - 1119 Botany Road



Source: RPData 2018

The sites adjoining to the south comprise a mixed use development which fronts Botany Road and comprises ground floor retail and residential above. The site has access from a right of way from King Street and benefits from a pedestrian easement on the southern boundary of the subject site.

The site is known as 1115 - 1119 Botany Road and has frontage to Botany Road and has retail at ground and a large volume upper storey with parapet consistent with the adjoining properties to the south which extend to the King Street intersection.



East West Surveyors Extract 2018



1115 - 1119 Botany Road view north-east



Interface with the subject site, showing location of pedestrian easement.



Consistent parapet and form extending to the south.



Development from to King Street intersection.



Access to parking at the rear of 1115 - 1119 Botany Road.



At grade parking at the rear of 1115 - 1119 Botany Road.

199A King Street

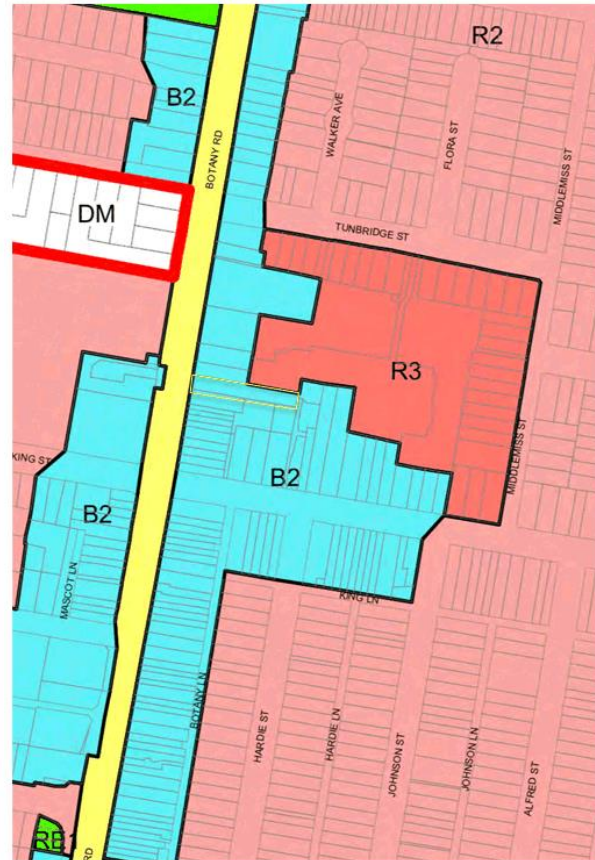


Source: RPData 2018

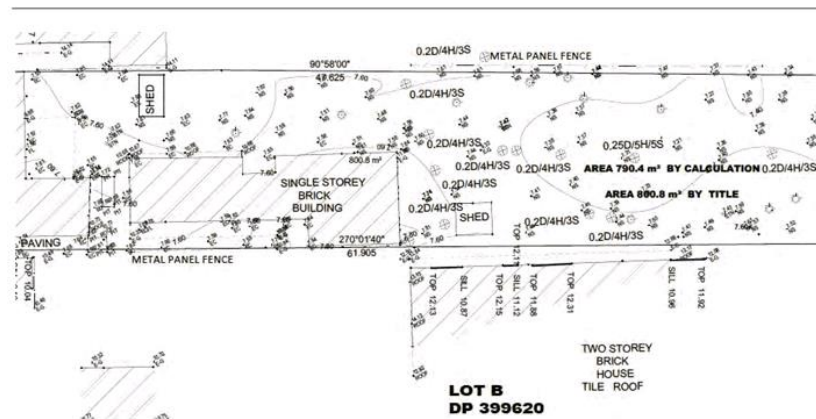
The sites adjoining to the south comprise a battle-axe allotment containing a residential building on land zoned B2.

The existing building is two storeys with a pitched roof and is constructed on the northern part of the site with an outlook to the south and east. Extensive hard stand parking is provided on the site and the access is burdened by a number of easements.

The site is significantly underdeveloped under the recent B2 zone. The existing building has a minimal setback from the northern boundary and it is anticipated that the future redevelopment of the site would adopt a north-south siting with dwellings oriented east-west to make the most of the sites characteristics.



Extract Botany Bay LEP 2013 Zoning Map 1
Subject Site Outlined in Yellow



East West Surveyors Extract 2018



View from south of 199A King Street.



Minimal setback from the northern boundary



View east of 712 Botany Road of 199A King Street.

193 King Street

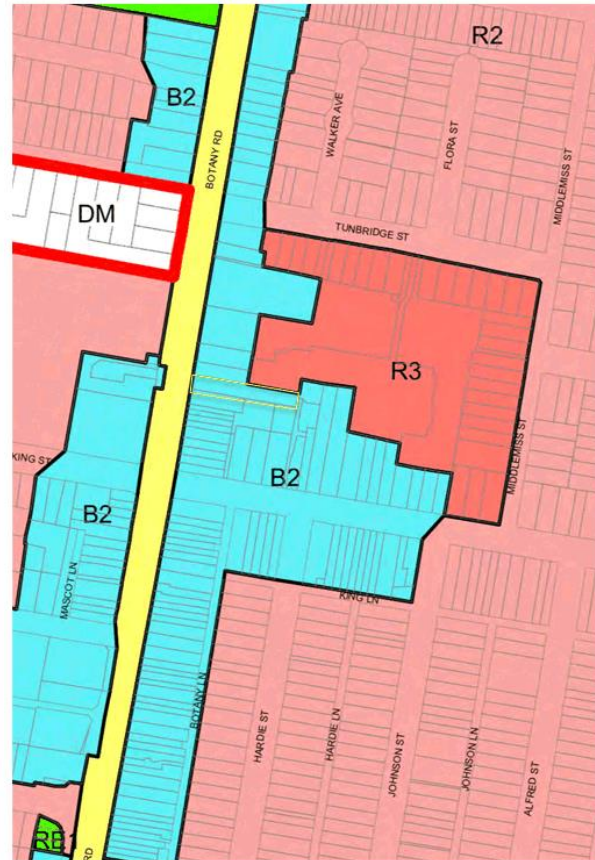


Source: RPData 2018

The sites adjoining to the south comprise a battle-axe allotment containing a residential building on land zoned B2.

The existing building is single storeys with a pitched roof and is constructed on the southern part of the site with an outlook to the north. Parking is provided via a shared access which is burdened by a number of easements.

The site is significantly underdeveloped under the recent B2 zone. It is anticipated that the future redevelopment of the site would adopt a north-south siting with dwellings oriented east-west to make the most of the sites characteristics.



Extract Botany Bay LEP 2013 Zoning Map 1
Subject Site Outlined in Yellow

191A & 191B King Street

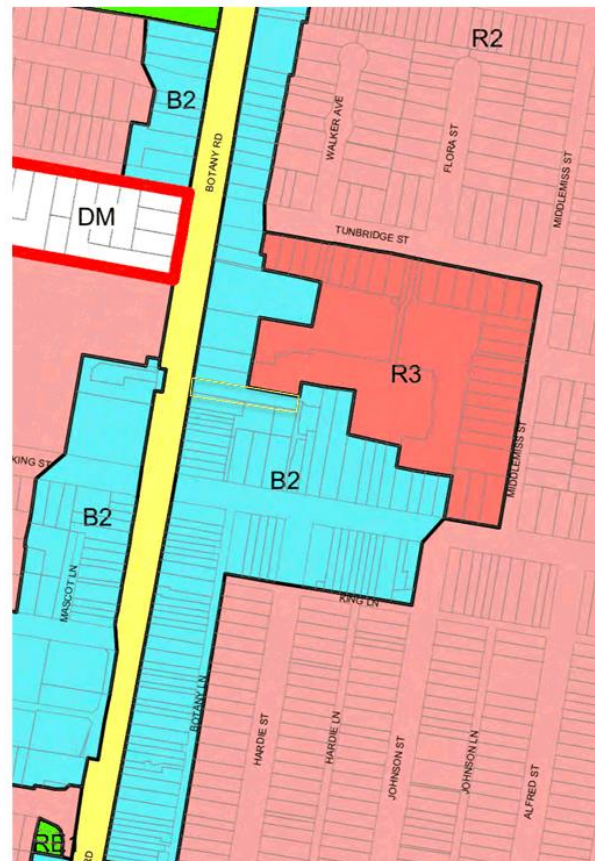


Source: RPData 2018

The sites adjoining to the east comprise two battle-axe allotments with each containing a residential building on land zoned B2.

The existing buildings are single storey with a pitched roof and are constructed on the centrally their sites with an outlook to the south. Parking is provided via a shared access which is burdened by a number of easements.

The sites are significantly underdeveloped under the recent B2 zone. It is anticipated that the future redevelopment of the site would adopt a north-south siting with dwellings oriented east-west to make the most of the sites characteristics.



Extract Botany Bay LEP 2013 Zoning Map 1
Subject Site Outlined in Yellow

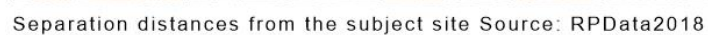
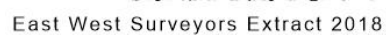
22 Tunbridge Street

Source: RPData 2018

The site adjoining to the north-east comprises an extensive residential flat development on land zoned medium density R3 and containing extensive four storey residential flat development being three residential levels over at grade parking.

The development has vehicular and pedestrian access off Tunbridge Street and dwellings are oriented north-south. The existing buildings are four storey with a pitched roof and are constructed centrally their sites with an outlook to the south. Parking is provided at grade on ground floor.

The buildings have generous setbacks to the southern boundary with the subject site with setbacks ranging from 8.5m – 16.2m. The setbacks are strongly planted with mature screen planting. This can be understood from the aerial photograph below.





Tunbridge Street access to the site.



Four storey residential flat buildings oriented north-south.



Three residential storeys above at grade parking.



Four storey residential flat buildings oriented north-south.

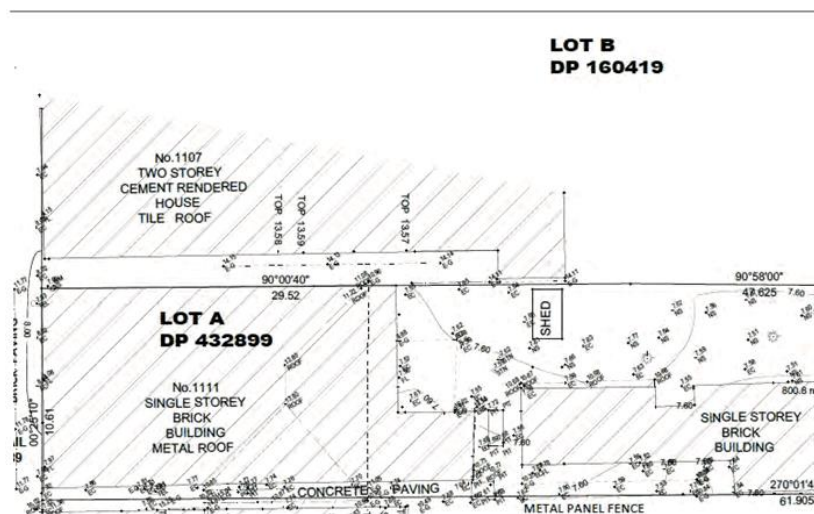
1107 Botany Road



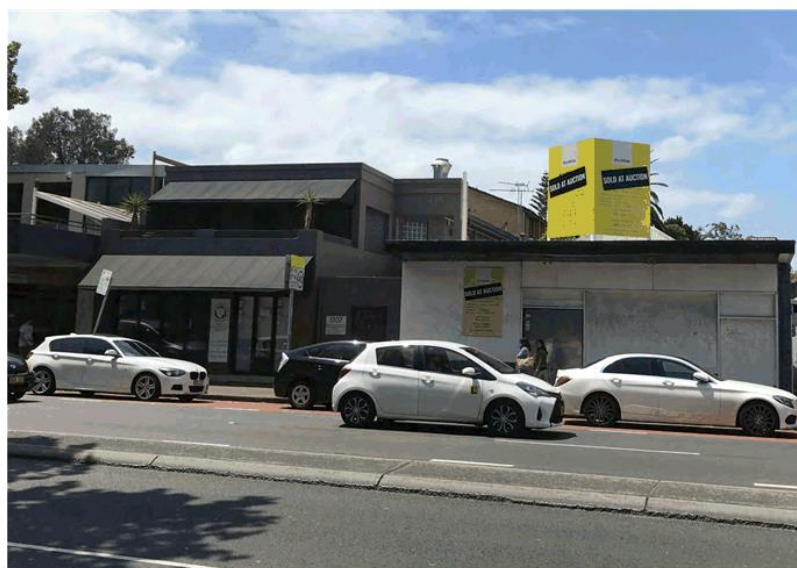
Source: RPData 2018

The sites adjoining to the north comprise a commercial development which fronts Botany Road and comprises ground floor retail and commercial suites above. The site has access from Botany Road.

The site is not consistent with the properties to the south and is significantly underdeveloped in terms of the B2 zoning and it is likely that it will be redeveloped in the future consistent with the adjacent properties to the south which extend to the King Street intersection.



East West Surveyors Extract 2018



View of 1107 Botany Road from the west.



View east to 1107 Botany Road.



View north-east to 1107 Botany Road and interface with the subject site.



1107 Botany Road and interface with the subject site.

3.0 Proposed Development

This section should be read in conjunction with the architectural plans prepared by AGM Studio.

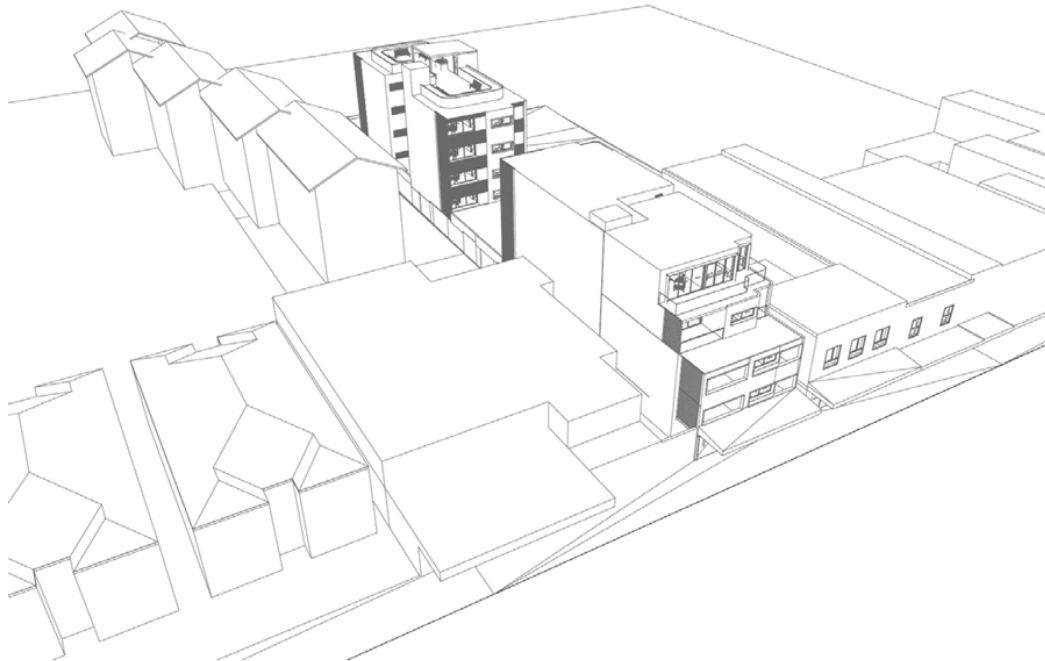
It is proposed to demolish the existing buildings and to construct a residential strata unit development with 18 x 2 bed units. The development is separated in two east-west oriented buildings above parking for 23 cars, with communal open space provided on the roof.

The building fronting Botany Road is a four storey residential building (containing 8 x two bed units) above at grade parking following the parapet line, rhythm and form of the adjoining development which sets the character of the Mascot Centre. The upper level is setback behind the parapet forming the street wall height.

The central building is a four storey residential building above at grade parking residential containing 8 x two bed units. Roof top communal open space is provided.

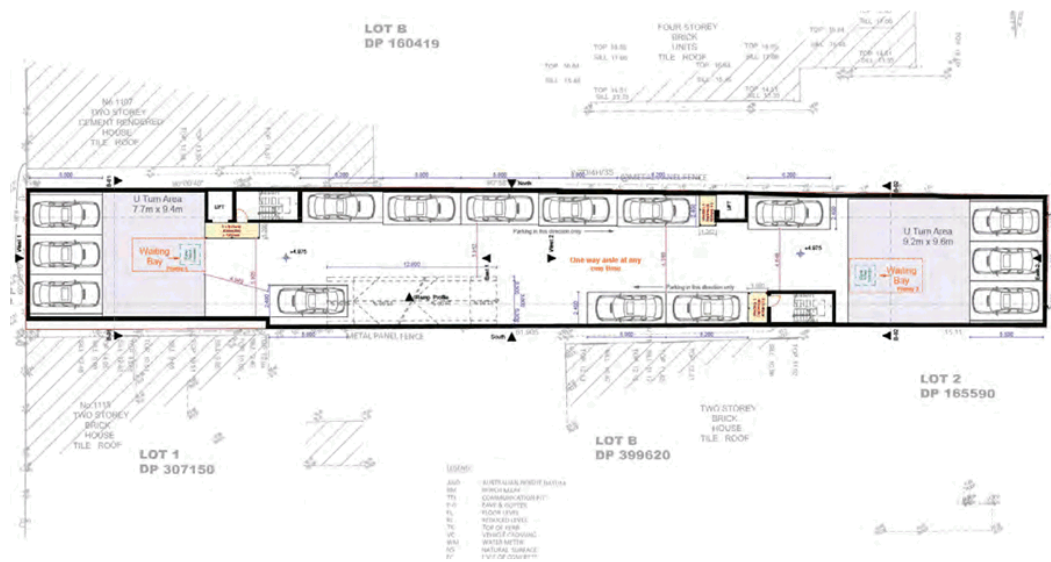


Proposed Development Montage



3D Perspective View South-east

Detailed Proposal
Basement Level



Basement Level

- RL4.975
- Ramp from level above;
- 15 parking space;

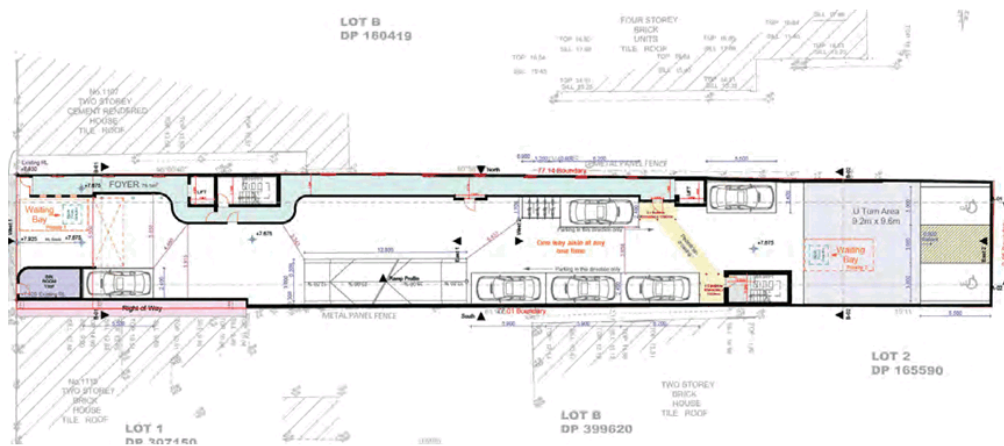
Building A

- Residential entry;
- Lift to levels above;
- Stair to levels above;

Building B

- Residential entry;
- Lift to levels above;
- Stair to levels above;

Ground Floor Level



Ground Floor Level

- RL7.675;
- Driveway access to Botany Road;
- Ramp to level below;
- Garbage room;
- 8 parking space;
 - 2 accessible;
- Bicycle storage;

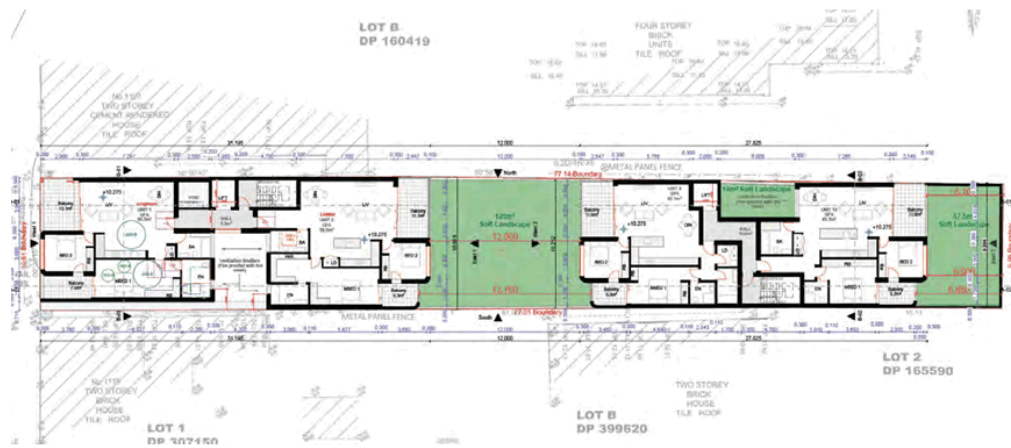
Building A

- RL7.850;
- Residential entry;
- Triple height void to entry;
- Lift to levels above;
- Stair to levels above;

Building B

- RL10.830;
- Residential entry;
- Lift to levels above;
- Stair to levels above;

Level 1



Level 1

Building A

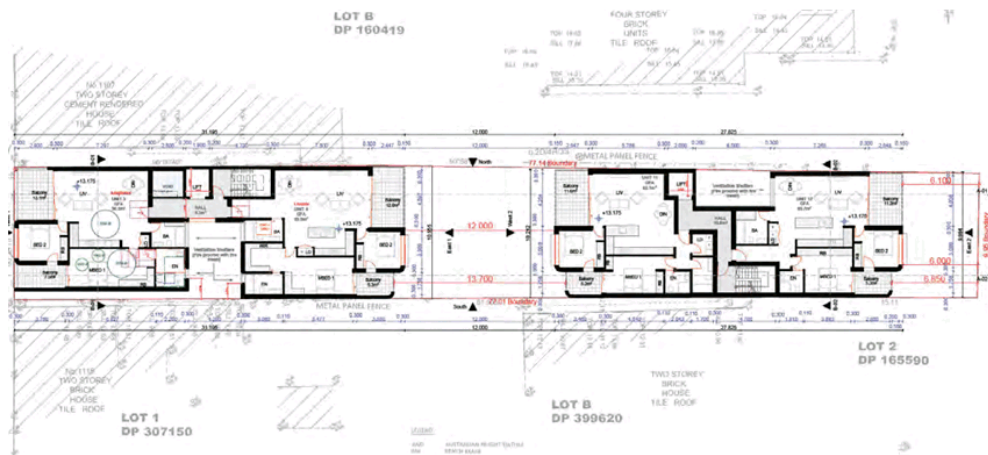
- RL10.275;
- Lift to levels above and below;
- Stair to levels above and below;
- Unit 1 (adaptable);
 - 2 bed unit;
 - 90m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 12m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
- Unit 2;
 - 2 bed unit;
 - 99m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 2.5m x 5m and 11m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
- Non-trafficable landscaped central courtyard;

Building B

- RL10.275;
 - Lift to levels above and below;
 - Stair to levels above and below;
 - Non-trafficable landscaped northern courtyard;
-

-
- Unit 9;
 - 2 bed unit;
 - 82m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 12m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
 - Unit 10;
 - 2 bed unit;
 - 85.7m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 10.5m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
 - Non-trafficable landscaped rear courtyard;

Level 2



Level 2

Building A

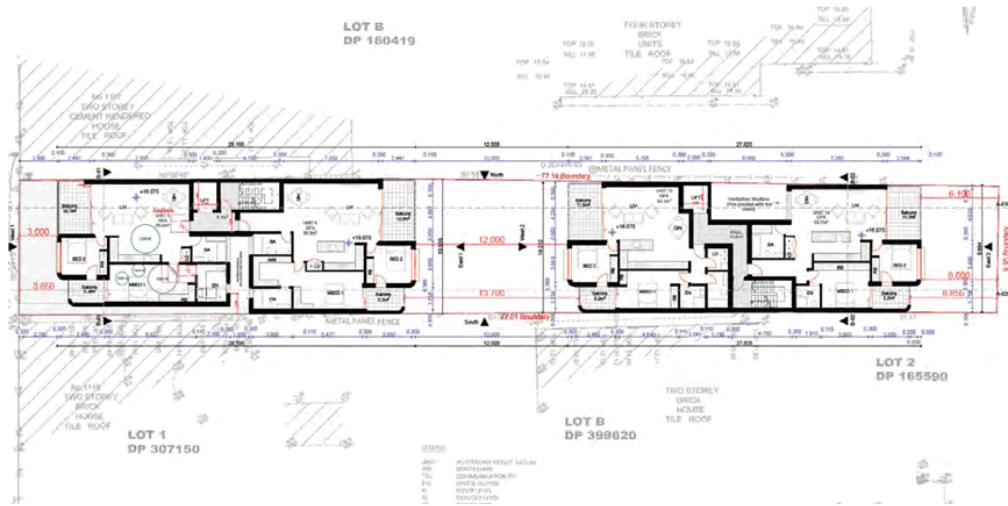
- RL13.175;
- Lift to levels above and below;
- Stair to levels above and below;
- Unit 3 (adaptable);
 - 2 bed unit;
 - 90m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 12m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
- Unit 4;
 - 2 bed unit;
 - 99m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 11.7m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;

Building B

- RL10.275;
 - Lift to levels above and below;
 - Stair to levels above and below;
 - Unit 11;
 - 2 bed unit;
-

-
- 82m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 11.1m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
 - Unit 12;
 - 2 bed unit;
 - 85m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 10.5m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
-

Level 3



Level 3

Building A

- RL16.075;
- Lift to levels above and below;
- Stair to levels above and below;
- Unit 5 (adaptable);
 - 2 bed unit;
 - 90.3m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 12m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
- Unit 6;
 - 2 bed unit;
 - 99m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 12m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;

Building B

- RL16.075;
 - Lift to levels above and below;
 - Stair to levels above and below;
 - Unit 13;
 - 2 bed unit;
-

-
- 82m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 11.5m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
 - Unit 14;
 - 2 bed unit;
 - 85.7m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 11.2m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
-

[illegible]

Level 4

Building A

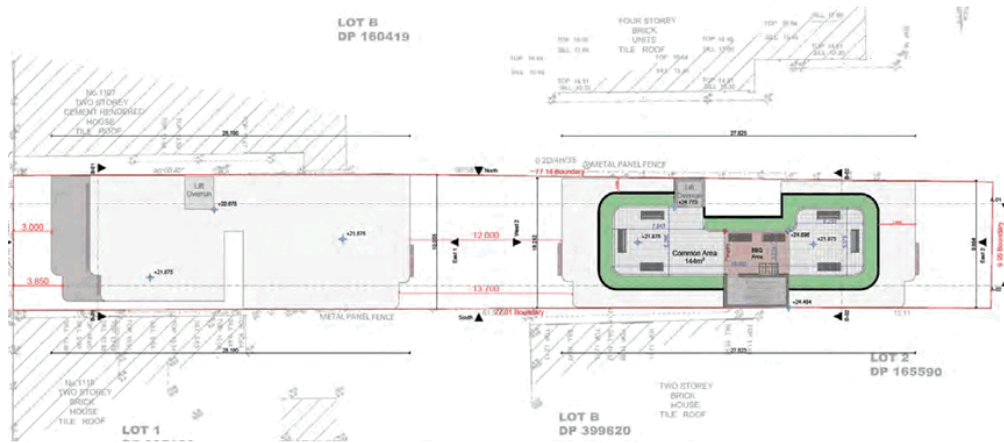
- RL18.975;
- Lift to levels above and below;
- Stair to levels above and below;
- Unit 7;
 - 2 bed unit;
 - 79m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 19.5m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
- Unit 8;
 - 2 bed unit;
 - 99m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 12m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;

Building B

- RL18.975;
 - Lift to levels above and below;
 - Stair to levels above and below;
 - Unit 15;
 - 2 bed unit;
-

-
- 82m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 11.6m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;
 - Unit 16;
 - 2 bed unit;
 - 85.7m²;
 - Entry;
 - Living;
 - Dining;
 - Kitchen;
 - Bathroom;
 - Balcony; 3m x 4m and 11.2m²;
 - Bed 1;
 - En-suite;
 - Balcony;
 - Bed 2;

Roof Plan



Roof Level

Building A

- RL21.875;
- Lift overrun RL22.675;

Building B

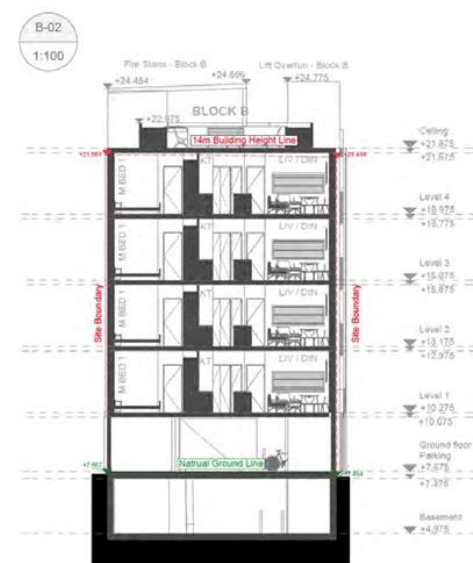
- RL21.875;
- Lift to levels below;
- Stair to levels below;
- Lift overrun RL24.775;
- Communal open space;
 - 144m²;
 - BBQ;
 - Seating;



Section A 01



Section B 01





West Elevation (Botany Road)

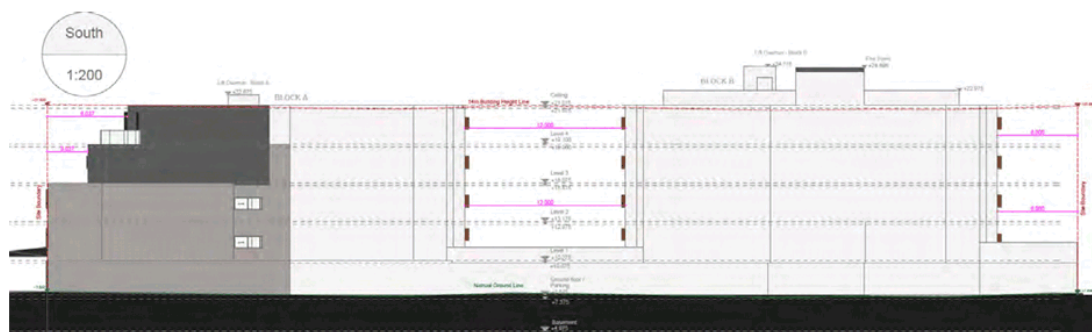


West Elevation (Botany Road) Block A

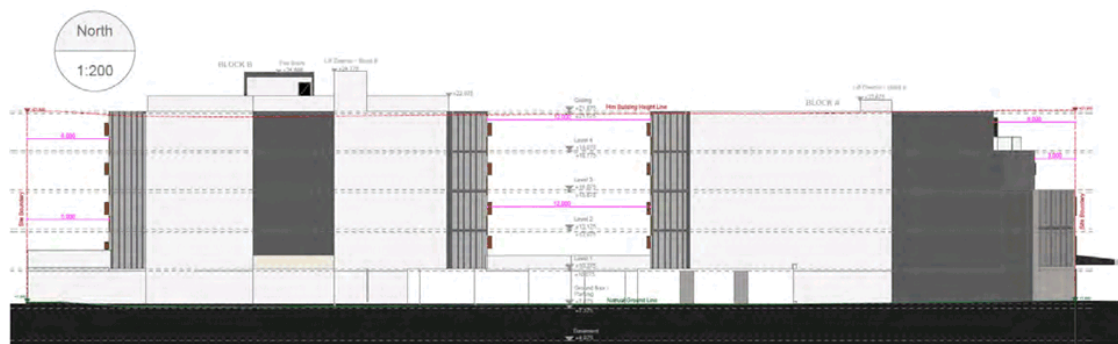




East Elevation Block B

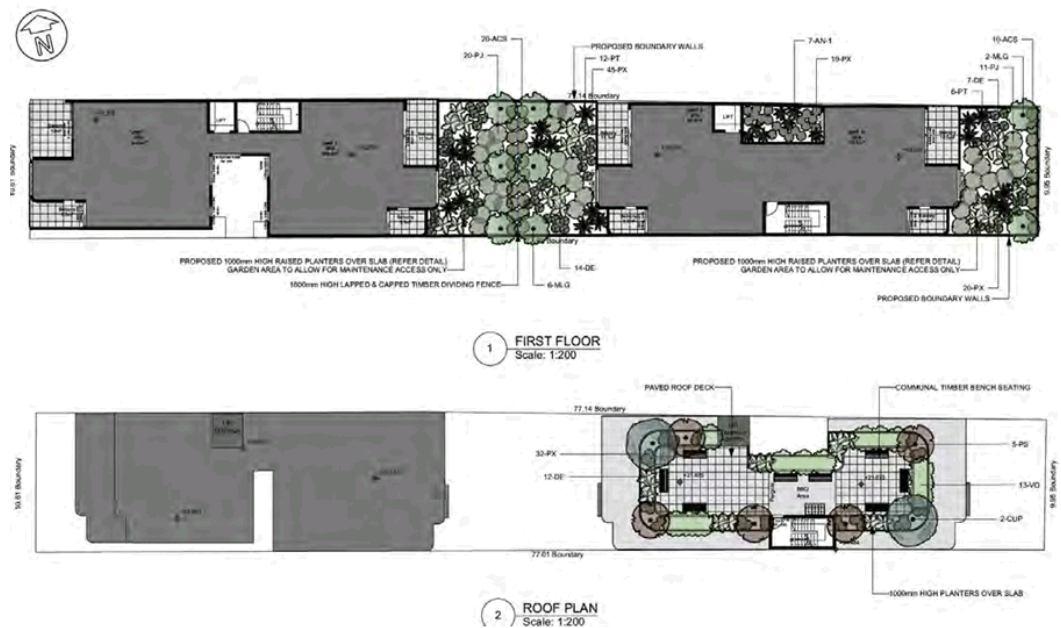


South Elevation



North Elevation

Landscape Plan



Materials and Finishes



4.0 Planning Controls

The statutory and strategic planning instruments, which guide this proposal, are:

- State Environmental Planning Policy No.55 – Remediation of Land;
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP No.65 (Design Quality of Residential Flat Development)
- Botany Bay Local Environmental Plan (LEP) 2013;
- Botany Development Control Plan (DCP) 2013

4.1 SEPP No.55 Remediation of Land

It is proposed to undertake some excavation on the site to accommodate the basement parking. Clause 7 (1) (A) of SEPP 55 requires Council to consider whether the land is contaminated. An environmental site assessment has been carried out by Dirt Doctors which is submitted with the application addressing these provisions.

4.2 SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Assessment is submitted with the DA and confirms that the proposal is committed to environmental sustainability measures.

4.3 SEPP 65 – Design Quality of Residential Flat Development

The proposed development has been given consideration under the provisions of SEPP 65, which apply to the development. They are considered in detail in the report prepared by Alan Mhanna design verification.

The proposal is considered to adequately address the provisions of the SEPP 65 and satisfy the requirements.

4.3 Botany Local Environmental Plan 2013

The subject site is Zoned B2 –Local Centre, with the proposal permissible with Council Consent. The specific objectives of the *zone* are:

Zone B2 Local Centre

1 Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent

Home occupations

3 Permitted with consent

Boarding houses; Child care centres; Commercial premises; Community facilities; Dwelling houses; Educational establishments; Entertainment facilities; Function centres; Home industries; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Advertising structures; Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Environmental facilities;

Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Port facilities; Recreation facilities (major); Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies.

The proposed development defined as a residential flat building is permissible. The proposed development complies with the objectives of the zone by providing for a variety of medium density residential uses close to services maximising public transport patronage and encourage walking and cycling.

The proposal is assessed under the relevant clauses of this LEP in the table below.

TABLE 1: Compliance with Botany LEP 2013

4.3 Height of buildings

(1) The objectives of this clause are as follows:

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

roads and other public places such as parks, and community facilities.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

(2A) Despite subclause (2), if an area of land in Zone R3 Medium Density Residential or Zone R4 High Density Residential exceeds 2,000 square metres, the height of a building on that land may exceed the maximum height shown for the land on the Height of Buildings Map but must not exceed 22 metres.

(2B) Subclause (2A) does not apply to land identified as "Area 1" on the Height of Buildings Map.

(2C) Despite subclause (2), if an area of land identified as "Area 2" on the Height of Buildings Map has a site area exceeding 1,900 square metres, the maximum height for a building on that land may exceed the maximum height shown for the land on the Height of Buildings Map by no more than 2 metres.

14m

The subject site has a height control of 14m.

The proposal has a height of 16.7m for the lift and stair providing access to the communal space. It is noted that the residential portion of the development is within the 14m height control area with the exception of a portion of the roof slab and lift overrun.

A Clause 4.6 exemption is submitted with the application.



4.4 Floor space ratio

(1) The objectives of this clause are as follows:

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

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

(2A) Despite subclause (2), if an area of land in Zone R3 Medium Density Residential or Zone R4 High Density Residential exceeds 2,000 square metres, the floor space ratio of a building on that land may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map but must not exceed 1.5:1.

(2B) Subclause (2A) does not apply to land identified as "Area 1" on the Floor Space Ratio Map.

(2C) Despite subclause (2), if an area of land identified as "Area 2" on the Floor Space Ratio Map has a site area exceeding 1,900 square metres, the maximum floor space ratio for a building on that land may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by no more than 0.65:1.

2:1

The subject site has a 2:1 FSR control.

Site area 791m²

FSR=2:1

Max GFA = 1,582m²

Proposed GFA: 1,579 m²

The proposal is compliant.



5.9 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

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

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of

the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.

(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:

(a) that is or forms part of a heritage item or that is within a heritage conservation area, or

(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the Council is satisfied that the proposed activity:

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and

(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 5.10 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

(a) the clearing of native vegetation:

(i) that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003*, or

(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or

(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or

(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or

- (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or
- (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

Note. Permissibility may be a matter that is determined by or under any of these Acts.

(9) [Not applicable. See Part 3 of Schedule 1 of the *Native Vegetation Act 2003*.]

A number of trees are proposed to be removed. An arborist report has been prepared and is submitted with the application addressing these provisions and recommending their removal.

5.10 Heritage conservation

Note. Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Botany Bay,
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- (c) to conserve archaeological sites,
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - (i) a heritage item,
 - (ii) an Aboriginal object,
 - (iii) a building, work, relic or tree within a heritage conservation area,

- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land:
 - (i) on which a heritage item is located or that is within a heritage conservation area, or
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and

- (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or
- (b) on land that is within a heritage conservation area, or
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the

Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item:

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage

significance, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

The proposal is not in a conservation and is not a heritage item. The site is opposite Mascot Public School which is a heritage item. The proposal is not within the visual catchment of the heritage item.

6.1 Acid sulfate soils

(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.

(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:

(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and

(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.

(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):

(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a

- risk to the environment or to public health and safety,
 - (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
 - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if:
- (a) the works involve the disturbance of less than 1 tonne of soil, and
 - (b) the works are not likely to lower the watertable.

The subject site is in a Class 4 area. A geotech report is submitted with the application.

6.2 Earthworks

- (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
- (2) Development consent is required for earthworks unless:
- (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or
 - (b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.
- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
 - (b) the effect of the development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,

<p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>Note. The <i>National Parks and Wildlife Act 1974</i>, particularly section 86, deals with harming Aboriginal objects.</p>
<p>A Geotech report has been prepared and is submitted with the application demonstrating that the proposed works are able to be accommodated within the provisions of this clause.</p>
<p>6.3 Stormwater management</p> <p>(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p> <p>(2) This clause applies to all land in residential, business and industrial zones.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</p> <p>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</p> <p>(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.</p>
<p>A stormwater concept plan has been prepared and is submitted with the</p>

application demonstrating compliance with these provisions.

6.4 Terrestrial biodiversity

- (1) The objective of this clause is to maintain terrestrial biodiversity by:
 - (a) protecting native fauna and flora, and
 - (b) protecting the ecological processes necessary for their continued existence, and
 - (c) encouraging the conservation and recovery of native fauna and flora and their habitats.
- (2) This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map.
- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:
 - (a) whether the development is likely to have:
 - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
 - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (iv) any adverse impact on the habitat elements providing connectivity on the land, and
 - (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
 - (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The site is not identified as containing terrestrial biodiversity.

6.8 Airspace operations

(1) The objectives of this clause are as follows:

(a) to provide for the effective and ongoing operation of the Sydney (Kingsford Smith) Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,

(b) to protect the community from undue risk from that operation.

(2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.

(3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that:

(a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or

(b) the development will not penetrate the Limitation or Operations Surface.

(4) The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.

(5) In this clause:

Limitation or Operations Surface means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the *Obstacle Limitation Surface Map* or the *Procedures for Air Navigation Services Operations Surface Map* for the Sydney (Kingsford Smith) Airport.

relevant Commonwealth body means the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the Limitation or Operations Surface for the Sydney (Kingsford Smith) Airport.

The proposed development will not compromise airspace operations.

6.9 Development in areas subject to aircraft noise

(1) The objectives of this clause are as follows:

- (a) to prevent certain noise sensitive developments from being located near the Sydney (Kingsford Smith) Airport and its flight paths,
- (b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
- (c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.

(2) This clause applies to development that:

- (a) is on land that:
 - (i) is near the Sydney (Kingsford Smith) Airport, and
 - (ii) is in an ANEF contour of 20 or greater, and
- (b) the consent authority considers is likely to be adversely affected by aircraft noise.

(3) Before determining a development application for development to which this clause applies, the consent authority:

- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
- (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and
- (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.

(4) In this clause:

ANEF contour means a noise exposure contour shown as an ANEF contour on the *Noise Exposure Forecast Contour Map* for the Sydney (Kingsford Smith) Airport prepared by the Department of the Commonwealth responsible for airports.

AS 2021—2000 means AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

The acoustic report makes provisions for dealing with external noise in accordance with these provisions.

6.15 Active street frontages

- (1) The objective of this clause is to promote uses that attract pedestrian traffic along certain ground floor street frontages.
- (2) This clause applies to land identified as "Active street frontage" on the Active Street Frontages Map.
- (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the building will have an active street frontage after its erection or change of use.
- (4) Despite subclause (3), an active street frontage is not required for any part of a building that is used for any of the following:
 - (a) entrances and lobbies (including as part of mixed use development),
 - (b) access for fire services,
 - (c) vehicular access.
- (5) In this clause, a building has an *active street frontage* if all premises on the ground floor of the building facing the street are used for the purposes of business premises or retail premises.

Botany Road is nominated as an active street frontage. The proposal provides pedestrian and vehicle access consistent with the provisions of this clause.

Justification under Clause 4.6 of Botany Bay Local Environmental Plan
2013 – Exceptions to Development Standards.

Clause 4.3 Height of Buildings

Building Height control 14m.

Proposal Building Height 16.7m

1.0 Introduction

The site is located on the eastern side of Botany Road north of the intersection with King Street. The site has an area of 791m² and is regular in shape with a frontage to Botany Road in the west of 10.61m and a common eastern boundary of 9.95m. The site has a common northern boundary of 77.11m and a common southern boundary of 77.01m.

The site comprises one allotments and is known as 1109 - 1111 Botany Road (Lot A DP 432899). The land falls from west to east from RL7.95 on the Botany Road frontage to RL7.21 in the north-east (740mm).

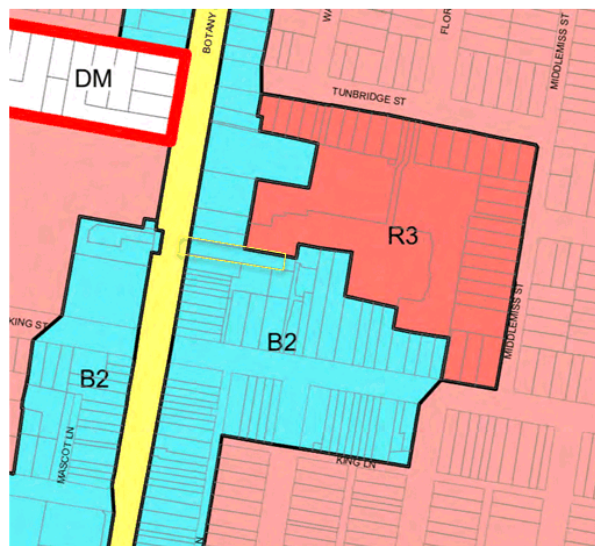


Aerial Photo Context

Source: RPData 2018



85



Extract Botany Bay LEP 2013 Zoning Map 1

Subject Site Outlined in Yellow

It is proposed to demolish the structures and construct an infill development with a streetwall to Botany Road which adopts the height, form and scale frontage of the adjoining sites which extend south to the intersection with King Street. The proposal responds sympathetically to the form and scale of this development by adopting the parapet height, awning, rhythm and pattern of punched openings within a predominately solid rendered masonry faced. The proposal provides for the upper level setback from the streetwall parapet consistent with the planning controls.



Proposed Development Montage

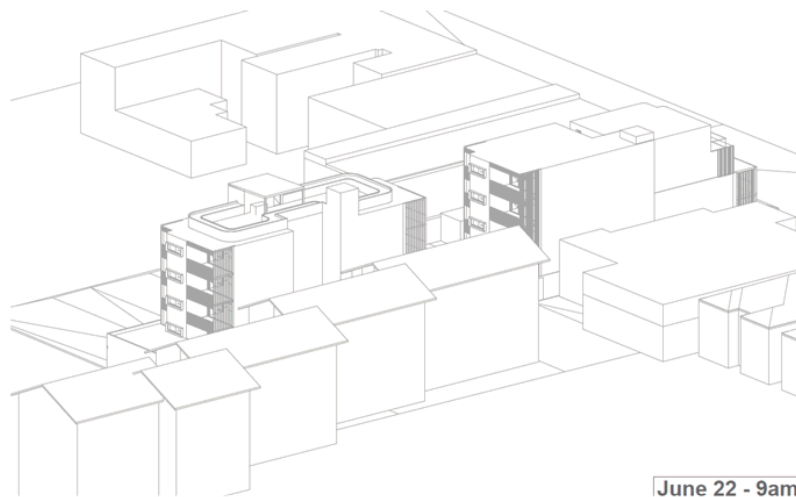
The proposed development comprises at total of 16 dwellings x 2 bed units and parking for 23 cars at ground and basement level with access from Botany Road. The proposal comprises two buildings, the first addressing Botany Road and the second centrally located on the site consistent with the pattern of development on the surrounding sites.

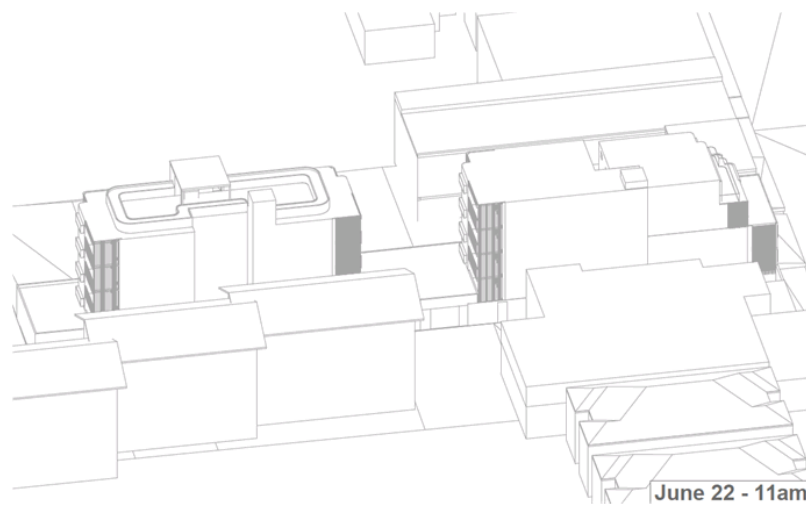
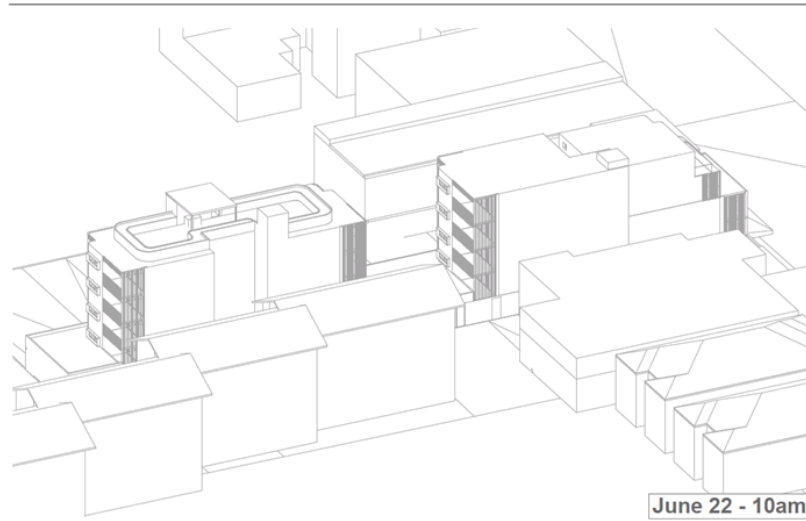
The subject site has a height control of 14m. The proposal has a height of 16.7m for the lift and stair providing access to the communal space. It is noted that the residential portion of the development is within the 14m height control area with the exception of a portion of the roof slab and lift overrun.

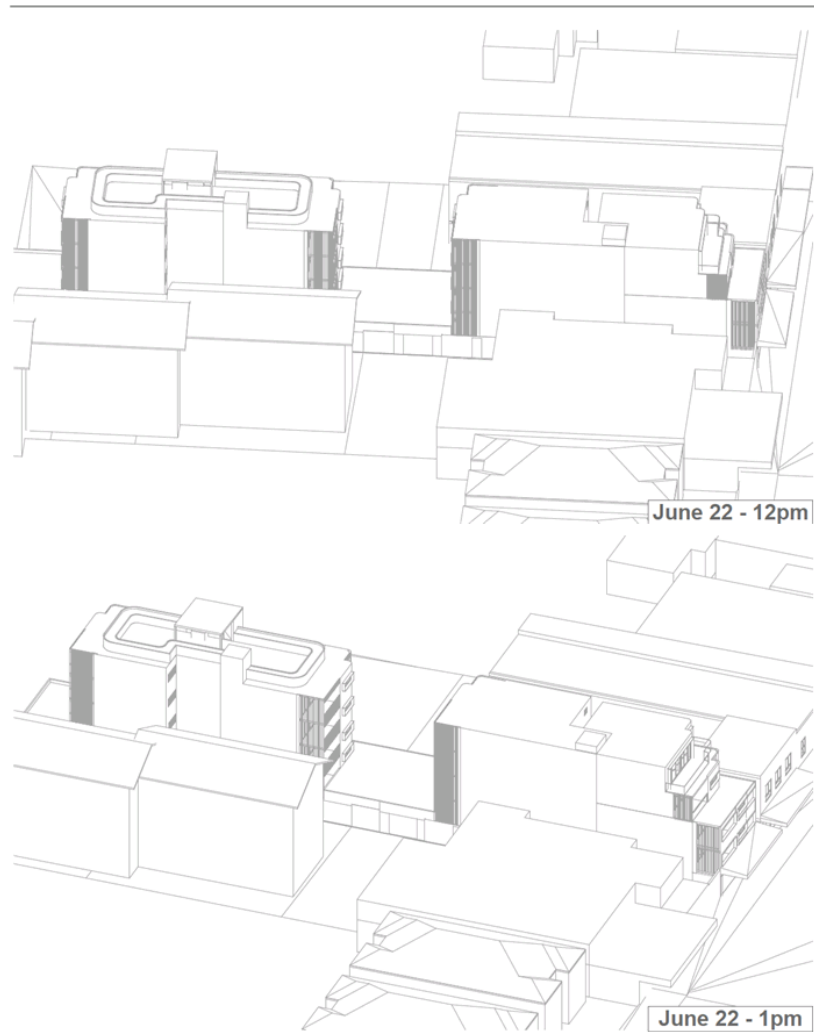


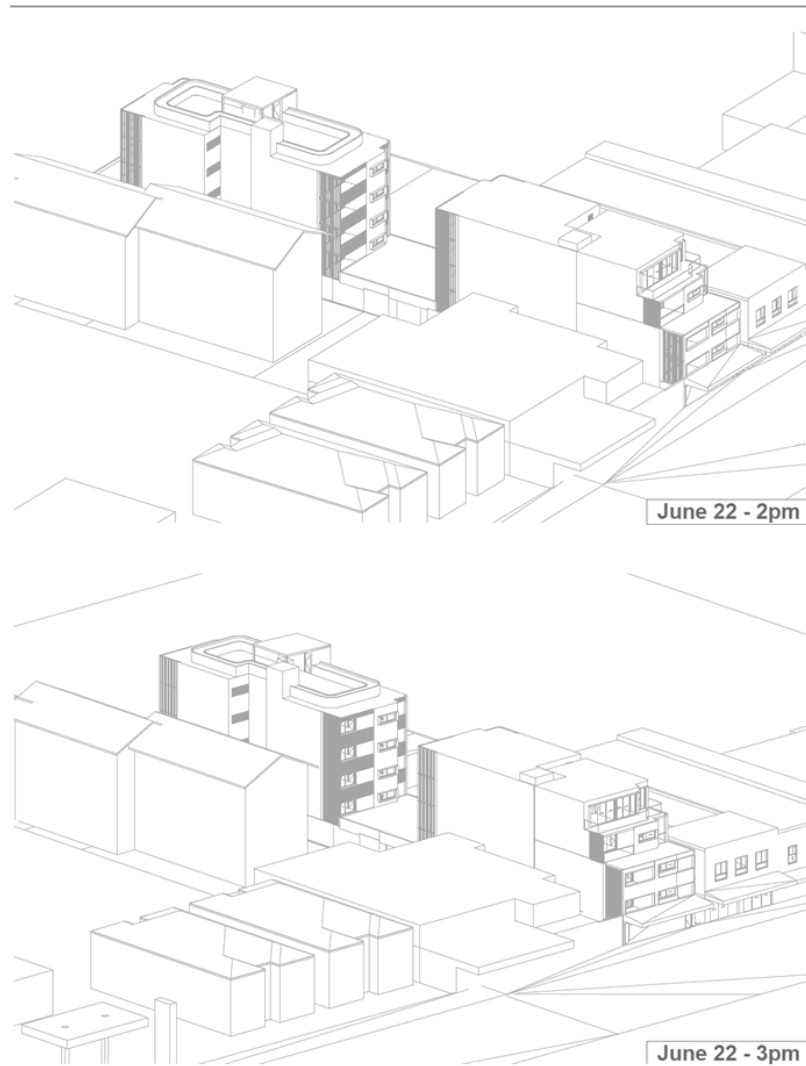
14m Height blanket

It is acknowledged that the increase in height has some minor shadow impact and as part of the assessment process the applicant has provided views from the sun for the proposal and the height blanket diagram to allow the assessment of solar access. It is clear that the impact of shadows arise predominantly from the compliant portions of the building.









The assessment of the solar impacts must be considered in the context of the B2 zoning of the site and immediate context. It should also be considered in the context where the building within the R3 zone is located to the north and no shadow effect arises from the proposal.

A consideration of the views from the sun shows that each of these units achieve 2 hours of solar access to their balconies and windows.

In this instance it is the upper level communal open space and its access which has been incorporated, by relocating the ground level space which would otherwise be shadowed and of low amenity. It is considered that on balance this is a better planning outcome where solar access, amenity and equitable access for all occupants are of such high regard.

Clause 4.6 of the Botany Bay Local Environmental Plan 2013 (BBLEP) enables Council to grant consent for development even though the development varies a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Clauses 4.6 (3) and (4)(a)(ii) require that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard, namely:

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

The consent authority's satisfaction to those matters must be informed by the objective of providing flexibility in the application of the relevant control to achieve better outcomes for and from the development in question.

The Land and Environment Court has given consideration to the matters that must be addressed in relation to whether a variation to development standards should be approved. While these cases originally referred to the former SEPP 1, the principles still remain relevant, more recently,

further guidance on the approach to apply to applications to vary development standards under clause 4.6 of the Standard Instrument was provided by the Land and Environment Court. This Clause 4.6 gives consideration to the matters raised in:

- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;
- Turland v Wingecarribee Shire Council [2018] NSWLEC 1511;
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009;
- Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386; and
- Moskovich v Waverley Council [2016] NSWLEC 1015.
- Wehbe v Pittwater Council [2007] NSW LEC 827; and
- Winten Property Group Ltd v North Sydney Council [2001] 130 LGERA 79 at 89;

In accordance with the above requirements, this Clause 4.6 variation request:

2. identifies the development standard to be varied;
3. identifies the variation sought;
4. establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
5. demonstrates there are sufficient environmental planning grounds to justify the contravention;
6. demonstrates that the proposed variation is in the public interest; and
7. provides an assessment of the matters the secretary is required to consider before providing concurrence.

This Clause 4.6 variation request relates to the development standard for Height of Buildings under Clause 4.3 of the BBLEP and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Mersonn dated December 2018 as well as the supplementary documentation submitted to Council. This Clause 4.6 variation request demonstrates that compliance with the Height of Buildings development standard is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to

justify variation to the standard.

2.0 Development Standard to be Varied

The development standard that is sought to be varied as part of this application is Clause 4.3 of the BBLEP, relating to the Height of Buildings. Under the BBLEP 2013, the site is afforded Height of Buildings of 14m.

3.0 Nature of the Variation Sought

The maximum Height of Buildings on the site under the BBLEP for this application is 14m. The proposed building on the site has a height of 16.7m, and is in excess of the maximum Height of Buildings development standard applicable under the BBLEP and requires a variation to the maximum Height of Buildings development standard through clause 4.6.

The proposed development seeks consent to exceed the Height of Buildings development standard applicable under the BBLEP by 19.28%.

It is well established in case law that the extent of the numerical variation does not form part of the test required to be exercised under Clause 4.6. Decisions in respect of *Micaul Holdings P/L V Randwick City Council* (55% exceedance of height and 20% exceedance of FSR) and *Moskovich V Waverley Council* (65% exceedance of FSR) support this.

4.0 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The five methods outlined in *Wehbe* include:

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard (First Method).*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (Second Method).*
- 3. The underlying object or purpose would be defeated or thwarted*

if compliance was required and therefore compliance is unreasonable (Third Method).

4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (Fourth Method).

5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (Fifth Method).

In this instance, the First Method is of particular assistance in establishing that compliance with a development standard is unreasonable or unnecessary.

The environmental planning grounds relied on in the written request under Clause 4.6 must be sufficient to justify contravening the development standard. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action v Woollahra Municipal Council* [24] and *Turland v Wingecarribee Shire Council* [42]).

In this instance part of the upper level of the proposed development exceeds the Height of Buildings development standard and therefore require a further variation to that standard.

4.1 The objectives of the development standard are achieved notwithstanding the non-compliance (First Method)

The objectives of Clause 4.3 Height of Buildings in BBLEP 2013 are;

(1) The objectives of this clause are as follows:

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

The proposal is considered to be sited in a coordinated and cohesive manner responding to the built form of Botany Bay. Addressing the B2 zone with zero lot alignment and stepped building form and splitting the rear of the building to maintain openness between the forms for the outlook from the adjoining R3 dwellings but orienting units perpendicular to their orientation. The proposal is considered to satisfy this objective.

The taller building is located centrally and to the rear of the site so as not to compete with the Botany Road streetwall while simultaneously retaining an open aspect for the dwellings adjoining within the R3 land.

It is demonstrated in the plans that the proposal minimises any overshadowing, loss of privacy and visual impacts for the neighbouring properties consistent with the objectives of this clause. The proposal presents as a building predominantly within the maximum height of buildings as it presents to the street. The height of the proposal is considered to be consistent with the desired character of the locality and the surrounding buildings and public areas will continue to receive satisfactory exposure to sky and sunlight. The proposal provides an appropriate built form and land use intensity consistent with the objectives of this clause. It is considered that these objectives are met by the proposal.

The height of the proposal is considered to be consistent with and appropriate to the condition of the site and its context. The desired

character of the locality and the surrounding buildings and public areas will continue to receive satisfactory exposure to sky and sunlight. The proposal provides an appropriate built form and land use intensity consistent with the objectives of this clause.

The assessment of the solar impacts must be considered in the context of the recent B2 zoning of the site and immediate context. It should also be considered in the context where the adjoining building within the R3 zone orients its units north-south in preference to the solar aspect rather than the street. A consideration of the views from the sun shows that each of these units achieve 2 hours of solar access to their balconies and windows.

In this instance it is the part upper level which has been incorporated to accommodate communal open space with high amenity and equitable access, by relocating the massing in a compliant scheme would provide lesser amenity and poorer levels of equitable access. It is considered that on balance this is a better planning outcome where communal amenity of such high regard is achieved.

It is demonstrated in the plans that the proposal minimises any overshadowing, loss of privacy and visual impacts for the neighbouring properties consistent with the objectives of this clause. The proposal does not give rise to any significant view affectation. The proposed external works to the building are at the rear of the site and located to minimise any view impacts.

The SEE details that the proposal is largely consistent with the relevant environmental planning instruments and does not give rise to any adverse environmental impacts in respect to overshadowing, traffic, heritage, wind, reflectivity, stormwater, flooding, noise, waste, economic and social impacts.

It is considered that these objectives are met by the proposal.

5.0 There are sufficient environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of the BBLEP requires the departure from the development standard to be justified by demonstrating:
That there are sufficient environmental planning grounds to justify contravening the development standard.

There are sufficient environmental planning grounds to justify a flexible approach to the application of the Height of Buildings control as it applies to the site. In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site.

The applicable circumstances that relate to the site are discussed below.

The proposal seeks flexibility in the application of the standard where the breach to the height control arises from a building, which is consistent in bulk and scale with the desired future character. A compliant building would unnecessarily excavate and step the whole of the building form in order to achieve the height control while providing a lower level of communal amenity. This is considered to achieve flexibility consistent with the objectives of this clause.

The solution to upper level communal open space and equitable access provides a better planning outcome for both the occupants and the neighbours and retains an acceptable level of solar access for the neighbouring buildings.

The proposal provides for a better outcome in making available communal space on the building, which benefits from high amenity and high levels of solar access and outlook. This is considered to be a better outcome consistent with the objectives of this clause.

A consideration of the application and the submitted shadow diagrams demonstrate that no significant overshadowing, privacy, view or bulk and scale amenity impacts arise from the proposal. It is considered that the

proposal is the better planning outcome encouraged by the provisions of Clause 4.6.

The proposed works above the height have no significant view impact and cause no overshadowing, nor bulk or scale impacts to the existing surrounding dwellings.

In the circumstances where there are sound environmental and site specific sufficient environmental planning grounds reasons for the breach to the height control it is considered to justify contravention of the control and consequently the exception to the height control standard under Clause 4.6 is considered acceptable.

In this regard, there are sufficient environmental planning grounds to justify contravening the development standard. The proposed additional height sought in this Clause 4.6 better allows the built form on the site to achieve the desired future character of the locality, as expressed under the DCP, as compared to the do nothing scenario.

6.0 It is in the public interest because it is consistent with the objectives of the particular standard and the zone.

6.1 Consistency with the objectives of the development standard.

The proposed development is consistent with the objectives of the FSR development standard, for the reasons discussed in Section 4.1 of this report.

6.2 Consistency with the Zoned B2 – Local Centre Zone objectives.

The objectives for development in this zone are;

1 Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other*

development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

- *To ensure uses support the viability of centres.*

The proposed development improves the provision of high density housing for the needs of the community without compromising amenity of the surrounding area. The proposal is consistent with the desired pattern of land use and density achieves a reasonably high level of residential amenity.

The proposal provides a variety of housing types in an area which is undergoing a rapid transition in housing stock from apartments to single dwellings. This serves to integrate residential and business uses in accessible locations so as to maximise public transport patronage and encourage walking and cycling consistent with the objectives of the zone.

The proposal contributes to the viability of the centre by redeveloping a redundant use consistent with the objectives of the plan.

The proposal is considered to meet the objectives for development in the zone.

The proposal is considered consistent with the objectives of the standard and for development in this zone as required by this subclause.

7.0 Secretary's Concurrence.

Under Clause 4.6(5) of NSLEP 2012, the Secretary's concurrence is required prior to any variation being granted. The following section provides a response to those matters set out in Clause 4.6(5) of the NSLEP, which must be considered by the Secretary.

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning
The variation to the Height of Buildings standard of BBLEP will not raise any matter in which could be deemed to have State or

Regional significance. The extent of variation sought is minor in the context of the building heights.

The public benefit of maintaining the development standard.

Maintaining the development standard would not result in any public benefit in this situation. As detailed within the SEE, the height and bulk of the existing building is predominantly unchanged and the proposal responds to the surrounding urban context and the requirements of the Botany Bay DCP and ADG.

The current built-form provided by the existing building is generally consistent with the bulk and scale of the surrounding buildings, and requiring compliance with the Height of Buildings standard would result in an inconsistent building form.

The proposed development would allow the building as a whole to better meet the objectives of the DCP by physically responding to the characteristic building form and its context and reinforcing the character of the area in consideration of the surrounding heritage buildings. The proposed variation to the Height of Buildings standard therefore allows the site to better meet the objectives of the DCP, ADG and the desired future character of the area. DCPs are guiding documents prepared to express the desired future character; protect the public interest and are prepared through an extensive public exhibition process.

Therefore, to better meet the objectives of the DCP can be said to improve the development's presentation to the public domain and is in the public interest.

Any other matters to be taken into consideration by the Secretary
None.

8.0 Conclusion

The assessment above demonstrates that compliance with the maximum Height of Buildings development standard contained in Clause 4.3 of

BBLEP 2013 is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded on environmental planning grounds.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allows for a superior outcome in planning and design terms. This Clause 4.6 variation demonstrates, notwithstanding the non-compliance with the maximum building height development standard, that:

- The development as proposed will deliver a superior built-form outcome in consideration of the site's characteristics and its location amongst the surrounding buildings;
- The development as proposed will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally; and
- Compliance with the development standard would be both unreasonable and unnecessary in the instance because the development is able to fully satisfy the objectives of the B2 – Local Centre Zone and the objectives of the Height of Buildings development standard.

The BBLEP 2013 applies a maximum Height of Buildings development standard for the site of 14m. The proposed development has a height of 16.7m and is therefore in excess of the maximum Height of Buildings development standard allowable under the BBLEP 2.

This variation therefore seeks consent for the proposed works as consistent with the specific site constraints and the character and form of the surrounding buildings and does not result in an over development of the site or any adverse impacts on the public domain. The proposed additional height is commensurate with surrounding developments and the built form that characterises the locality. It is also consistent with the design approach applied to other buildings within the immediate vicinity.

Consistent with the aim of Clause 4.6 to provide an appropriate degree of flexibility to achieve better outcomes for and from development, a

departure from the Height of Buildings development standard is considered appropriate in these circumstances.

Despite the numerical non-compliance with the Height of Buildings development standard, the proposed development is considered to satisfy the objectives of the development standard and the B2 – Local Centre Zone.

The proposal will provide environmental benefits particular to the site through the provision of improved amenity for future occupants of the development and for the surrounding area generally. On this basis, the Clause 4.6 variation is considered well founded and should be supported.

In this instance it is considered appropriate to make an exception to the Height of Buildings development standard under the provisions of Clause 4.6 for the reasons outlined in the preceding discussion.

4.5 Botany Bay Development Control Plan 2013

While the Botany Bay Development Control Plan 2013 has not yet been adopted and is of limited relevance under the provisions of S79C it is addressed for completeness.

Botany DCP 2013

Part 3A Car parking

3A 1.2 General Objectives

Objectives

- O1 To minimise car parking in areas which have good access to public transport to promote sustainable transport;
- O2 To ensure adequate car and bicycle parking is provided;
- O3 To minimise the visual impacts of car parks when viewed from the public domain and adjoining sites;
- O4 To maximise opportunities for consolidated areas of deep soil planting and landscaping;
- O5 To minimise traffic congestion and ensure adequate traffic safety and management;
- O6 To ensure parking facilities are safe, functional and accessible to all through compliance with design standards; and
- O7 To ensure parking provisions and design are compatible with the particular development proposed.

A report has been prepared which addresses each of these provisions and is submitted with the application.

Part 3B Heritage

3B.1.2 General Objectives

This Part generally adopts the principles contained within the ICOMOS Burra Charter for the conservation of places and items of cultural significance. The Burra Charter provides the guiding philosophy for the care of important places. It also defines the basic principles and procedures to be observed in the conservation of these places.

- O1 To conserve the urban character and heritage of the City of Botany Bay in accordance with the principles contained within the Burra Charter, which stipulates the broad conservation principles adopted throughout

Australia;

- O2 To consider the potential heritage significance of all properties identified as heritage in the Botany Bay Local Environmental Plan 2013 and State Environmental Planning Policy (Port Botany and Port Kembla) 2013 as a matter to be taken into account in the assessment of development applications affecting those properties;
- O3 To comply with all Federal and State statutory requirements with respect to conserving the nation's environmental and cultural heritage;
- O4 To undertake the conservation of all Heritage Items within the City in accordance with the objectives and controls contained within this DCP;
- O5 To provide conservation principles for the management of culturally significant buildings, places, and landscapes within the Botany Bay LGA;
- O6 To manage all aspects of future development for Heritage Items within the City of Botany Bay;
- O7 To provide background information on the City's heritage and identify its built, natural, archaeological and Aboriginal heritage;
- O8 To provide urban design principles and controls for conserving the heritage significance of Heritage Items; and
- O9 To provide information to applicants on the submission requirements for Development Applications involving Heritage Items.

The proposal is not within the visual catchment of the heritage item and is considered to meet the provisions of this control.

Part 3A Access and Mobility

3A.1.2 General Objectives

- O1 To ensure a high level of accessibility to and within all development;
- O2 To raise the profile of the needs and access issues for people with disability within the Council, the local community, and relevant public authorities; and
- O3 To encourage new buildings and associated spaces to be accessible and useable by all people in the community, including people with a disability.

An access report has been prepared which addresses each of these provisions and is submitted with the application.

Part 3D Signage

3D. 1.4 General Objectives

<p>O1 To promote well designed signage that:</p> <ul style="list-style-type: none"> (i) Is thoughtfully located; (ii) Is of a high-quality design; (iii) Is sympathetic to the architectural style of the building and surrounding built form; (iv) Addresses the local streetscape; (v) Complements the design of the building; (vi) Does not adversely impact the streetscape; (vii) Does not adversely compound the visual clutter of the surrounding buildings and streetscape; and (viii) Does not adversely impact on residential amenity; <p>O2 To promote signage that improves pedestrian amenity and provides clear and concise directions for the community;</p> <p>O3 To ensure the signage protects and promotes the heritage Significance of Heritage Items and Heritage Conservation Areas;</p> <p>O4 To ensure that all signage containing corporate logos, colours and figures, address the architecture of the built form and respond in a sympathetic design that is highly compatible with the building;</p> <p>O5 To ensure that signage contributes positively to active street frontages and public domain; and</p> <p>O6 To ensure that signage does not adversely impact on the safety and security of pedestrians, motorists and the general public.</p>
<p>Not applicable no signage is proposed as part of this application.</p>
<p>Part 3E Subdivision and Amalgamation</p> <p>3E.1.2 General Objectives</p> <p>O1 To ensure that subdivision and amalgamation and any associated development is consistent with the Desired Future Character of the area through consistent lot size, shape, orientation and housing density;</p> <p>O2 To prevent the fragmentation of land which would prevent the achievement of the extent of development and nature of uses envisioned for particular locations;</p> <p>O3 To minimise any likely impact of subdivision and development on the amenity of neighbouring properties;</p> <p>O4 To promote the creation of allotments which maximise the opportunity for energy efficient usage of land;</p> <p>O5 To ensure that lot sizes allow buildings to be sited to protect natural</p>

or cultural features including Heritage Items and retain special features such as trees and views;
 O6 To avoid increasing the community's exposure to coastal hazards;
 O7 To ensure that subdivision and amalgamation result in lots which can achieve compliance with all other relevant DCP controls; and
 O8 To ensure that the creation of new lots does not result in a reduction of pedestrian or vehicular connectivity within the existing street network and provides a safe network.

No land subdivision is proposed.

Part 3F Tree Management

3F.4 General Requirements for Tree Works Permit Applications and Development Applications

Objectives

O1 To protect and preserve trees and vegetation within the City of Botany Bay for biodiversity, visual and aesthetic and environmental amenity values;
 O2 To maximise the quality and quantity of healthy tree canopy/ tree coverage throughout the City; and
 O3 To ensure the protection of trees and vegetation within and adjacent to development sites by ensuring new developments consider and incorporate existing trees into the site layout and design and ensure vegetation is protected during construction and the ongoing operation of the site.

A number of trees are proposed to be removed. An arborist report has been prepared and is submitted with the application addressing these provisions and recommending their removal.

Part 3G Stormwater management

3G.2 Stormwater Management

Objectives

O1 To provide effective and sustainable measures in managing stormwater runoff generated by new development;
 O2 To manage impacts from flooding;
 O3 To minimise impacts of stormwater runoff from development to public drainage systems, natural watercourses, adjoining and downstream properties;
 O4 To encourage the recharge of groundwater;

<p>O5 To encourage the re-use of stormwater runoff within the development;</p> <p>O6 To protect development and adjoining and downstream properties from stormwater inundation;</p> <p>O7 To implement and incorporate Water Sensitive Urban Design (WSUD) principles into the design, construction and operation of the site;</p> <p>O8 To improve water quality of stormwater runoff from the development;</p> <p>O9 To ensure water quality of receiving waterways is not adversely affected by pollutants resulting from development site;</p> <p>O10 To prevent negative impacts of stormwater on public health and safety;</p> <p>O11 To protect existing public stormwater drainage assets; and</p> <p>O12 To provide uniform stormwater management approaches in the assessment of development applications.</p>
<p>A report has been prepared which addresses the provisions of this part.</p>
<p>Part 3H Sustainable design</p> <p>3H.1.2 General Objectives</p> <p>O1 To minimise consumption of resources including energy, water, waste and soil;</p> <p>O2 To provide a comprehensive set of ecologically sustainable development requirements which will assist in the assessment of development applications;</p> <p>O3 To ensure the design and construction of development will minimise the adverse impacts on the environment;</p> <p>O4 To improve resident, employee and construction workers' comfort and health;</p> <p>O5 To minimise pollution of air, soil and water;</p> <p>O6 To promote environmentally sensitive design and construction of buildings; and</p> <p>O7 To encourage design for durability and long life and promote the use of renewable energy sources and materials.</p>
<p>A BASIX assessment is submitted with the application demonstrating compliance with the provisions of this section.</p>
<p>Part 3K Contamination</p> <p>3K.1.4 General Objectives</p> <p>O1 To ensure that the development of contaminated or potentially</p>

contaminated land does not pose a risk to public health or the environment; O2 To ensure that land subject to a development application or rezoning is suitably assessed to determine the extent of contamination and if necessary any remediation required as part of the development application or rezoning; and O3 To provide information to support decision-making and to inform the community.
A site contamination report has been prepared under the provisions of SEPP 55 addressing the provisions of this part.
Part 3L Landscaping 3L.1.3 General Objectives O1 To maintain and embellish the visual and environmental amenity of the City; O2 To ensure that new development incorporates high quality landscaping and planting designs integral to the overall development; and O3 To ensure landscaping is site responsive, retains trees and provides adequate and appropriate landscaping.
A landscaping plan has been submitted with the application consistent with the provisions of this part.
Part 3M Natural Resources 3M.1.2 General Objectives O1 To protect and improve biodiversity across the LGA; O2 To protect the identified Endangered Ecological Communities; O3 To protect Wetlands in the Botany Bay LGA from inappropriate development by preventing and/or regulating developments that have the potential to fragment, pollute, disturb or diminish the values of wetlands; and O4 To protect, restore and maintain ecological processes, natural systems and biodiversity within wetlands in the Botany Bay LGA.
This is not applicable to the subject site.
Part 3N Waste Minimisation and Management 3N.1.2 General Objectives O1 To encourage best practice in waste management that minimises waste generation, facilitate waste separation and maximises reuse and

recycling;

O2 To reduce the amount of construction and demolition waste and waste generated in the operation of a development going to landfill; and

O3 To ensure suitable and efficient waste storage, recycling and collection in all development

A waste management plan has been submitted with the application consistent with the provisions of this part.

Part 5 Business Centres

Mascot Local Centre

Objectives

Objectives

O1 To retain and conserve the Mascot shopping strip and encourage a viable and attractive Local Centre by improving the public domain and the public/private interface;

O2 To protect the distinctive and characteristic elements of Mascot Local Centre shops and ensure the integration of these features into subsequent uses;

O3 To ensure that development recognises predominant streetscape qualities (i.e. setbacks & design features);

O4 To ensure development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character;

O5 To retain existing trees and provide additional landscaping within the streetscape;

O6 To allow reasonable redevelopment and to improve the architectural quality of building stock;

O7 To retain a coherent streetscape with a consistent street wall and parapet line;

O8 To improve and extend the pedestrian environment and to encourage appropriate outdoor uses with good solar access, such as cafes;

O9 To ensure that dwellings within a mixed use development provide passive surveillance, resident interaction and address the street;

O10 To encourage development of awnings as balconies for residential and commercial units above (to improve amenity for unit dwellers and

<p>promote passive surveillance of streets); and</p> <p>O11 To encourage site consolidation and the provision of through- site pedestrian links or arcades that provide rear access to the public car parking areas.</p>
<p>The proposal is consistent with the objectives for the locality contained within these provisions.</p>
<p>Public Domain/Streetscape</p> <p>C1 Development must provide landscaping, street trees, decorative fencing, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figure 26.</p> <p>C2 Pedestrian amenity and connectivity must be enhanced in conjunction with new development. Through site links and arcades to the rear are encouraged with redevelopment to provide improved access and safety for pedestrians.</p>
<p>The proposal is consistent with the public domain character for the area.</p>
<p>Site Amalgamation</p> <p>C3</p> <p>Redevelopment is encouraged through logical lot consolidation of sites and infill development.</p> <p>Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.</p>
<p>The proposal provides for an appropriately sized allotment for the proposed development.</p>
<p>Building Form and Design</p> <p>C4 The design of development must be generally consistent with the desired future character of the centre identified in Figure 26.</p> <p>C5 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 by incorporating traditional shopfronts and building facades.</p>

<p>C6 A setback to the rear may be required where a site adjoins a residential area and is to be determined following a detailed site analysis at development application stage. Applicants must therefore demonstrate to Council with the development application that the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access privacy and visual amenity.</p> <p>C7 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.</p> <p>Council encourages diversity in building designs provided that development outcomes complement the existing character of the centre.</p> <p>C8 Buildings must address the street and their entries are to be readily apparent from the street.</p> <p>Developments on sites with two or more frontages must address both frontages, to promote, add prominence and diversity to the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and often overlook adjoining properties.</p> <p>C9 Shop top housing must have windows and/or verandahs in the street elevation to encourage surveillance of the street. If the verandah is built over the street then a lease fee is payable to Council. The fee is set out in Council's Fees and Charges.</p> <p>C10 Alterations and additions are to reflect the architectural design of the existing building. Materials and finishes are to be compatible with the existing building.</p> <p>C11 New development when viewed from the street is to be compatible with the character of buildings within the site's visible locality by using similar shaped windows, doors and similar building materials.</p> <p>C12 A street number for the property is to be clearly identifiable from the street.</p> <p>C13 Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.</p> <p>C14 Air conditioners must not be installed on street awnings or the front facade of buildings.</p> <p>C15 Development must comply with Council's sustainable development requirements as identified in Part 3H - Sustainable Design.</p> <p>The proposal has been designed in response to these requirements.</p>

Parking and Access
<p>C16 Vehicular access from Botany Road must be avoided where access is available from a side street or rear laneway.</p> <p>C17 All loading and unloading is to be carried out on-site or from the rear laneway where it exists.</p> <p>Loading and unloading on Main Roads is to be avoided at all times.</p> <p>C18 Development must comply with Part 3A - Car Parking.</p>
Vehicle access is provided from Miles Street. Loading and servicing is provided for on site.
Advertising and Signage
<p>C19 Maintain limited advertisements and business signage to minimise visual impact.</p> <p>C20 Restrict signage to the awning fascia, under the awning or behind the shop window at street level.</p> <p>C21 Development must comply with Part 3D - Signage.</p>
Not applicable.
Stormwater
<p>C24 A Stormwater Management System is to be provided in accordance with Part 3G – Stormwater Management.</p>
A stormwater concept plan has been submitted with the application consistent with the provisions of this part.
Height
<p>C22 A maximum height of 14 metres applies under BBLEP 2013. Building height at the street frontage is a maximum of two stories with Levels 3 and 4 to be setback from the street.</p> <p>C23 Development which seeks the maximum building height under the</p>

BBLEP 2013 and is south of Hollingshed Street will penetrate the Obstacle Limitation Surface (OLS) and is required to be assessed by CASA, Airservices Australian and the Airlines before an application can be submitted to the Department of Infrastructure and Transport for their determination.

The proposal provides appropriate height responding to the streetwall parapet height of the context and setting back the levels above consistent with the control.



5.3.1.3 Street Setbacks

C1 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 wall height along the street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys or where the site is located on a street corner. In this instance applicants must submit a written justification to Council for this variation at development application stage. The variation will be considered by Council on its merits.

C2 Setbacks for buildings which exceed two storeys are provided in the Character Precincts for each centre in Part 5.2 - Character Statements for the Business Centres.

The proposal provides appropriate setbacks to the upper level.

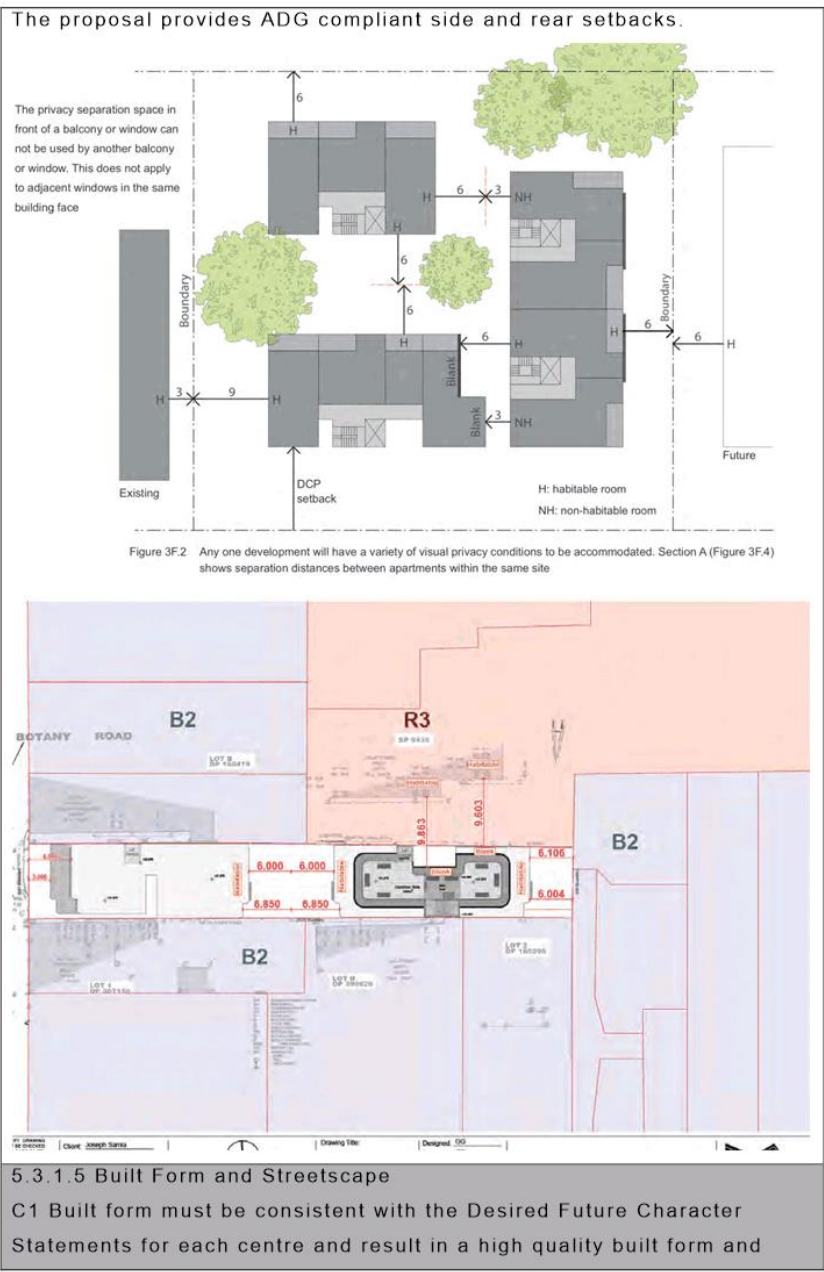


Proposed Development Montage

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 minimized in terms of loss of privacy, sunlight and daylight access and visual amenity. The appropriate setback will be determined at development application stage, subject to a detailed Site Analysis. Applicants must therefore demonstrate to Council at development application stage that impacts on the residential area are minimised.

C2 Developments to which State Environmental Planning Policy No 65 (SEPP 65) applies are to adhere to the Apartment Design Guide provisions for building separation.



energy efficient architectural design (refer to Part 5.2 - Character Statements for Business Centres).

C2 Buildings must have a consistent street wall height and provide a continuous street frontage and awning height along the street frontage where appropriate.

C3 Blank walls are to be avoided adjoining principle streets and the public domain. If they are unavoidable amelioration measures such as artwork or landscaping is required to enhance the visual amenity and reduce vandalism.

The proposal provides a consistent street wall height and provide a continuous street frontage and awning height along the street frontage.



5.3.1.6 Excavation

C1 Buildings must not dominate nor detract from the natural landform. The siting of buildings must relate to the site's natural context and topographical features.

C2 Where steep or sloping sites exist, the building must not protrude from the landscape but must be staggered or stepped into the natural slope of the land.

C3 Developments must 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, Council will consider its effect on the streetscape and adjoining properties.

C4 Any excavation adjacent to RMS infrastructure must comply with the requirements of the Technical Direction (GTD 2012/001) – Excavation

Adjacent to RMS Infrastructure. A copy of this Technical Direction can be downloaded via the following link:
<http://www.rms.nsw.gov.au/doingbusinesswithus/engineeringpolicies/technicaldirections.html>

The proposed development avoids unnecessary use of cut and fill by designing and siting the buildings within the natural slope of the land.

5.3.2.1 Design Excellence

C1 To achieve excellence in urban design, all development must:

- (i) Take into consideration the characteristics of the site and adjoining development by undertaking a thorough site analysis;
- (ii) Utilise innovative design which positively responds to the character and context of its locality;
- (iii) Provide a design which is sustainable;
- (iv) Enhance the streetscape character of the locality;
- (v) Ensure that proposed 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;
- (ix) Design for acoustic and visual privacy;
- (x) Ensure dwellings and open space areas achieve good solar access, and are energy efficient;
- (xi) Ensure building entries address the street and are clearly visible from the street or footpaths;
- (xii) Design development that provides good quality landscaping;
- (xiii) Consider the relationship of private open space to the layout of the dwelling;
- (xiv) Use design techniques which promote safety and discourage crime; and
- (xv) Encourage active street frontages

C2 The Development Application must identify, through a design statement, how design excellence will be achieved in the proposed development. The design statement must include drawings and examples of the building features, textures, materials, finishes and colours and how they are suitable to the subject site and its context.

The proposal provides an innovative design of two storey apartments which positively responds to the character and context of its locality. The proposal provides a design which is sustainable and enhances the streetscape character of the locality.

This is achieved by the proposed development being set consistent in height and scale with surrounding development and by maintain established setbacks. The proposal has been designed to minimise impacts on neighbours by maintaining appropriate levels of solar access and privacy and utilises materials and finishes which complement the locality.

The proposal has been designed for acoustic and visual privacy and provides dwellings and open space areas with good solar access, and energy efficiency.

Building entries address the street and are clearly visible from the street with the proposed design providing good quality landscaping with a consider the relationship of private open space to the layout of the dwellings.

The proposal uses design techniques which promote safety and discourage crime and provides active street frontage to Botany Road.

The proposal is considered to achieve excellence in urban design.

5.3.2.2 Building Design

C1 Building construction must be undertaken in compliance with the Building Code of Australia (BCA). All development applications must submit a BCA report outlining the compliance of the building design with the BCA.

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.

C3 If the development is located in a heritage conservation area or adjoining a Heritage Item the objectives and controls contained in Part 3B - Heritage must be addressed in the Development

Application and accompanying heritage impact statement.

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 privacy impacts on adjoining residential properties.

C5 All mechanical ventilation, exhaust towers and cooling systems must not be visible from any public space. These elements must not impact on the visual presentation of the building. Care is required in the location of any exhaust vent that may generate smells to ensure effects on the residential amenity are minimised.

C6 Sustainable sourced or recycled building materials must be used in accordance with Part 3H - Sustainable Design.

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 BCA report has been submitted with the application consistent with the provisions of this part.

5.3.2.3 Reflectivity

C1 The reflectivity of building materials must not result in glare to motorists, residents or pedestrians or endanger their safety.

C2 Reflective glass must not be used in any external finishes.

C3 The solar reflectance value of building materials must not exceed 20%. The schedule of building materials provided with the development application must include the manufactures solar reflectivity value for all external building materials to be used.

C4 A reflectivity report may be required by Council at development application stage examining the effects of possible glare on pedestrians and motorists.

The proposal does not include reflective finishes.

5.3.2.4 Awnings and Verandahs

C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.

C2 Awnings and/or verandahs are to be setback a minimum 1m from the face of the kerb or in continuity with adjoining properties. In certain centres the setback will need to be increased to 1500mm from the kerb to allow for the planting of street trees. The appropriate setback for

awnings can be determined at Pre- DA stage in consultation with Council and for classified roads with Roads and Maritime Services (RMS).

Note:

- Awnings and verandas along classified roads will be set back a minimum of 1.5 metres from the kerb;
 - Awnings and verandas along local roads that intersect with classified roads will be set back a minimum of 1.5 metres from the kerb for a distance of up to 100 metres from the intersection with the classified road; and
 - At any signalised intersections (on local roads or classified roads), awnings and verandas will be set back a minimum of 1.5 metres from the kerb for a distance of up to 100 metres from the signalised intersection.
- C3 Awning design must be a solid suspended steel box type section, with a minimum soffit height of 3.2 metres. Awning height is required to provide continuity with adjoining properties, following the street grade, and must be of sufficient depth to provide good shade and shelter to pedestrians. It is required to make provision for street trees.
- C4 Under awning lighting is to be included; either recessed into the soffit of the awning or wall mounted on the building. It is required to be energy efficient and to minimise spillage into residential dwellings. The lighting must be robust and vandal resistant.
- C5 Further kerb-side setback condition (2.5 metres minimum) are to be required on major roads, in accordance with RTA "Clear Zones" provisions.
- C6 Verandahs are encouraged above awnings to assist with passive surveillance of the street and increased amenity for residential dwellings. They must be designed to remain standing in the event of removal of any one post or both corner posts with respect to a street corner. If the site is exposed to heavy traffic or where the posts/columns could interfere with pedestrian pathways, the structure may be required to be cantilevered. A structural engineer must certify all structures prior to the issue of the occupation certificate.

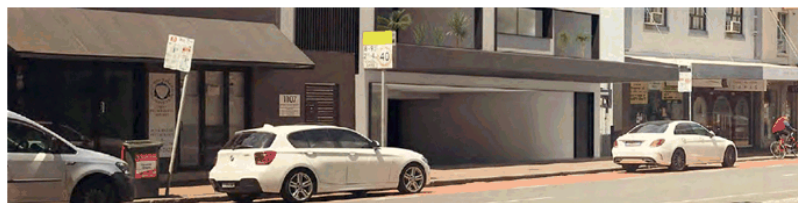
Note:

Commercial or residential occupation of balconies and verandahs above public roads is subject to Council approval and the issue of a permit under the Roads Act, 1993. For balconies and verandahs over classified public road boundaries

please discuss the proposal with Roads and Maritime Services.

C7 For verandahs that are built over the footpath or road reserve areas, a lease fee is payable to Council. A structural certificate issued by a qualified engineer is to be submitted to Council every year to ensure the structural integrity of the verandah.

The proposal provides an awning matching that of the adjoining.



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.

C2 Development must be designed so that it has a clearly definable entry and addresses the street.

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.

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.

C5 Public domain improvement works such as footpath paving, reconstruction of kerb and gutter, landscaping, street trees, amenity area lighting and furniture may be required at the developers expense.

The proposal provides a clearly identifiable entry and private open space at first floor and above.

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 Frontages under BBLEP 2013.

C2 New developments must consider building setbacks to allow for outdoor seating opportunities.

<p>C3 Developments must identify landscaping, street paving and furniture etc along the active street frontage to improve the private and public domain interface at the ground level. Any proposed works in the public domain must be approved by Council and be consistent with the Desired Future Character for the centre, as identified in Part 5.2 - Character Statements for the Business Centres.</p> <p>C4 Any outdoor seating must be proposed so as not to compromise pedestrian safety and access or reduce vehicle sight lines. There must be a minimum of 2 metres available on the public footpath (clear of any obstruction) for pedestrian access.</p> <p>C5 Where it is proposed to occupy the Council footpath for outdoor dining, the applicant must obtain development consent, in addition to a lease agreement with Council.</p> <p>C6 Active street frontage where possible must take advantage of public open spaces, and views and vistas etc to orientate the active uses on the ground floor. (i.e. café outdoor seating must be orientated to parks and open spaces to improve visual amenity for patrons.)</p> <p>C7 If the active street frontage adjoins a Heritage Item the setback, design and scale of the active street frontage must complement the Heritage Item.</p>
<p>The proposal provides activation through entries and lobbies consistent with this requirement.</p>
<p>5.3.2.7 Heritage</p> <p>C1 If a site is a heritage item or in the vicinity of a Heritage Item or within either the Botany Township Heritage Conservation Area or Daceyville Heritage Conservation Area you also need to address Part 3B - Heritage.</p> <p>Note: Council requires a Heritage Impact Statement to accompany a development application if it is considered that the proposed development may have an impact on the heritage value of a Heritage Item, or Heritage Item in the vicinity of a site; or if the site is located within or adjoining a Heritage Conservation Area.</p>
<p>The proposal is not in a conservation area, and while in the vicinity of a heritage item is not within the visual catchment of the item.</p>
<p>5.3.2.8 Interface between Business Zones and Adjoining Landuses</p> <p>C1 Clear boundaries between the public and private domain must be</p>

created to enhance security, privacy and safety.

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.

C3 The design and positioning of all mechanical plant and equipment (i.e. air conditioning units, mechanical ventilation, duct work and exhausts) must be taken into account early on in the design process. The non residential use must not have a negative influence on residential uses concerning noise or odour.

C4 Noise emissions are to comply with the following noise criteria:

- (i) The operation of all plant and equipment will not give rise to an equivalent continuous (LAeq sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
- (ii) The operation of all plant and equipment when assessed on any residential property will not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- (iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises will not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

C5 For assessment purposes, the above LAeq sound levels will be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

C6 For some uses a noise impact assessment is required to be submitted with a development application for an industrial development adjoining a residential property, verifying that these noise criteria can be satisfied. The report will identify all possible noise sources/activities from the proposed development and is to be prepared by a suitably qualified consultant who is a member of the Australian Acoustical Society (AAS).

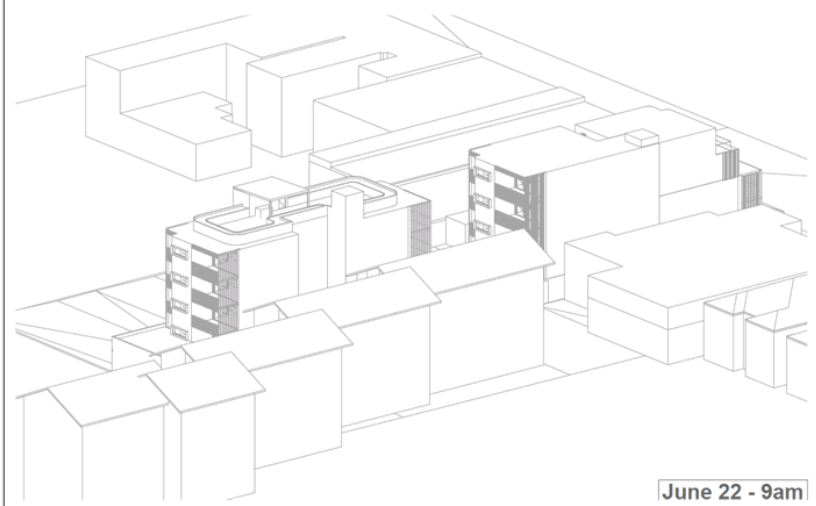
C7 Development will be designed to locate sources of noise such as garbage collection, loading/unloading areas, air conditioning plant/other machinery, and parking areas away from adjoining residential properties and where necessary, be screened by walls or other acoustical treatment.

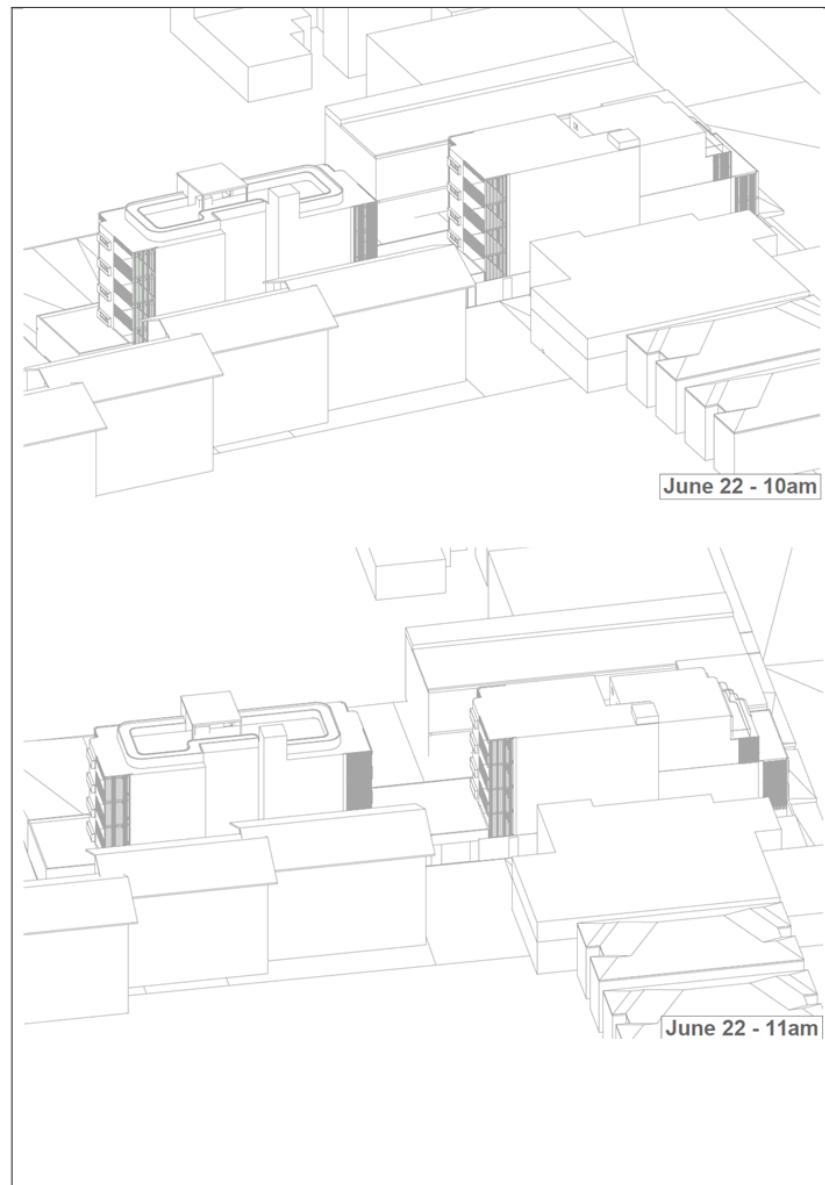
C8 A dense landscape buffer of 2-3 metres in width must be provided at the residential – nonresidential interface and must include suitable screening trees and shrubs.

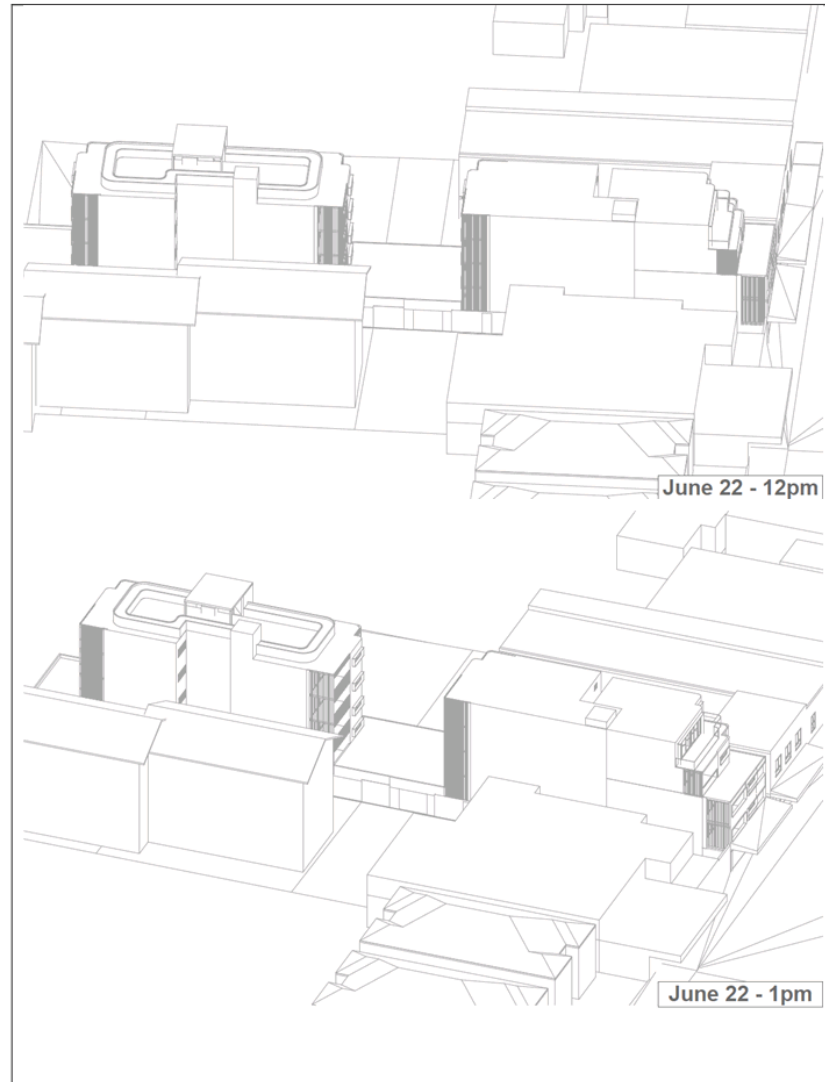
C9 Development of 4 storeys or more in height adjacent to a school are to consider the following:

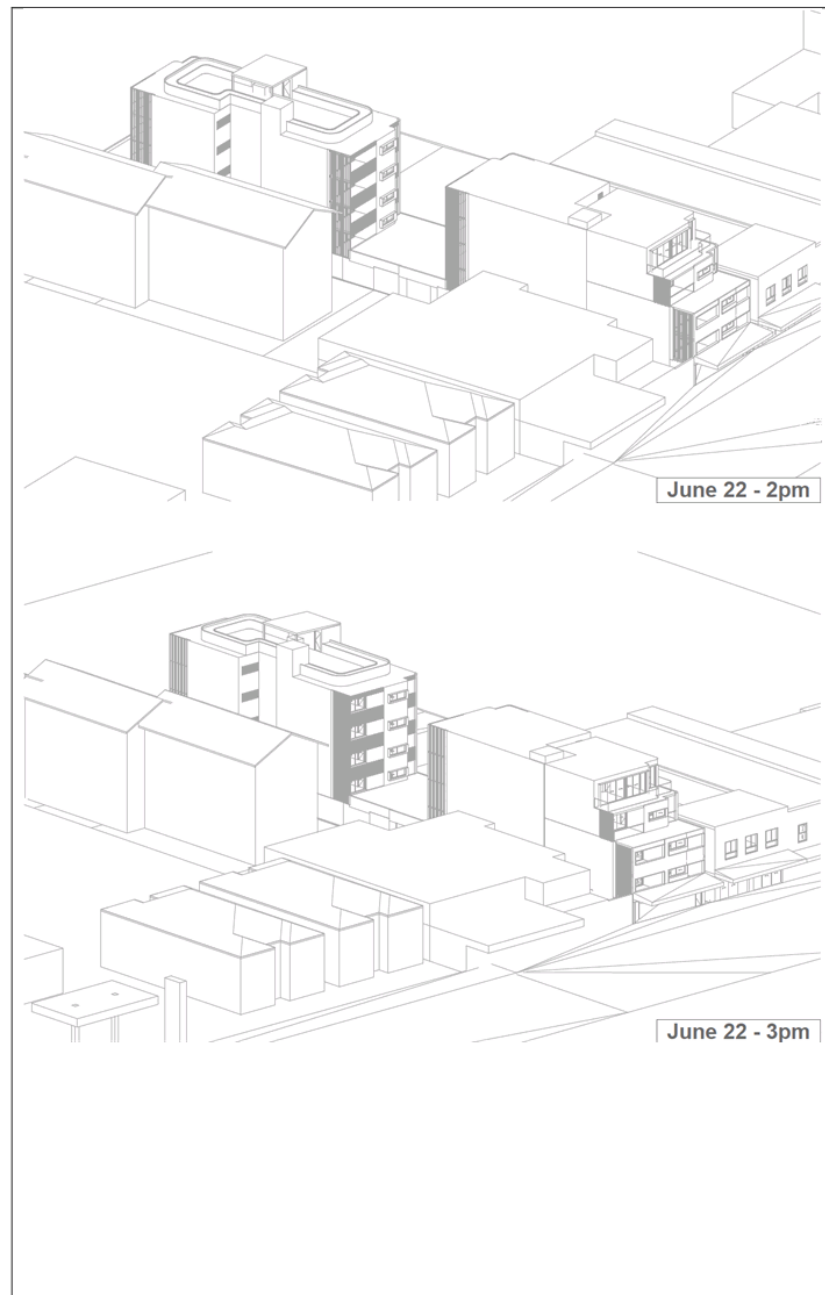
- (i) Mitigation of overshadowing impacts on the school and its grounds through setbacks and controlled bulking and scaling of buildings;
- (ii) Orientating internal spaces so that low occupancy rooms face school property; and
- (iii) Windows and balconies are to be designed to reduce opportunities for overlooking school grounds.

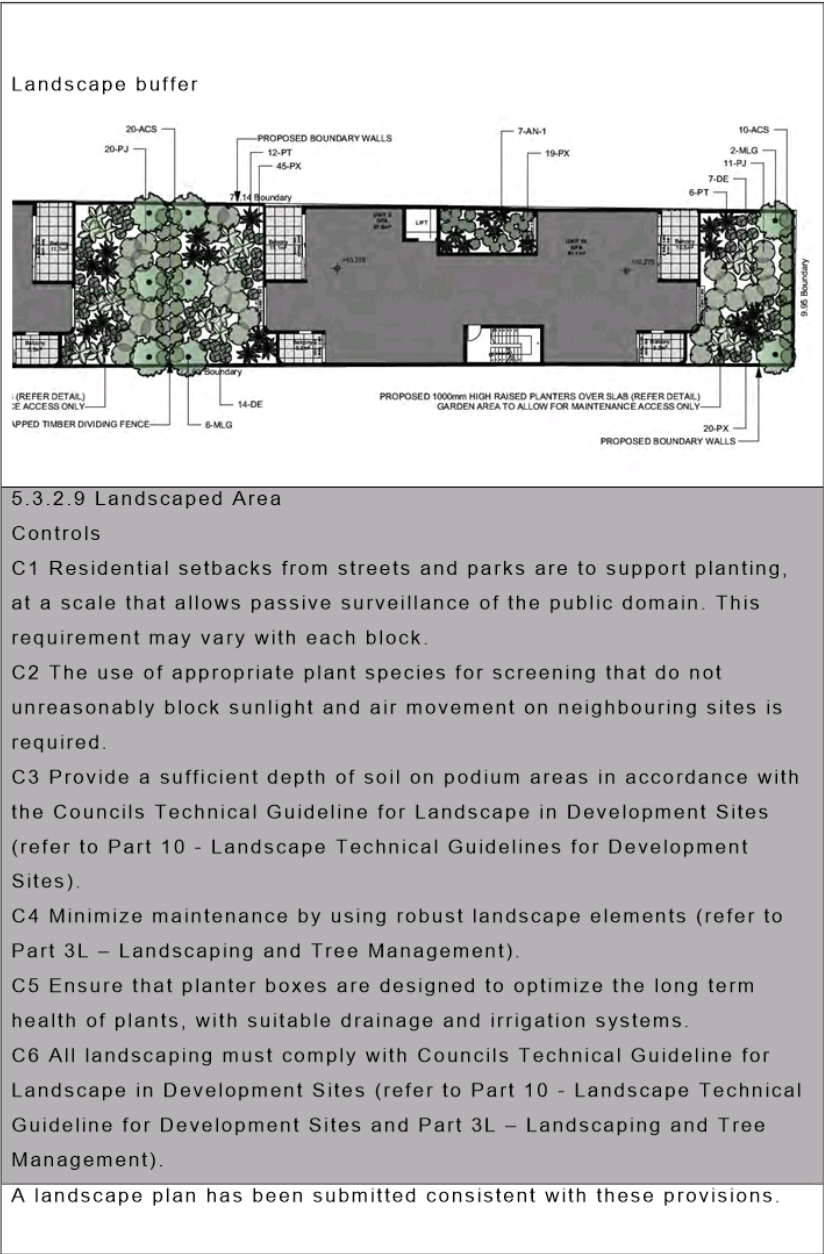
The solar diagrams prepared demonstrate the retention of solar access to the interface.

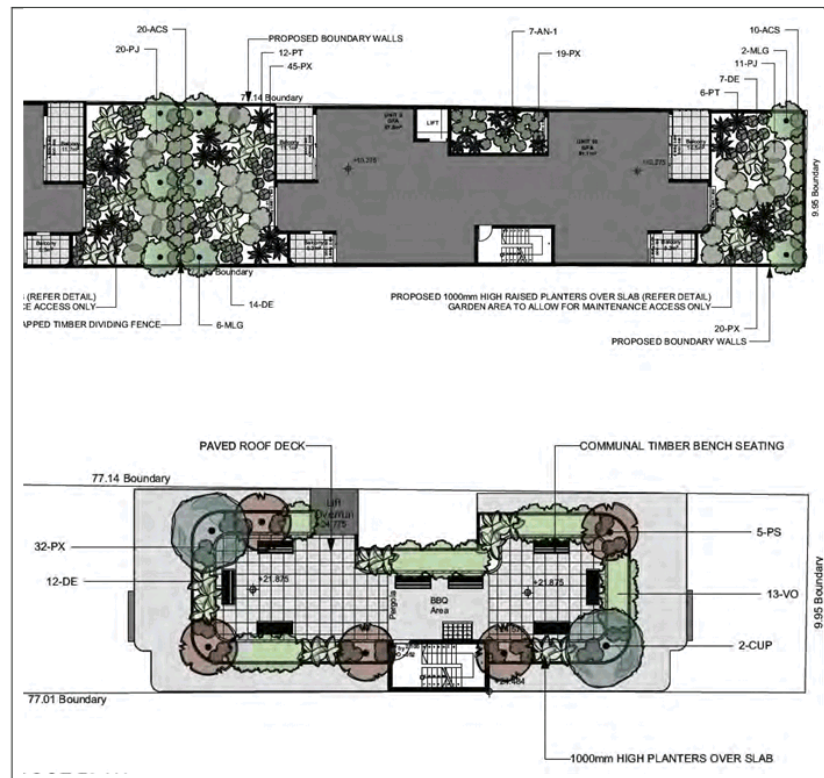












5.3.2.10 Private Open Space and Communal Open Space

C1 The primary area of outdoor private open space must not be located at grade on the street frontage.

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.

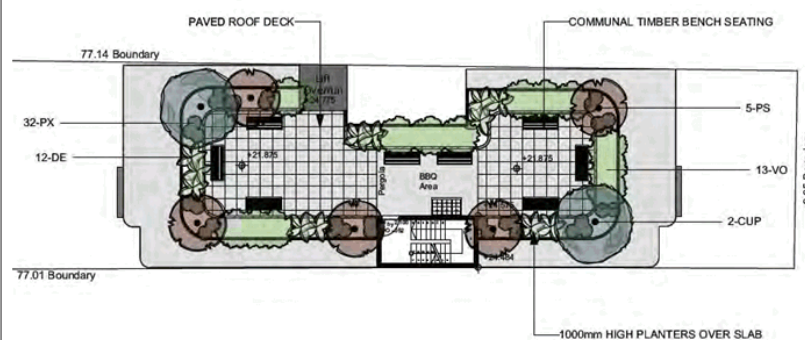
C3 More than 70% of the communal open space area must be capable of growing plants, grasses and trees of carrying height and canopy.

C4 Where a site adjoins a residential property, 3 metre wide landscape planting must be provided along the common boundary to provide a visual separation between the residential and the nonresidential development. The area is to be mass planted with tall shrubs and

suitable dense trees.

C7 All landscaping must comply with Councils Technical Guideline for Landscape in Development Sites (refer to Part 10 - Landscape Technical Guideline for Development Sites and Part 3L – Landscaping and Tree Management).

Communal open space provided on roof with facilities.



5.3.2.11 Materials and Finishes

General

C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade is to accompany all Development Applications involving building works (refer to Council's Development Application Guide).

The Schedule of Finishes is to consist of :

- (i) Samples of materials cross-referenced with manufacturer's details and product code; and
- (ii) A detailed colour scheme to be shown in the form of coloured building elevations which is cross-referenced with a colour sample chart showing manufacturer's details and product code.

C2 The use of intrusive materials and practices for new development is not permitted. This includes extensive areas of glass sheeting and glass blocks; the painting, rendering or bagging of any original unpainted masonry or sandstone surfaces; and cladding that requires maintenance.

C3 All materials and finishes utilised must have low reflectivity. The use of dark tinted or reflective glass is not a suitable material and must not be used.

C4 Alterations and additions are to match the existing building (in colour, form and materials) to ensure that the additions/alterations are

integrated with the overall appearance of the building and streetscape.

Colour Schemes

C1 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.

C2 Where a first floor addition is proposed the materials, colours and textures must be of a compatible material with those used on the ground floor of the existing dwelling.

Heritage

C3 Development of a Heritage Item or building within a Heritage Conservation Area must utilize colours and materials which are sympathetic with the heritage character or the Heritage Item or Heritage Conservation Area.



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.

C2 Loading and unloading areas must be well screened from the public domain and located underground where practical.

C3 Service vehicles must enter and leave the loading dock in a forward direction.

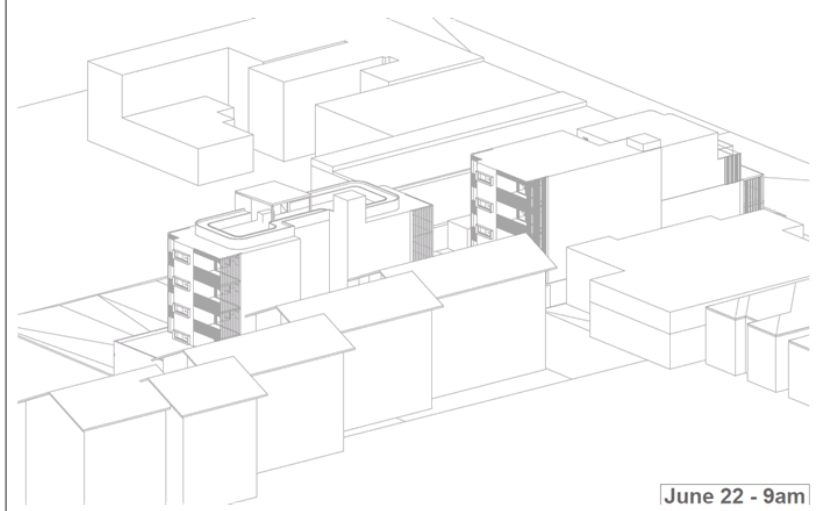
<p>C4 Delivery and operation of loading docks is to be restricted to the approved trading hours.</p> <p>C5 No garbage collection is permitted between 10pm and 6am.</p> <p>C6 Loading docks must comply with AS 2890/2 (2002) - Offstreet commercial vehicle facilities.</p> <p>C7 The largest delivery vehicle permitted will be restricted to Medium Rigid Vehicle (MRV) as denoted by AS 2890.2. Vehicles larger than MRV may be considered by Council for a large development site with loading and unloading to be carried out on-site only.</p>
Not applicable.
<p>5.3.2.13 Access & Mobility</p> <p>C1 Development must comply with Part 3C - Access and Mobility.</p> <p>C2 Accessibility must be enhanced as a result of retail shop conversions and/or renovations. No development will be approved that reduces access to a site.</p>
An access report has been submitted with the application demonstrating compliance with these provisions.
<p>5.3.3.1 Acoustic Privacy</p> <p>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.</p> <p>C2 Habitable rooms of dwellings adjacent to high levels of external noise are to be designed to limit internal noise levels to a maximum of 45dB(a) in accordance with relevant Australian Standards for acoustic control.</p> <p>C3 Development must comply with Part 3J - Development Affecting Operations at Sydney Airport.</p> <p>C4 The introduction of noise abatement measures to achieve compliance with the current AS 2021 must be done in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape.</p> <p>C5 All development that is in, or immediately adjacent to, the rail corridor or a busy road must be designed in accordance with NSW Department of Planning 'Development Near Rail Corridors and Busy Roads - Interim Guidelines, December 2008' (DNRCBR 2008).</p>

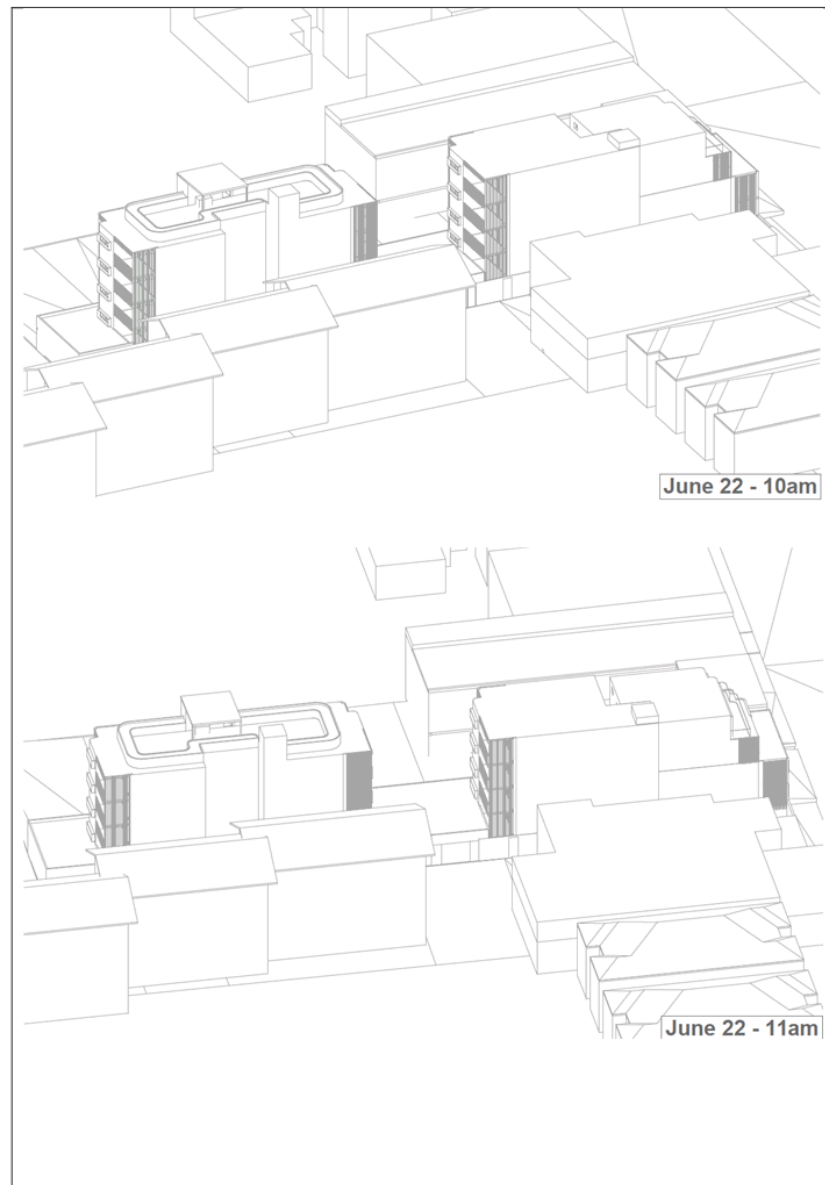
<p>C6 New development adjacent to high noise sources (e.g. busy roads) are to generally locate habitable rooms and private open spaces away from noise sources. Alternatively, if such spaces/rooms front a major noise source they must be protected by appropriate noise shielding devices to minimise noise intrusion.</p> <p>C7 Where the height of the proposed development is higher than the existing height of the localized 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.</p>
<p>An Acoustic report has been submitted with the application demonstrating compliance with these provisions.</p>
<p>5.3.3.2 Visual Privacy</p> <p>C1 In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures:</p> <ul style="list-style-type: none"> (i) Fixed screens of a reasonable density (min 75% block out); (ii) Fixed windows with translucent glazing (providing natural ventilation is not compromised); (iii) Appropriate screen planting or planter boxes; <p>Note: This option is only acceptable where it is demonstrated that the longevity of the screen planting will be guaranteed.</p> <ul style="list-style-type: none"> (iv) Windows are to be off-set or splayed; and (v) Windows with sill heights of 1.8 metres or more above floor level or fixed translucent glazing to any part of a window lower than 1.8 metres above floor level.
<p>The proposal meets separation requirements and privacy is further supplemented with planting and screening.</p>
<p>5.3.3.3 Solar Access and Shadow</p> <p>C1 Development must demonstrate:</p> <ul style="list-style-type: none"> (i) Neighboring 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 (ii) 30% of any communal open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.

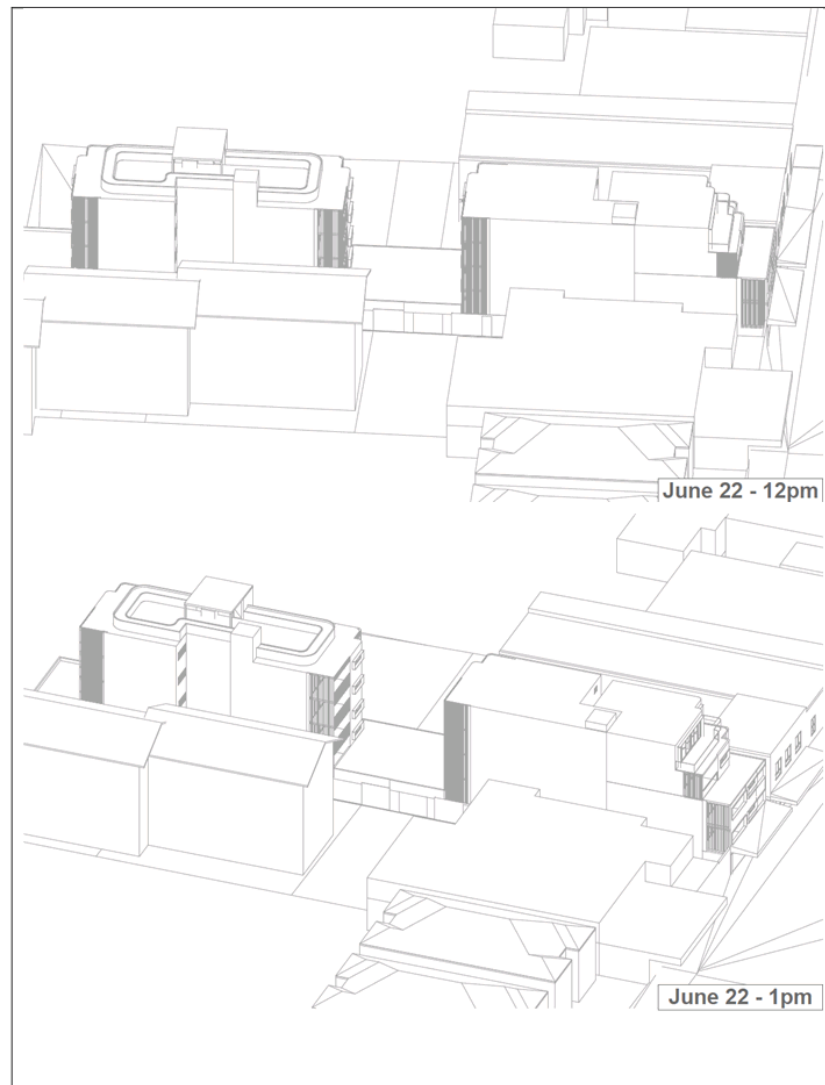
C2 The Development Application must provide solar diagrams that, as a minimum, illustrate compliance with the above control and comprise of plans and elevations demonstrating the shadows of the proposal at 9am, 12 noon, and 3pm on 21 March, 21 June and 21 December.

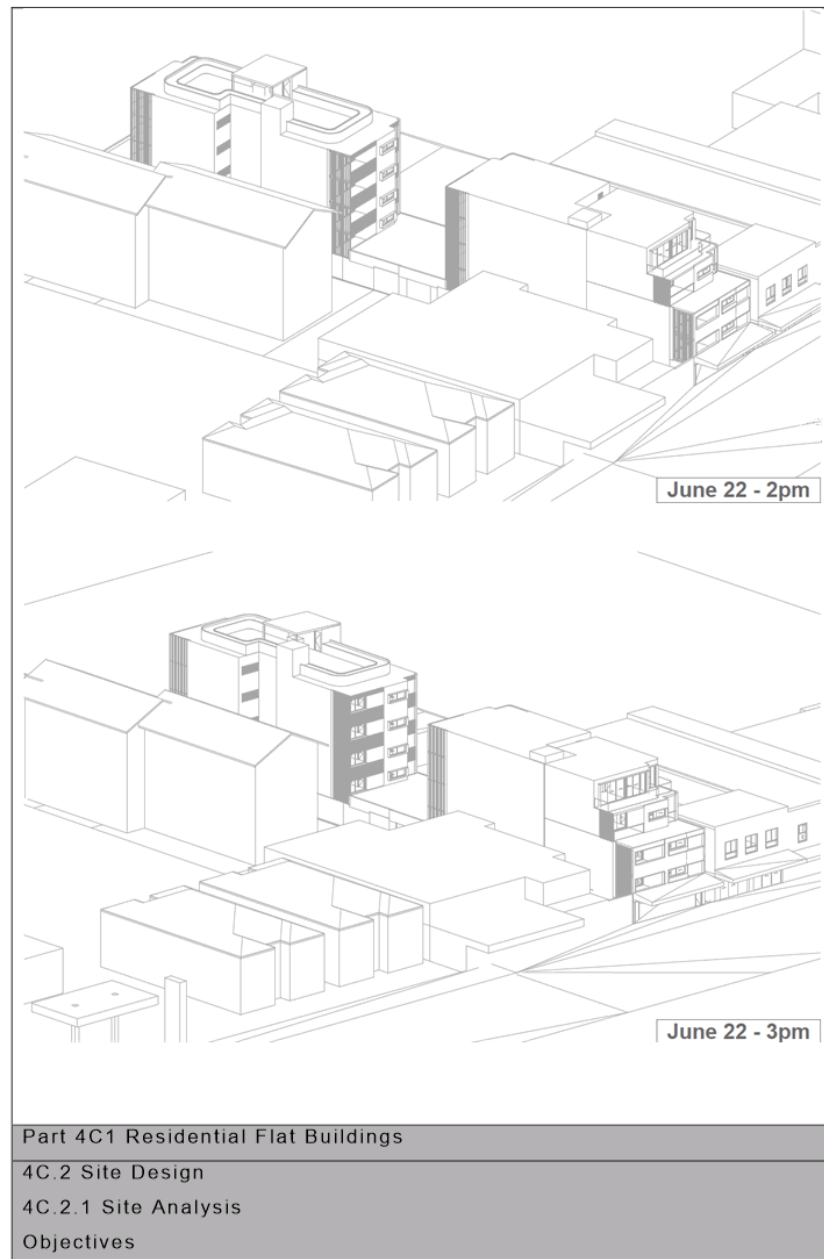
C3 Buildings are to be designed and sited to ensure sun access to private and communal open space within the development, and adjoining properties and public open space.

The solar diagrams prepared demonstrate the compliant solar access to the neighbouring developments.









-
- O1 To ensure that development is of a high quality, sensitive to its environment and positively contributes to its context;
- O2 To ensure applicants can accurately identify the opportunities and constraints of the site;
- O3 To identify the existing site conditions and location of buildings on adjoining site; and
- O4 To identify the existing streetscape and a development response which enhances the streetscape.

Controls

C1 A Site Analysis Plan must be submitted with all Development Applications to Council. The Plan must be to scale and should identify development opportunities and constraints.

Note: A Site Analysis (refer to Figure 1) is a fundamental stage of the design process and should support many key design decisions relating to the proposal. It should be used to influence the design of a development, to minimise negative impacts on the amenity of adjoining properties (ie noise, overshadowing, safety, access, views and privacy) and to compliment neighbourhood character. For information on what should be identified on a Site Analysis Plan refer to Council's Development Application Guide which is available at the Customer Services Centre.

C2 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No. 65 and the Residential Flat Design Code in terms of site analysis.

A site analysis plan is included in the submitted drawing set.



4C.2.2 Local Character

The City of Botany Bay's residential areas contain a range of housing styles from high density centres around Mascot Railway Station, to low density residential dwelling houses. An important factor in managing the Desired Future Character of the City is understanding that all areas have their unique qualities and these qualities should be maintained. The Character Precincts in Part 8 - Character Precincts provide a description of each Character Precinct within the City, identifying the existing character and defines the Desired Future Character.

The subject site is not in a local character area.

4C.2.3 Streetscape Presentation

The presentation of buildings and the dominant housing styles in a street often determines the character of the streetscape and contributes to the amenity of an area.

The term streetscape encompasses both public and communal streetscapes, and includes buildings, setbacks, street and landscape design features and the way in which new developments interact with adjacent buildings, landscaping and fencing, traffic treatments, paths, driveways, street surfaces and utility services.

The spatial arrangement of these components and their visual appearance determine the streetscape character of an area.

New development should also be compatible with the characteristic

development in a street and be designed to relate to the pattern of buildings in the street.

Objectives

O1 To ensure that development recognises predominant streetscape qualities (i.e. setbacks & design features);

O2 To encourage innovative design that responds to the character of the area and the streetscape context;

O3 To ensure that garages, carports and driveways do not dominate the streetscape; and

O4 To maintain the characteristic building orientation and siting.

Controls

General

C1 Residential flat buildings must be designed to reflect the relevant Desired Future Character in

Part 8 - Character Precincts.

C2 New development must be compatible in building bulk and scale with adjoining residential developments and reflect the patterns of buildings in the streetscape. This can be achieved through consideration of building setbacks, building height and treatment of the building facades (refer to Figure 3).

C3 Development must comply with the the following:

(i) The maximum length of any building is 24 metres;

(ii) Where external walls exceed 12 metres in length, the building façade must be stepped with a minimum articulation of 0.3 metres; and

(iii) All building facades must be modulated and articulated with wall planes varying in depth by not less than 0.6 metres.

Street Presentation

C4 Buildings must be sited to address the street and relate to neighbouring buildings. Developments on sites with two or more frontages should address both frontages, to promote, add prominence and diversity to the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and are not permitted (refer to Figure 4).

C5 Street corners must be addressed by giving visual prominence to parts of the building façade, such as a change in building articulation, materials, colour, roof form or height.

The proposal reflects the desired future character of the area in terms of

its street presentation.



4C.2.4 Height

Objectives

O1 To limit the height and scale of buildings so that they do not dominate the streetscape;

O2 To ensure that new developments complement the scale, massing and design of adjoining development; and

O3 To limit visual impact, loss of privacy, loss of views or overshadowing on neighbouring properties.

Controls

C1 The maximum height of buildings must not exceed the maximum height identified in the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013 and the characteristic building height identified in Part 4C.2.2 - Local Character.

C2 New buildings are to consider and respond to the predominant and characteristic height of buildings within the neighbourhood; 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 precinct as set out

in Part 8 - Character

Precincts. If the maximum number of storeys is not identified in Part 8, the maximum number of storeys must be consistent with the existing characteristic building height set by the immediately surrounding residential flat buildings (refer to Figure 5).

C3 Basements more than 1.2 metres above ground level at the highest point will be counted as a storey. The calculation is taken from existing ground level to the underside of the floor construction.

C4 The building height and bulk of developments must be distributed on the site to ensure that there is no significant loss of amenity to adjacent sites, open space and public streets. Council may require a reduction in height shown for the land on the Height of Buildings Map where a building built to the height shown for the land on the Height of Buildings Map would have unacceptably 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 landuse intensity;
- (iii) The design excellence of a building;
- (iv) View loss; or
- (v) The Obstacle Limitation Surface.

C5 The building height and bulk of developments must be distributed on the site to ensure that there is no significant loss of amenity to adjacent sites, public recreation areas and public streets.

The proposal reflects the desired height and scale for the locality. The proposal exceeds the 14m height control through the lift overrun on the Botany Road building but steps down to the streetwall. The proposal breaches the height control to provide access to the communal open space and a Clause 4.6 is provided.

4C.2.5 Floor Space Ratio (FSR)

The amount of floor space and site coverage (refer to Part 4C 2.6 - Site Coverage) in any development should be related to the capacity of the site to accommodate a viable, well designed development, with adequate spaces for private open space, and landscaping (including deep soil planting).

Objectives

O1 To provide for bulk and scale of development which does not detract from the amenity of the streetscape and minimises impacts on adjoining

residential properties; and

O2 To prevent the over-development of land and ensure that an adequate balance of private open space and landscaping are provided for each dwelling.

Controls

General

C1 The maximum FSR of development is to comply with the Floor Space Ratio Map and Clauses 4.4, 4.4A and 4.4B of the Botany Bay Local Environmental Plan 2013 (refer to Figure 6)

Achieving FSR

C2 Not all site developments 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 presence of existing buildings on site, required to be retained;
- (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.

C3 In determining an appropriate FSR, applicants must demonstrate to Council, in their Development Application, 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:

- (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

The proposal reflects the desired bulk and scale with no significant adverse impacts on the surrounding development. The proposal complies with the FSR control.

4C.2.6 Site Coverage

Objectives

O1 To ensure that new development is consistent with the Desired Future Character of the area;

O2 To ensure site coverage creates a development that provides a balance between built form, landscaped area and private open space; and

O3 To control site density.

Controls

C1 Development for a residential flat building must not exceed a maximum site coverage of 45%.

C2 Site coverage is calculated by including the following:

- (i) Any buildings;
- (ii) Garages and carports;
- (iii) Swimming pools and spa pools;
- (iv) Sheds;
- (v) Covered decks and pergolas; and
- (vi) Other structures including cabanas, rainwater tanks, external staircases, gazebos, greenhouses, plant rooms, ramps and garbage storage facilities.

Note: The following items are excluded from site coverage:

- _ Any part of an awning that is outside the subject building;
- _ Any eaves;
- _ Uncovered balconies, decks, pergolas and the like;
- _ Paving and patios;
- _ Driveways and car stand areas;
- _ Water features; or
- _ Anything defined as 'landscaped area' (refer to Part 4C.2.7 - Landscaped Area and Deep Soil Planting for definition of landscaped area).

C3 Site coverage of development will be assessed with consideration of the following:

- (i) Bulk of the proposed/existing development;
- (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 private open space on site; and
- (x) Site topography and allotment size.

This site coverage requirement is not relevant to mixed use development.

4C.2.7 Landscaped Area and Deep Soil Planting

Landscaping of a site is an integral part of the site planning process.

Landscaping should compliment the scale and height of buildings and be designed to enhance the privacy and amenity of dwellings and the streetscape, and screen utility areas and car parking. When designing landscaping it is important to provide adequate deep soil planting in order to allow for substantial trees and retain natural water runoff and infiltration.

Definitions:

Landscaped Area (as defined under BBLEP 2013) includes: "all parts of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area."

Unbuilt Upon Area includes the following:

- _ Uncovered balconies, decks, pergolas and the like;
- _ Paving and patios (porous and non-porous);
- _ Driveways and car stand areas (porous and non-porous);
- _ Water features; and
- _ Any part of a basement carpark which extends beyond the footprint of the building above.

Unbuilt upon area excludes anything defined as landscaped area or site coverage.

Note: Refer to SEPP 65 for further details, guidelines and controls.

Objectives

O1 To increase tree coverage and diversity within the City of Botany Bay through the maintenance of existing vegetation and new plantings, contributing to biodiversity;

O2 To screen and soften dwellings throughout the site and create comfortable, usable open space areas;

O3 To promote the use of local native indigenous plants where appropriate and where able to survive in a modified and created landscape setting;

O4 To increase groundwater filtration and decrease overland flow and on site detention;

O5 To retain existing vegetation and allow for new substantial vegetation and trees; and

O6 To limit excavation and retain natural water runoff and infiltration.

Controls

General

C1 A residential flat development must have a minimum landscaped area of 35% and a maximum unbuilt upon area of 20% (refer to Figure 7 and Table 1).

C2 Development must comply with Part 3L - Landscaping and Council's Landscaping Technical Guidelines for Development Sites.

C3 Development Applications must be a plan submitted clearly identifying how landscaped areas and unbuilt upon areas have been calculated (refer to the Part 3L - Landscaping and Council's Development Application Guide and above definitions).

C4 Energy efficient landscaping practices and Ecologically Sustainable Development (ESD) principles must be incorporated during the design phase of the development (refer to Part 3H - Sustainable Design).

C5 Existing mature trees (with a height greater than 3 metres, in good health and condition and where they contribute to environmental or visual amenity of the site or streetscape) must be retained through the appropriate siting of buildings, driveways and hard stand areas. Development Applications must identify what measures are proposed to protect existing trees during construction (refer to Part 3F - Tree Management). These trees are to be incorporated into the landscape setback or communal open space.

Note: It must be ensured that the setbacks dimensions are adequate to all the survival of the trees.

C6 Landscaping must comply with Part 3L - Landscaping.

C7 Front setbacks shall be fully planted with a layered approach using a variety of decorative and feature trees and shrubs at different heights. Planting is to be provided alongside boundaries and between driveways and side boundaries. A minimum of 1 tree is to be provided for each dwelling.

The species selected (height and canopy spread) is to be suitable for the setback width, to soften the building and to enhance the streetscape amenity, ameliorating the development within the streetscape.

C8 The majority of tree plantings are to be limited to evergreen species, particularly within setbacks.

Deciduous trees are to be limited.

C9 In order to maximise pervious areas, footpaths along side setbacks are to be permeable

Note: They must however comply with standards for access for people

with a disability).

C10 Landscaping in the public domain is to reinforce existing streetscape planting themes and patterns. Council may require street tree planting, turfing, shrub and accent planting and the paving of the public footway.

C11 Underground OSD (stormwater) detention tanks are not to be located underneath areas to be planted with trees or shrubs or in deep soil zones. An alternative location for OSD tanks is underneath driveways, car parks or paved areas. No stormwater inlet pits or piping are to be located within the drip line of existing or proposed tree and be consistent with Part 3G - Stormwater Management and Council's Stormwater Management Technical Guidelines.

C12 The front landscaped setback shall be a minimum depth of 3 metres (4 metres on classified roads). This area shall be set aside exclusively for soft landscaping. Trees in this area shall attain a height of at least 8-10 metres at maturity.

C13 No more than one-third (1/3) of the front landscaped setback shall be paved (including driveways and pathways to individual dwellings) to enable sufficient landscaping to soften and buffer the development and reduce its impact upon the streetscape. This may necessitate an alteration of design and/or layout, shared or reduced width driveways and a reduced amount of access pathways.

C14 Driveways and pathways shall be located at least 1.5 metres from common boundaries to allow for a continuous landscaped buffer strip to the side boundary and a significant landscaped setting for all paved areas. The landscape strip must contain tall screen planting that retains foliage to the ground.

C15 Planter beds shall be a minimum of 1 metre in width.

C16 Planters shall be designed to support appropriate soil depth and plant selection by ensuring that planter proportions accommodate the largest volume of soil possible; and providing square or rectangular planting areas rather than long narrow linear areas.

C17 Landscaping over a basement car park must contain an adequate number of small-medium sized trees for screening, softening and shading. Accordingly, planter bed dimensions must be increased to provide adequate soil planting volumes.

C18 Landscaping shall design for optimum conditions for plant growth by proving soil depth, soil volume and soil area appropriate to the size of

the plants to be established; provide appropriate soil conditions and irrigation methods; and providing appropriate drainage.
The proposal provides for landscaped area on the podium and is consistent with its mixed use character of the area. The landscaped area is supplemented by an extensive roof terraces and balconies with good views, solar access and high amenity.
<p>Deep Soil Planting</p> <p>C19 A minimum of 25% of a site should comprise a deep soil planting area (refer to Figure 7), of which:</p> <p>(i) A minimum of 50% should be located at the rear of the site. For sites with dual or rear lane frontages, this area may be relocated to allow buildings to address the secondary frontage or provide for rear lane carparking access;</p> <p>(ii) A minimum of 30% should be located within the front setback; and</p> <p>(iii) A minimum 2 metre wide strip of landscaping is to be located along one side boundary.</p> <p>C20 Any communal open space must be designed as deep soil zones.</p> <p>C21 Basement car parks, where permitted, must not extend to the full width of a site and excavation for any associated garages, car parking, plant rooms or ancillary storage must not exceed 65% of the site area (which equates to maximum site cover + unbuilt upon area).</p> <p>C22 Underground parking shall not protrude into the front, side or rear setbacks of the development.</p> <p>C23 To maximise deep soil landscaping areas, driveways are not to dominate the street setback zone.</p>
This is not consistent with the local shops zoning.
<p>4C.2.8 Private and Communal Open Space</p> <p>Building layout and arrangement of open spaces (setback, communal areas etc) must take into consideration existing trees that Council require to be retained. Building siting must not ignore or downplay existing trees (except where in poor condition).</p> <p>Communal open space:</p> <ul style="list-style-type: none"> • Is to be located where it is highly visible and directly accessible to the maximum number of dwellings; • Is to be designed to provide a function and usable space for residents and to provide an integral role to the site including uses

such as circulation (although dissection paths should be minimised and strategically located), children's play areas, community facilities, shade, screening of buildings, visual amenity and overall adequate and suitable opportunities for passive recreation;

- Are required to be deep soil zones to enable a landscaped setting capable of supporting a variety of small to large canopy trees for shade, screening, privacy and amenity;
- Is to support the use of roof top gardens;
- To locate linkages to public open space where possible;
- Is to integrate with communal open spaces on adjoining site to provide visual continuity of green belts, enhance biodiversity and support wildlife corridors; and
- Are to be designed to enable adequate solar access.

The following issues should be considered when locating communal recreational facilities:

- Natural daylight, ventilation and sunlight to indoor facilities;
- Sunlight during winter to outdoor facilities;
- The potential location of buildings creating wind tunnels within communal open spaces;
- Accessibility and security of facilities;
- Durability of materials and finishes, particularly swimming pools, tennis courts, BBQ facilities;
- The creating of wind tunnel through the siting of buildings and resulting in uncomfortable outdoor environments these create within communal open spaces;
- Useability, functionality and appropriateness; and
- Safe and convenient access for people with disabilities.

Private open space is for the sole use of the occupants of the dwelling.

The location of private open space should take advantage of the outlook and natural features of the site; address privacy and overshadowing; provide adequate privacy for the residents of the dwelling; and be capable of serving as an extension of the dwelling for relaxation, dining, entertainment, recreation and children's play.

Objectives

O1 To ensure residents are provided with reasonable outdoor amenity;

<p>O2 To ensure that private open space is designed to provide residents with quality usable private outdoor living areas;</p> <p>O3 To ensure that private open space is designed for privacy, solar access, and is well integrated with living areas;</p> <p>O4 To ensure the provision of high quality recreational facilities that are appropriate to the needs of the residents;</p> <p>O5 To ensure the adequate provision of accessible communal and private open space for residents for passive and active recreation opportunities;</p> <p>O6 To ensure the provision of functional private open space for apartments; and</p> <p>O7 To encourage social interaction with the provision of communal open space.</p> <p>Controls</p> <p>Private Open Space</p> <p>C1 The minimum private open space requirements (i.e. balconies) for a development are set out in Table 2 (refer to Part 4C.5.4 - Balconies in Residential Flat Buildings).</p> <p>C2 The minimum depth of balconies is 3 metres. Developments which seek to vary from the minimum standard depth of 3 metres must provide scaled plans of the balcony with furniture layout to confirm adequate, useable space can still be provided.</p> <p>C3 Private open spaces should be designed as an outdoor extension to the main living areas of each dwelling (i.e. kitchens, living rooms and dining areas).</p> <p>C4 Utility areas, driveways and areas with a dimension of less than 3 metres (ie. access and pathways) are not considered private open space.</p>
<p>Communal open space is provided in the form of roof garden and private open space in courtyards, terraces and balconies consistent with the requirements of this clause.</p>
<p>Communal Open Space</p> <p>C5 The minimum communal open space requirements for a development is 30% of the site area.</p> <p>Note: Communal open space should be considered early on during site planning to provide a visual focus for the development and enable preservation of existing trees (refer to Figure 8).</p> <p>C6 Communal open space must be clearly defined and free from encroachment from residential units, car parking, driveways or roadways,</p>

carwash bays and accessways. Dissection of the space by pathways should be minimised to ensure the spaces are usable.

C7 Note: Separation between buildings can only be considered communal open space if it has sufficient length and width to make the space usable and permits tree planting and adequate solar access.

Note: Utility areas, driveways and areas with a dimension of less than 3 metres (ie. access and pathways) are not considered communal open space.

C8 Communal open spaces must be easily accessible for all dwellings and not form any part of any individual dwellings private open space.

C9 Communal open space areas must receive at least 3 hours of direct sunlight between 9:00am and 3:00pm on 21st June.

C10 Communal open spaces must include area of deep soil zones (i.e. not to be located over suspended slabs, sub surface car parks or stormwater detention tanks).

C11 Communal open spaces shall be appropriately landscaped and provide recreational facilities (for example BBQ area, seating, children's play area, vegetable gardens, landscape features or the like).

C12 All communal open spaces areas are to be shown on the detailed landscape plan to be submitted with the development application.

C13 Communal open space shall be functional and designed in conjunction with pedestrian links through the site.

C14 Communal Open Space shall be designed to encourage positive outlook and attractive internal views, solar access, environmentally comfortable and enriching spaces, building separation and a balance between open space and built form, visual and acoustic privacy, natural stormwater infiltration, visual amenity, circulation and access and recreation.

C15 The following issues should be considered when locating communal recreational facilities:

- (i) Natural daylight, ventilation and sunlight to indoor facilities;
- (ii) Sunlight during winter to outdoor facilities;
- (iii) The potential location of buildings creating wind tunnels within communal open spaces;
- (iv) Accessibility and security of facilities;
- (v) Durability of materials and finishes, particularly swimming pools, tennis courts, BBQ facilities;

and
(vi) Safe and convenient access for people with disabilities.
This is not consistent with the local shops zoning.
<p>4C.2.9 Setbacks</p> <p>Objectives</p> <p>O1 To improve the local character and streetscape qualities by reinforcing existing alignments and setbacks;</p> <p>O2 To provide separation between buildings and ensure adequate space for landscaping; and</p> <p>O3 To reduce the impact of development on adjoining dwellings in terms of visual and acoustic privacy, solar access and ventilation.</p> <p>Controls</p> <p>General</p> <p>C1 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No. 65 and the Residential Flat Design Code in terms of setbacks.</p> <p>C2 No part of a building or above ground structure (including basement car park) is to encroach into the front, side and rear building setback zone.</p> <p>C3 All front, side and rear setbacks are to provide deep soil zones to allow unencumbered planting areas.</p> <p>C4 All setbacks are to allow for adequate landscaping and for sufficient space for the retention of existing trees (where required).</p> <p>C5 Development is to designed to create spatial separation between the buildings to:</p> <ul style="list-style-type: none"> (i) Minimise bulk and scale of the building; (ii) Ensure adequate exposure to sunlight and ventilation; and (iii) Create a buffer for visual and acoustic privacy. <p>Front Setbacks</p> <p>C6 Building setbacks from the existing front boundary must match the setback of adjoining properties, but must be a minimum of 3 metres or 4 metres if fronting a classified road (refer to Figure 9).</p> <p>Note: A classified road is a road within the SP2 Zone.</p> <p>C7 The front setback is to ensure there is adequate separation between the front boundary and building line in the area to allow for the planting of vegetation and trees.</p>

The proposed setbacks are consistent with the locality statement requirements and the ADG.
Side Setback C8 The following side boundary setbacks apply: (i) A minimum setback of 900mm for single storey development (up to 4 metres in height); (ii) A minimum setback of 1.5 metres for two storey development (up to 7 metres in height); (iii) A minimum setback of 3 metres (greater than 7 metres in height); and (iv) A minimum setback of 3 metres where a site adjoins a business or industrial property. C9 The side setback is to allow for sufficient area for landscape treatment to reduce the visual impact of the building. C10 Basement car parking areas must be a minimum of 1.5 metres from any side boundary for single storey development; or a minimum of 3 metres from any side boundary for two storey development.
The proposed setbacks are consistent with the locality statement requirements and the ADG.
Rear Setback C11 Rear building setbacks must match those on adjoining properties but must be a minimum of 6 metres.
The proposed setbacks are consistent with the locality statement requirements and the ADG.
Setbacks Following Land Dedication C12 Where land dedications are required resulting in a new boundary line all setbacks must be provided from this new boundary line, including basement car parking setback.
Not applicable.
4C.2.10 Through Site Links and View Corridors Objectives O1 To incorporate pedestrian links through new developments, at points where they are most legibly and safely connected to the existing street and pedestrian network; O2 To optimise visual and physical access to open space areas, pocket parks, buildings with public uses and important connecting streets; and

<p>O3 To support the creation of and enhance existing vegetation and wildlife corridors.</p> <p>Controls</p> <p>C1 Existing significant views are to be retained.</p> <p>C2 View corridors are to be integrated into the design of any new development.</p> <p>C3 Building footprints are to take into account the requirement for consolidated open space as well as for view corridors.</p> <p>C4 If a site has a frontage to two (2) or more streets with a boundary length greater than 25 metres, then one through site link to the other street/s must be provided (refer to Figure 10).</p>
Not applicable.
<p>4C.2.11 Heritage</p> <p>Objectives</p> <p>O1 To retain and enhance Heritage Items, intact streetscapes and/or significant places, which contribute positively to the area's character and identity; and</p> <p>O2 To enable Heritage Items to be adapted for different uses consistent with retaining their contributory character.</p> <p>Control</p> <p>C1 If a development site is in the vicinity of a Heritage Item or a Heritage Conservation Area, or the subject site contains a Heritage Item, or is located within a Heritage Conservation Area, compliance with Part 3B - Heritage is required.</p> <p>Note: Refer to Heritage Map within Botany Bay Local Environmental Plan 2013 to see if the site is identified as a Heritage Item or within a Heritage Conservation Area</p>
Not applicable.
<p>4C.2.12 Consideration of Isolated Sites</p> <p>Objectives</p> <p>O1 To promote the efficient use of land;</p> <p>O2 To encourage the amalgamation of land parcels into larger development sites for medium density developments;</p> <p>O3 To ensure allotment size is sufficient for development and associated provision of landscaping, parking, vehicular and pedestrian access;</p> <p>O4 To maintain amenity by having sufficient separation between</p>

buildings; and

O5 To ensure sites are not restricted in their development potential as a direct result of adjoining developments.

Controls

C1 Applicants must demonstrate to Council satisfaction that adjoining parcels not included in their development site will be capable of being economically developed as required by Council as part of the development assessment process for their site. This will include establishing appropriate separation distances between adjoining buildings.

C2 The development of existing isolated sites is not to detract from the character of the streetscape and is to achieve a satisfactory level of residential amenity for its occupants (refer to Figure 11).

C3 Where it is demonstrated by an applicant (with written documentation) that attempts have been made to address a potentially isolated site (i.e. an offer to acquire the isolated site and reply from the owner of that site) the proposed development will be assessed on its merits.

C4 Where adjacent sites are developing concurrently, site planning options for development as an amalgamated site are to be explored.

C5 Development which will result in potential isolated sites are required to address the Land and

Environment Court Principles on isolation of site by redevelopment of adjacent site(s) (refer to

http://www.legislation.nsw.gov.au/legislation/principles/planning_principles.html)

The proposal does not result in any isolated sites.

4C.3 Building Design

4C.3.1 Design Excellence

Botany Bay Local Environmental Plan 2013 aims "to create a highly liveable urban place, through promotion of design excellence in all elements of the built environment and public domain."

As such, all new development is required to achieve excellence in urban design, as detailed in the objectives and controls in this Part.

Objectives

O1 To provide detailed design objectives and controls that encourage innovative design that positively responds to the character and context of the locality;

O2 To create a highly liveable urban place, through promotion of design

excellence in all elements of the built environment and public domain;
and
O3 To encourage well designed buildings that minimise the bulk and scale of the built form.

Controls

C1 To achieve excellence in urban design, development shall:

- (i) Take into consideration the characteristics of the site and adjoining development by undertaking a thorough site analysis;
- (ii) Utilise innovative design which positively responds to the character and context of its locality;
- (iii) Provide a design which is sustainable;
- (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;
- (ix) Design for acoustic and visual privacy;
- (x) Ensure dwellings and open space areas achieve good solar access, and are energy efficient;
- (xi) Ensure building entries address the street and are clearly visible from the street or footpaths;
- (xii) Design development that provides good quality landscaping;
- (xiii) Consider the relationship of private open space to the layout of the dwelling; and
- (xiv) Use design techniques which promote safety and discourage crime.

C2 The following design principles shall be adopted:

- (i) New development should incorporate architectural relief and modulation of facades to avoid a bulky appearance. Architectural elements should provide visual interest to the built form (refer to Figure 12);
- (ii) Garages and carports are not to be the dominant feature of the building façade. These structures should be subservient in scale to the development, and integrated and compatible with the overall design in terms of height, form, materials, detailing and colour;

-
- (iii) Roof pitches (for pitched roofs) should be at least 22.5 degrees and no more than 36 degrees for pitched and gabled roofs;
 - (iv) Eaves of a minimum 450mm are to be provided;
 - (v) Building bulk is to be distributed to minimise over-shadowing on neighbours, streets and the public open space;
 - (vi) The design and materials of front fences and walls are to be compatible with the development and with attractive fences and walls in the nearby visible locality;
 - (vii) Articulation of individual dwelling entries fronting the street with porticos, recesses, blade walls, and foyers;
 - (viii) Selection of balcony types that respond to the street context, building orientation and residential amenity. Partially recessed, completely recessed or Juliet balconies will all create different façade profiles;
 - (ix) Detailed balustrades to reflect the type and location of the balcony and its relationship to the facade detail and materials;
 - (x) The use of a variety of window types to create rhythm or express the building uses, a living room versus a bathroom;
 - (xi) The use of recessed balconies and deep windows to create articulation and define shadows thereby adding visual depth to the façade;
 - (xii) Facades to reflect the orientation of the site using elements such as sun shading, light shelves and bay windows as environmental controls, depending on the façade orientation;
 - (xiii) Emphasis must be given to important street corners by giving visual prominence to parts of the facade, for example a change in building articulation, material or colour and/or roof expression;
 - (xiv) Building services such as drainage pipes must be integrated within the overall façade and balcony design of the building;
 - (xv) Reflectivity from building materials used on the facades of new buildings shall not exceed an increment level of 20%;
 - (xvi) All building elements including shading devices, awnings and louvres should be integrated with the building design;
 - (xvii) No airconditioning units are permitted on the front building façade, or where they are visible from the street;
 - (xviii) Garages, parking structures and driveways are not to dominate the street. This can be achieved by using a single driveway crossing to

<p>service multiple dwellings within the site (i.e. basement car parking);</p> <p>(xix) Alterations and additions to residential flat buildings are to reflect the architectural design and materials and finishes of the existing dwellings within the site;</p> <p>(xx) Existing street trees must be retained; and</p> <p>(xxi) The design and materials of front fences and walls must be compatible with the proposed development and enable some outlook from buildings to the street to achieve safety and surveillance between the street and the site.</p> <p>C3 To achieve natural daylight and ventilation to all dwellings the following is recommended:</p> <p>(i) High ceilings allow taller windows. This is particularly important on the lower levels where less direct light is available. This will allow greater solar access penetration within apartments;</p> <p>(ii) High ceilings facilitate natural ventilation where openable high-level windows are also provided;</p> <p>(iii) On the lower levels, ceiling heights should not preclude the building from being adapted over for a range of other uses including; retail or commercial;</p> <p>(iv) Ceiling heights affect façade articulation. Variation in ceiling heights provides opportunities for better articulation in the façade. This is particularly important where new buildings must relate to older or heritage buildings within the street;</p> <p>(v) High ceilings enable the effectiveness of light shelves in enhancing daylight distribution into exteriors; and</p> <p>(vi) High ceilings provide greater opportunities for slopes of ceilings to improve further daylight penetration deep into the interior.</p>
<p>The proposal is consistent with the desired future character of the locality and provides design excellence in accordance with the provisions of this clause.</p>
<p>4C.3.2 Corner Buildings</p> <p>Objective</p> <p>O1 To ensure that corner buildings reinforce the street pattern by being visual markers of the ends of each block.</p> <p>Controls</p> <p>C1 Buildings are to align with and reflect the corner conditions of respective streets (refer to Figure 13) to:</p>

<p>(i) Accentuate the topography;</p> <p>(ii) Clarify the street hierarchy and indicate where there are intersections; and</p> <p>(iii) Reinforce the spatial relationships.</p> <p>C2 Corner buildings are to reflect the architecture, hierarchy and characteristics of the streets they address.</p>
Not applicable.
<p>4C.3.3 Building Entries</p> <p>Objectives</p> <p>O1 To encourage entrances that provide orientation for the visitor;</p> <p>O2 To provide a safe and secure access for residents; and</p> <p>O3 To contribute positively to the streetscape and building façade design.</p> <p>Controls</p> <p>C1 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No. 65 and the Residential Flat Design Code in terms of building entry and pedestrian access.</p> <p>C2 Entrances must provide shelter and be well-lit and safe spaces to enter the building, meet and collect mail (refer to Figure 14). The front door must be oriented to the street and have direct access to the street.</p> <p>C3 Open fencing must be used along the front boundary to maximise visibility of the entry.</p> <p>Note: Entrances to dwellings are to provide shelter, be well-lit and safe spaces to enter the building for residents and visitors.</p> <p>C4 Street numbering and mailboxes must be clearly visible from the primary street.</p> <p>C5 A main pedestrian entry is to be provided within a development. The entry is to be separate from car parks or car entries.</p> <p>C6 Disabled access through the primary entrance to the building must be provided in accordance with Part 3A - Car Parking.</p> <p>C7 Mailboxes are to be designed and provided so that they are convenient for residents and do not clutter the appearance of the development from the street.</p> <p>The proposal provides for identifiable entries and remain separate from carpark entries. The entry is well lit and secure with direct access to the</p>

street.
<p>4C.3.4 Roofs and Attics/Dormers</p> <p>Objective</p> <p>O1 To ensure the provision of a characteristic roof though the use of similar pitch and materials.</p> <p>Controls</p> <p>General</p> <p>C1 Buildings should incorporate a pitched roof, except where another roof form is identified in the relevant Character Precinct (refer to Part 8 - Character Precincts), or another roof form is compatible with the existing characteristic roof form in the street.</p> <p>C2 Roofs should be pitched between 22.5 degrees and 36 degrees.</p> <p>C3 All rooftop or exposed structures including lift motor rooms, plant rooms, etc., together with air conditioning, ventilation and exhaust systems, are to be suitably screened and integrated with the building in order to ensure a properly integrated overall appearance.</p> <p>C4 The visual impact of roof fixtures (eg, vents, chimneys, aerials, solar collectors, mobile phone transmitters and satellite dishes) is to be minimised.</p> <p>Attics/Dormers</p> <p>C5 Any proposed attic must comply with the definition contained within Botany Bay Local Environmental Plan 2013.</p> <p>C6 Attics will not be permitted, if they result in the need to alter the pitch or ridge height of the existing roof to accommodate the dormers.</p> <p>C7 Any proposed dormer must:</p> <ul style="list-style-type: none"> (i) Not exceed a height of 1.5 metres from the base of the dormer to the ridge; (ii) Not comprise more than one third of the width of the roof plane; (iii) Not exceed a maximum roof pitch of 30 degrees where the roof meets the external wall; (iv) Be designed so that bedrooms or living areas located in the roof cavity have a minimum head height of 2.4 metres over two thirds (2/3) of the floor area; and (v) Not comprise more than one third (1/3) of the width of the roof plane upon which they are placed. <p>C8 Balconies are not generally permitted off dormers. The only instance where Council may consider a balcony off a dormer is if the balcony is a</p>

'juliet' balcony and where there are no privacy impacts.

C9 Habitable rooms are encouraged within a dormer (attic) where the applicant can demonstrate that the resulting development will not detrimentally affect the amenity of the area due to:

- (i) An unacceptable loss of sunlight to adjacent properties and public spaces;
- (ii) A reduced level of privacy to adjacent properties; and
- (iii) Unacceptable view loss from adjacent properties and surrounding areas.

The proposal provides a characteristic parapet roof form.

4C.3.5 Fences

The streetscape is affected by the fencing of a development as walls and fences occupy a highly visible part of a development's area. Their treatment is critical because they form boundaries within the site, between the site and the street, and between the site and neighbouring properties. The attention to detail in this mundane item can transform it into a feature element which enhances the whole development. To ensure the streetscape and character of a neighbourhood is of high quality the fence height, materials, and gate are regulated for the fencing that addresses the street, internal fencing, and security fencing.

Objectives

- O1 To define the edges and interface between public and private land;
- O2 To ensure that front fences contribute to a characteristic pattern of fences;
- O3 To enable casual surveillance of the public domain and provide security;
- O4 To provide visual and acoustic privacy where required;
- O5 To contribute positively to the public domain; and
- O6 To allow passive visual surveillance of the public domain by not providing high solid walls.

Controls

C1 Fences are to:

- (i) Provide privacy and security while not eliminating views, outlook, light and air;
- (ii) Be visually permeable at the front of developments and must not obscure views of the building and garden areas from the street;
- (iii) Be designed in proportion to the height and size of the building; and

(iv) Use the designs and materials suitable for the Desired Future Character of the area (refer to Part 8 - Character Precincts).

Note: A landscape plan is to be submitted in accordance with Part 3L - Landscaping. This plan must include details of all fencing to be used in a proposal –privacy, boundary, frontage, pool, dividing and so on. The details must include style (manufacturer, product code, name), height, materials, colour/s and installation method.

C2 Masonry/brick fences over 600mm and timber, steel picket, palisade or plain picket fences over one (1) metre high require Council approval along residential frontages.

C3 Only decorative timber or metal slat/batten/picket and/or masonry walls will be permitted on the street frontage. Colourbond fencing is not permitted.

C4 Fences to a maximum height of 1.2 metres are only permitted if no less than 50% is transparent using spaced timber or metal pickets (or the like) and a solid base with a maximum height of 600mm.

C5 The design of fencing over 1 metre in height must take into consideration sightline issues if adjoining a vehicular access. The design of the fence can be modified by setbacks or by using splays at least 1 metre x 1 metre in size.

C6 Dividing fences within the front setback shall be no more than 1 metre in height.

C7 Retaining walls across street boundaries shall be no more than 1 metre in height and shall be located to allow affective and site responsive tree planting within the setback (ie. shall not restrict planter bed dimensions).

C8 All fences and walls must have Structural Engineer designed footings and reinforcing and be selfsupporting and able to withstand loads.

C9 The maximum height of side or rear fences is 1.8 metres. Front fences and side fences located between the street frontage and its respective building line are not to exceed 1 metre in height.

C10 Fences along a secondary street frontage and which adjoin the private open space of a dwelling can have a maximum height of 1.8 metre to provide privacy, but only where landscaping is incorporated into the fence design to soften and screen the fence when viewed from the street frontage. The height of the fence must also taper down to meet the

front fence. Any such design would need to be submitted with the development application and be to the satisfaction of Council's landscape officer.

C11 On classified roads manually operated gates are to be setback to allow a vehicle to stand fully off the road. Access gates shall be hung so that the direction of swinging gate is into the site.

C12 Where the fence/side returns are to be erected on or adjacent to the common allotment boundary, the written consent of the adjacent property owner(s) is required.

C13 Satisfactory provision shall be made for access to public utility installations.

C14 All fences shall not obstruct the existing overland flow path or stop or redirect surface waters so as to cause a nuisance.

C15 All fences in a flood affected locality shall be permeable.

The fencing details are included on the landscape plan.

4C.3.6 Materials & Finishes

The use of sympathetic building materials and finishes and colour schemes, ensures that the visual character of the City of Botany Bay's residential areas are not diminished.

Objectives

O1 To ensure that new development reflects the existing and Desired Future Character;

O2 To ensure that the choice of external materials, colour schemes and building details on new development reinforces existing development in the locality and enhances the streetscape;

O3 To encourage the use of energy efficient building materials;

O4 To ensure that the building and the site can be cleaned and maintained easily; and

O5 To maximise the life of buildings to reduce energy costs in demolition, reconstruction and recycling.

Controls

General

C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade shall accompany all Development Applications involving building works (refer to Council's Development Application Guide).

The Schedule of Finishes shall consist of :

(i) Samples of materials cross-referenced with manufacturer's details and

<p>product code; and</p> <p>(ii) A detailed colour scheme to be shown in the form of coloured building elevations which is cross-referenced with a colour sample chart showing manufacturer's details and product code.</p> <p>C2 Materials, colours, architectural details and finishes must be consistent with those that are identified in the relevant Character Precinct in Part 8 - Character Precincts. If not identified in the character statement natural colours and muted tones and finishes are to be used.</p> <p>C3 No expansive use of white, light or primary colours which dominate the streetscape are permitted.</p> <p>Primary colours must only be used for small design features and accents to the building.</p> <p>C4 Buildings must incorporate a higher proportion of masonry to glass.</p> <p>C5 Any solar panels must be integrated into the design of a building.</p> <p>C6 Developments must be constructed using building materials that maximise energy efficiency and comply with Part 3H - Sustainable Design. In this regard the following principles should be incorporated</p> <p>Materials of a high thermal mass are to be used for living areas and are to be located to maximise the absorption of heat from air circulating in the dwelling and from the winter sun.</p> <p>Note: Buildings have a good thermal mass through the use of materials such as concrete slab floors, cavity brick, concrete block and stone walls.</p>
<p>A finishes and colour schedule is included in the drawing set and are consistent with the desired future character for the area.</p>
<p>Maintenance</p> <p>C7 Materials and elements on the exterior of the building should be selected to be long wearing and require minimal maintenance.</p> <p>C8 Materials and design detailing should ensure long life and ease of maintenance. In particular:</p> <p>(i) Treated timber or metal hinged shutters such as plantation shutters;</p> <p>(ii) Glass balustrades;</p> <p>(iii) Solar powered venetian blinds;</p> <p>(iv) Sliding translucent screens to balconies;</p> <p>(v) Adjustable horizontal louvers attached to pergolas;</p> <p>(vi) Operability and location of windows to allow ease of cleaning; and</p>

(vii) Retractable blinds.

C9 Windows should be designed to enable cleaning from inside the building.

C10 Manually operated systems such as blinds, sun shades, pergolas and curtains are preferable to mechanical systems.

C11 Where mechanical systems are selected care should be taken to ensure that wherever possible they could be also manually operated.

C12 Select durable materials, which are easily cleaned and are graffiti resistant.

A finishes and colour schedule is included in the drawing set and are consistent with the desired future character for the area.

4C.4 Sustainable Design

Sustainable development is that which meets the needs of the present generation without compromising the ability of future generations to meet their own needs. It includes all aspects of environmental change- ie social as well as physical.

Residential development has an important role to play in achieving ESD principles. As well as reducing carbon dioxide emissions, energy efficient housing provides a more pleasant and comfortable living environment, which would be cheaper to run, with little additional construction costs added to the overall cost of development.

The principles of ESD should be clearly demonstrated throughout all phases of the development process, including project design, approval, construction and maintenance.

4C.4.1 Energy Efficiency

Objectives

O1 To promote residential development that is more comfortable to live in; and

O2 To ensure development has regard to the principles of energy efficient design.

Controls

C1 A BASIX Certificate is required to be submitted with all residential development identified under SEPP (Building Sustainability index: BASIX) 2004.

C2 Development must comply with Part 3H - Sustainable Design.

C3 Development must be sited to achieve maximum solar access to living areas and private open space both on the development site and adjoining

residential properties.

Note: Solar access can be maintained to neighbouring properties by:

- _ Careful siting and orientation of buildings;
- _ Use of setbacks, which increase with building height; and
- _ Use of deciduous trees adjacent to boundaries.

Solar access to a site can be achieved by considering:

- _ Orientation and height of the building;
- _ Layout of rooms;
- _ Location of principal open space areas; and
- _ Protection from western sun by use of deciduous tree

BASIX certification is submitted with the application.

4C.4.2 Stormwater Management and Water Sensitive Urban Design (WSUD)

Objectives

- O1 To provide for effective and safe disposal of stormwater runoff;
- O2 To improve water quality of stormwater runoff for all developments;
- O3 To protect adjoining properties from inundation due to any development; and
- O4 To ensure Water Sensitive Urban Design (WSUD) principles are incorporated into the design, construction and operation of the site.

Controls

C1 Development must comply with Part 3G - Stormwater Management, which provides controls relating to:

- (i) Stormwater management;
- (ii) WSUD;
- (iii) Water quality; and
- (iv) Flood management.

C2 Rainwater tanks are required to be installed in accordance with the requirements under Part 3G - Stormwater Management and Council's Stormwater Technical Guidelines.

C3 With all development applications the following is required in accordance with Part 3G -

Stormwater Management:

- (i) Submission of a stormwater management plan; and
- (ii) Submission of a soil and water management plan outlining measures to minimise erosion and trap sediment during development and building

activities.

C4 For any development with more than fifteen units/dwellings, a integrated water cycle/total water management plan showing water cycle management within the site is required.

A stormwater concept plan is submitted with the application addressing these requirements.

4C.4.3 Site Contamination

Due to the industrial history of the City of Botany Bay, the management of contaminated land remains an important issue for Council and strict controls are required to maintain and protect the health of residents and the environment.

Part 3K - Contamination creates the framework to ensure that while carrying out its planning functions,

Council considers the possibility that a previous or adjacent landuse may contribute to contamination of the site, and that there may be a potential risk to human health and the environment. It also complies with the requirements of Managing Land Contamination: Planning Guidelines and State Environmental Planning Policy

No.55 - Remediation of Land

Objectives

O1 To minimise the risks to human health and the off-site environment from the redevelopment of contaminated land in accordance with current standards; and

O2 To adequately address site contamination issues during the development assessment process to ensure land is suitable or can be made suitable for its proposed use.

Controls

C1 Development must comply with site contamination assessment and site remediation as required under Part 3K - Contamination.

C2 Where a contamination assessment is required it must be submitted as part of the Development Application

A site assessment is submitted with the application addressing these provisions.

4C.4.4 Waste Management and Waste Minimisation

Objectives

O1 To avoid the generation of waste through design, material selection

and building practices;

O2 To reduce waste during the demolition, excavation and construction phase of development;

O3 To maximise the reuse and recycling of building and construction materials and household generated waste;

O4 To encourage waste minimisation, including source separation, reuse and recycling; and

O5 To ensure the efficient storage and collection of waste.

Control

C1 Development must comply with Part 3N - Waste Minimisation and Management.

A waste management plan is submitted with the application addressing these provisions.

4C.5 Site and Building Amenity

4C.5.1 Dwelling Mix, Room Size and Layout

Objectives

O1 To ensure that dwellings are efficient, have high standards of amenity for residents and satisfy environmental performance criteria, such as ventilation and access to natural light;

O2 To be flexible to suit the occupant's requirements;

O3 To ensure residential development contains a mix of residential types (based on the number of bedrooms) to increase the potential for a balanced population;

O4 To ensure adequate provision, design and location of internal facilities; and

O5 To provide adequate amenity for building occupants in terms of access to sunlight and natural ventilation.

Controls

Apartment Size and Mix

C1 Dwellings within residential flat buildings must be designed to provide the following minimum internal areas:

- Studio: 60m²
- 1 bedroom: 75m²
- 2 bedrooms: 100 m²
- 3 bedrooms: 130 m²
- 4 bedrooms: 160 m²

<p>Note: Dwelling size means the area inside the enclosing walls of a dwelling but excludes wall thickness, vents, ducts, staircases and lift wells.</p> <p>C2 The combined total number of one-bedroom dwellings shall not exceed 25% of the total number of dwellings within any single site area.</p>
The proposal is consistent with the ADG.
<p>Apartment Layout</p> <p>C3 Laundry, food preparation and sanitary facilities are to be provided in a convenient location within a dwelling (or a building containing a number of dwellings) and built appropriate to the function and use of the dwelling.</p> <p>C4 Bathrooms and bedrooms are to be separated from living and kitchen areas where possible.</p> <p>C5 The habitable space serviced by a window is no more than 10 times the glazed area of the window.</p> <p>C6 Single aspect apartments should be limited in depth to 8 metres from a window.</p> <p>C7 The back of a kitchen should be no more than 8 metres from a window.</p> <p>C8 The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.</p> <p>C9 The minimum internal width of each dwelling shall comply with Table 3.</p> <p>C10 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No. 65 and the Residential Flat Design Code in terms of apartment mix.</p>
The dwellings follow these principles.
<p>4C.5.2 Internal Circulation</p> <p>Objectives</p> <p>O1 To create safe and pleasant spaces for the circulation of people and their personal possessions;</p> <p>and</p> <p>O2 To contribute positively to the form and articulation of the building façade and its relationship to the urban environment.</p> <p>Controls</p>

C1 Common area corridors should be a minimum of 2 metres in width to facilitate ease of movement and may be required to be increased to reduce the confining effect of long and/or doubled corridors.

Note: Amenity and safety in circulation spaces are to be increased by:

- (i) Providing generous corridor widths and ceiling heights, particularly in lobbies, outside lifts and apartment entry doors;
- (ii) Providing appropriate levels of lighting, including the use of natural daylight, where possible;
- (iii) Minimising corridor lengths to give short, clear sight lines;
- (iv) Avoiding tight corners;
- (v) Providing legible signage noting apartment numbers, common areas and general directional signage; and
- (vi) Providing adequate ventilation.

C2 Support better apartment building layouts by designing buildings with multiple cores which:

- (i) Increase the number of entries along a street;
- (ii) Increase the number of vertical circulation points;
- (iii) Give more articulation to the façade; and
- (iv) Limiting the number of units off a circulation core on a single level.

C3 Articulate longer corridors. Design solutions may include utilising a series of foyer areas; and providing windows along or at the end of a corridor.

C4 Minimise maintenance and maintain durability by using robust materials in common circulation areas.

The proposal meets the corridor width and circulation requirements.

4C.5.3 Building Depth

Objective

O1 To provide adequate amenity for building occupants in terms of sun access and natural ventilation.

Controls

C1 Use building depth in combination with other controls in this Part to ensure adequate amenity for building occupants. For example a deeper floor plan may be acceptable where higher floor to ceiling heights allow solar access or where apartments have a wider frontage.

C2 For residential flat development the maximum building depth shall comply with Figure 15. The maximum depth of the building is 18 metres.

C3 The maximum depth of a habitable room from a window, providing

light and air to that room, is 10 metres.
C4 Single aspect apartments are to have a maximum depth of 8 metres from a window
C5 Apartments are to have a minimum width of 4 metres. An apartment's width should increase relative to an increase in its depth.
The proposal meets the building depth requirements.
4C.5.4 Balconies in Residential Flat Buildings
Objectives
O1 To encourage the design of balconies to provide the enjoyment and function of outdoor living for all residents; and
O2 To provide all dwellings with private open space.
Controls
C1 In large developments (containing 20 or more units/dwellings) different styles and designs for balconies are required.
C2 At least one balcony per apartment is to be provided off the living areas.
C3 The minimum area of the balcony off the living area is 12m ² and the minimum width is 3 metres (refer to Part 4C.2.8 - Private and Communal Open Space and Table 2).
C4 The main balcony off the living area shall (refer to Figure 16):
(i) Extend the dwelling's living space;
(ii) Be sufficiently large and well proportioned to promote indoor/outdoor living;
(iii) Be able to position a dining table and chairs on the balcony;
(iv) Provide space for flower boxes or potted plants;
(v) Include sun screens, pergolas, shutters, operable walls; and
(vi) Receive full sunlight for at least two hours.
Note: Consider secondary balconies, including Juliet balconies or operable walls with balustrades, for additional amenity and choice in larger apartments and adjacent to bedrooms.
C5 Balconies should improve visual privacy and should allow surveillance over the street, common open space etc.
C6 Balconies must not be continuous across the entire façade of the apartment.
C7 Balconies must not result in a loss of privacy from adjoining dwellings.
C8 Coordinate and integrate building services, such as drainage pipes,

<p>with overall façade and balcony design, for example drainage pipes under balconies are often visible from below in taller buildings and negatively impact the overall façade appearance.</p> <p>C9 A tap and gas point are to be supplied on primary balconies.</p>
<p>Balconies are provided off all living areas. Balconies are not continuous across the facades.</p>
<p>4C.5.5 Ground Floor Apartments in Residential Flat Developments</p> <p>Objectives</p> <p>O1 To maximise the opportunity for active and useful street edges and safe streets; and</p> <p>O2 To ensure that spaces are useable, safe and well maintained.</p> <p>Controls</p> <p>C1 The design of the ground plane within a development is to respond to the level and type of street uses and the characteristic and design of other quality buildings in the streets.</p> <p>C2 Security is to be increased by encouraging active street edges by providing ground floor apartments with access and address to the street; doors and windows facing onto the street; and terraces and gardens where appropriate.</p> <p>C3 The public and private space and the edge between the two are to be clearly defined.</p> <p>C4 Ground floor apartments are to have individual entries and/or front and rear garden spaces.</p> <p>C5 Privacy is to be increased whilst ensuring efficient use of soil zones and open space by designing gardens and terraces as a transition zone between the apartments and the street.</p> <p>C6 Deep soil zones and open space area shall be designed to provide a transition zone between apartments and the street.</p>
<p>The proposal provides no street front ground floor apartments.</p>
<p>4C.5.6 Natural Ventilation</p> <p>The opportunity to provide for good natural ventilation is vital to planning for a comfortable residential living environment. The ability to supply fresh air to a dwelling reduces the need to rely on mechanical ventilation.</p> <p>Council requires all habitable rooms in dwellings contain ventilation measures including natural ventilation which can be achieved via cross</p>

ventilation. Cross ventilation is simply attained in buildings permitting unimpeded air movements. Changes in height relating to incoming and existing air also promotes cross ventilation.

Objectives

- O1 To provide all habitable rooms with access to fresh air; and
- O2 To minimize the need for mechanical ventilation.

Control

C1 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No 65 (SEPP 65) and the Residential Flat Design Code in relation to natural ventilation as illustrated in Figure 17.

75 of units are cross-ventilated.

4C.5.7 Ceiling Heights

High ceilings allow taller windows. This is particularly important on the lower levels where less direct light is available. This will allow greater solar access penetration within apartments. High ceilings also facilitate natural ventilation where operable high-level windows are also provided.

Objectives

- O1 To facilitate natural day lighting and natural ventilation throughout the apartment;
- O2 To increase the sense of space in apartments and well proportioned rooms; and
- O3 To allow the building's elevations to respond to the street context.

Controls

C1 To achieve natural day lighting and ventilation the following is recommended:

- (i) On the lower levels, ceiling heights should not preclude the building from being adapted over for a range of other uses including; retail or commercial;
- (ii) Variation in ceiling heights provides opportunities for better articulation in the façade. This is particularly important where new buildings must relate to older or heritage buildings within the street;
- (iii) High ceilings enable the effectiveness of light shelves in enhancing daylight distribution into exteriors; and
- (iv) High ceilings provide greater opportunities for slopes of ceilings to improve further daylight penetration deep into the interior.

C2 Development shall comply with the Table 4.

Compliant ceiling heights are provided.
<p>4C.5.8 Solar Access</p> <p>Solar access refers to both direct light from the sun (sunlight) and indirect light (daylight). By providing good solar access to buildings pleasant environments in which to live, play and work will be created. Good solar access design will also reduce the need to rely on artificial lighting.</p> <p>Ensuring new development avoids unreasonable overshadowing of internal and external spaces are high priorities in design for residential flat buildings.</p> <p>Objectives</p> <p>O1 To provide all habitable rooms with access to daylight;</p> <p>O2 To provide all habitable rooms with access to sunlight where possible;</p> <p>O3 To minimize the need for artificial light sources;</p> <p>O4 To provide functional balconies;</p> <p>O5 To minimize overshadowing that would reduce the amenity of neighbouring developments; and</p> <p>O6 To ensure development does not unreasonably diminish sunlight to neighbouring properties and within the development site.</p> <p>Controls</p> <p>C1 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No 65 (SEPP 65) and the Residential Flat Design Code in relation to solar access.</p> <p>C2 Development must demonstrate that living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid winter.</p> <p>C3 Neighbouring developments will obtain at least three hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.</p> <p>C4 The development application must provide solar diagrams that, as a minimum, illustrate compliance with the above control and comprise of plans and elevations demonstrating the shadows of the proposal at 9am, 12 noon, and 3pm on 21 March, 21 June and 21 December.</p>

C5 Buildings are to be designed and sited to ensure sun access to private and communal open space within the development, and adjoining properties and public open space.

C6 All development applications must include diagrams that show the shadow impact of the proposal at 9am, 12 noon, and 3pm on 21 June. Development sites and neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 50% of the required minimum amount of private open space.

C7 Roof terraces are to be protected with shade cloths, planting and/or pergolas.

Solar access diagrams have been prepared demonstrating that the proposal meets these requirements.

4C.5.9 Visual Privacy

Objectives

O1 To ensure that development results in a reasonable level of visual privacy for existing and future residents; and

O2 To ensure that visual privacy is provided both within a development and between a development and its neighbours.

Controls

C1 Residential flat buildings are to provide adequate separation between habitable rooms, balconies and non-habitable rooms, consistent with SEPP 65 and the Residential Flat Design Code (refer to Part 4C.5.10 - Building Separation).

C2 To maintain reasonable privacy levels, the following is required:
For Windows:

(i) Windows are to be located so they do not provide direct and close views into the windows of other dwellings, particularly those of living areas;

(ii) Attics windows are not to allow overlooking of adjacent dwellings or their private open spaces.

Note: The incorporation of high level windows can minimise overlooking (refer to Figure 18).

Note: An outlook to the street should be provided from attic windows
Decks and Balconies:

(i) Building elements such as balconies and decks are to be designed to minimise overlooking of living areas and private open spaces of adjoining

dwellings; and

(ii) Screening devices must be incorporated on decks and balconies greater than 1 metre above ground level, to mitigate potential loss of privacy.

Compliant building separation is provided.

4C.5.10 Building Separation

Objectives

O1 To ensure that new development is scaled to support the desired character with appropriate massing and spaces between buildings;

O2 To control overshadowing of adjacent properties and private and shared open space;

O3 To allow for the provision of open space; and

O4 To provide deep soil zones for stormwater management and tree planting, where contextual and site conditions allow.

Controls

C1 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No. 65 and the Residential Flat Design Code in terms of building separation.

C2 Dimensions within a development, for internal courtyards and between adjoining sites are outlined in Table 5.

C3 Zero building separation will be allowed in appropriate contexts, such as street wall building types (party walls).

C4 Where a building step back creates a terrace, the building separation distance for the floor below applies.

Compliant building separation is provided.

4C.5.11 Views

Local views contribute to the sense of place. Preservation and, where possible, enhancement of public views to landmark and landscape features allow people to interpret and appreciate the special character of the area.

It is also important to promote view sharing between properties to balance access to private views from properties.

Objectives

O1 To preserve and enhance district and local views which reinforce and protect the precincts urban form and enhance legibility;

O2 To encourage view sharing through complementary siting of

<p>buildings, responsive design and well-positioned landscaping; and</p> <p>O3 To ensure highly visible sites are designed in scale with the precinct's setting and encourage visual integration and connectivity between places.</p> <p>Controls</p> <p>C1 Development is to preserve views of significant topographical features such as the urban skyline, landmark buildings and areas of high visibility.</p> <p>C2 Building design, location and landscaping is to encourage view sharing between properties.</p> <p>C3 Existing significant view corridors as viewed to and from public places must be protected.</p> <p>C4 The opportunity to create new view line corridors will be taken wherever possible and appropriate.</p>
No significant views are affected by the proposal.
<p>4C.5.12 Acoustic Privacy</p> <p>Objective</p> <p>O1 To ensure that all residents are provided with a reasonable level of acoustic privacy.</p> <p>Controls</p> <p>General</p> <p>C1 New dwellings shall be designed and constructed to comply with the criteria specified in Table 6 for all noise intrusion from external noise sources (including mechanical services noise from within the development itself).</p> <p>C2 An acoustic report prepared by a certified acoustic consultant must be submitted with the development application addressing the requirements detailed in C1 and C3.</p> <p>C3 Where multiple dwellings are provided within the same building, the building shall be designed and constructed to comply with the requirements of the BCA regarding acoustic insulation and noise transmission of walls and floors. In order to meet these requirements, the following design measures are to be incorporated in the development :</p> <p>(i) Buildings are to be designed and rooms positioned to reduce noise transmission within and between dwellings;</p> <p>(ii) Bedrooms should be designed so that wardrobes act as sound buffers</p>

<p>between rooms or dwellings;</p> <p>(iii) Windows and doors should be located away from external noise sources, or buffers used where separation can not be achieved;</p> <p>(iv) Materials with low noise penetration properties should be used where practical;</p> <p>(v) Locate bedrooms and private open spaces away from noise sources such as garages, driveways, mechanical equipment and recreation areas; and</p> <p>(vi) Mechanical equipment, such as pumps, lifts or air conditioners should not be located adjacent to bedrooms or living rooms of dwellings on adjoining properties.</p>
<p>An acoustic report has been prepared and details compliance with these provisions.</p>
<p>Aircraft Noise</p> <p>C4 New dwellings on land within the Australian Noise Exposure Forecast (ANEF) Contour 20 or higher shall be designed and constructed in accordance with current Australian Standard AS 2021 (Acoustic Aircraft Noise Intrusion-Building siting and Construction) and Part 3J – Aircraft Noise and OLS.</p> <p>Note: Details to be included in the Development Application.</p> <p>C5 New or higher density residential development which, in the opinion of Council is considered to be aircraft noise sensitive will be supported where the property is located within the 30+ ANEF contour.</p> <p>C6 The introduction of noise abatement measures to achieve compliance with the current AS 2021 must be designed in a manner that does not compromise the architectural design of a building or impact on the character of an existing streetscape</p>
<p>An acoustic report has been prepared and details compliance with these provisions.</p>
<p>Road and Rail Noise</p> <p>C7 Development on land which is on or is within 100 metres of a railway corridor, a classified road or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) must consider the requirements of the Development Near Rail Corridors and Busy Roads - Interim Guideline (19 December 2008) in accordance with cl.87(3) and</p>

<p>cl.102(3) of SEPP (Infrastructure) 2007. An acoustic report prepared by a certified acoustic consultant must be submitted at development application stage to demonstrate compliance with this Guideline.</p> <p>C8 Where dwellings are located on a classified roads the following are to be incorporated into the design of the development to reduce traffic noise within the dwelling:</p> <ul style="list-style-type: none"> (i) Cavity brick walls; (ii) Double glazing; (iii) Solid core doors; (iv) Concrete floors; and (v) Recessed balconies
<p>An acoustic report has been prepared and details compliance with these provisions.</p>
<p>4C.5.13 Vibration</p> <p>Objective</p> <p>O1 To ensure that dwellings are not adversely impacted upon by vibrations from railways and roadways.</p> <p>Control</p> <p>C1 In accordance with Clause 87 of SEPP (Infrastructure) 2007 any proposed excavation exceeding 2 metres in depth on land within or above a rail corridor or within 25 metres from (measured horizontally) of a ground or below ground rail corridor must consider the requirements of the Development Near Rail Corridors and Busy Intersections - Interim Guideline (19 December 2008).</p>
<p>An acoustic report has been prepared and details compliance with these provisions.</p>
<p>4C.5.14 Storage</p> <p>Objectives</p> <p>O1 To provide secure storage for sporting, leisure, fitness and hobby equipment; and</p> <p>O2 To provide storage for everyday household items within easy access of the dwellings living areas.</p> <p>Controls</p> <p>C1 At least 50% of the storage is to be provided within the dwelling and accessible from either the hall or living area. The remaining 50% of the storage may be located in the basement car park and allocated to the</p>

individual dwelling.

C2 Accessible and adequate storage facilities are to be provided at the following rates:

- Studios: 6m²
- 1 bedroom dwelling: 8 m²
- 2 bedroom dwellings: 10 m²
- 3+ bedroom dwellings: 12 m²

C3 The storage area separate from the dwelling should be secured within the garage car parking area.

C4 Storage areas are to have a minimum height of 1.5 metres.

The proposal satisfies these storage requirements within each unit. A storage schedule is included demonstrating compliance.

4C.5.15 Site Facilities

Objectives

O1 To ensure that adequate provision is made for site facilities, such as clotheslines and storage areas, in the design of the development;

O2 To ensure that site facilities are accessible to all residents;

O3 To ensure that site facilities are thoughtfully integrated into development and are unobtrusive; and

O4 To maximise opportunities for use of solar energy and natural ventilation for clothes drying.

Controls

C1 Development must not be carried out on the land until arrangements satisfactory to Sydney Water have been made for the provision to the land of water and sewerage services.

C2 Mailboxes shall be provided in accordance with Australia Post's requirements.

C3 One (1) lift is required per forty (40) dwellings or greater part thereof and two (2) for forty or more.

C4 Adequate and appropriate unit numbering is to be provided.

C5 The name and address of the premises shall be displayed in a position that is clearly visible from the street and / or service lane to assist identification and deliveries.

C6 The development incorporates adequate garbage and recycling collection areas that are integrated physically and visually with other built elements such as fences, walls, buildings and garages.

<p>C7 Garbage storage and collection points comply with the provisions of Part 3N – Waste Minimisation and Management.</p> <p>C8 Satellite dishes where they are situated in rear courtyards, etc are to be less than 1.8 metres above ground or not visible above any fence surrounding the site.</p> <p>C9 Only one (1) telecommunications/TV antenna will be permitted for each building.</p> <p>C10 Sunlight available to clothes drying facilities for at least 3 hours on June 21 to a plane 1 metre above finished ground level under the drying lines.</p> <p>C11 The existing above ground electricity and telecommunication cables within the road reserve and within the site shall be replaced, at the applicant's expense, by underground cable and appropriate street light standards, in accordance with the Energy and Communication Provider's guidelines. The applicant shall bear the cost of the new installation and the first 12 months of additional street light charges.</p> <p>C12 Roller type security shutters on windows and doors are not suitable where visible from the street.</p> <p>C13 Where security devices are required they shall be of a design that is consistent with the design of the house. They should be of a simple design that does not detract from the design or architectural features of the dwelling.</p>
The proposal provides for these site facilities.
<p>Air Conditioners</p> <p>C14 Air conditioning units should be sited so that they are not visible from the street.</p> <p>C15 Air conditioning units should not be installed on the front façade of a building.</p> <p>C16 Air conditioning units should not be installed within window frames or otherwise obscure a window.</p> <p>C17 Air conditioning units should not obscure architectural details visible from the street.</p> <p>C18 The noise level from air conditioning systems is not to exceed the Laeq 15 minute by 5dBA, measured at the property boundary.</p>
The proposal satisfies these provisions.
Drying Facilities

C19 Open air, secure clothes drying facilities are to be provided in all housing developments.

C20 Clothes drying areas must be easily accessible by all residents and visually screened from public street and recreation areas.

C21 Sunlight is required to be available to clothes drying facilities for at least 3 hours on June 21 to a plane 1 metre above finished ground level under the drying lines.

C22 Clothes drying areas should be easily accessible by all residents and visually screened from public street and recreation areas.

The proposal satisfies these provisions.

4C.5.16 Safety and Security

Objectives

O1 To reduce opportunities for crime through the use of natural surveillance, building design and siting; and

O2 To ensure a high level of personal safety for people who use or visit the building.

Controls

C1 Applications must comply with Part 3I - Crime Prevention, Safety and Security.

Note: Applications will be referred to the NSW Police Service for comment.

C2 In order to enhance safety and security, developments must be designed to:

- (i) Enable casual surveillance of streets, open space and entrances to buildings and communal areas;
- (ii) Minimise access between roofs, balconies and windows of adjoining developments;
- (iii) Ensure adequate lighting to access routes, car park areas and open space;
- (iv) avoid blank walls addressing the street frontage and other public places. Where it is unavoidable, planting for screening purposes or anti-graffiti paint should be used;
- (v) Maintain sight lines along pathways (i.e. avoid blind corners or hiding places);
- (vi) Use materials and features (such as street furniture, pavers, fencing and landscaping) to clearly distinguish between public, communal and private domains;

(vii) In public areas, use materials that discourage vandalism (i.e. non-porous surfaces such as glazed ceramics or treated masonry);

(viii) Install locks on doors and windows, and viewers to doors;

(ix) Provide lighting to communal areas (laundries, garbage storage, pathways, lobbies, car parking areas and stairwells);

(x) Locate shared facilities in areas that are well lit and will be well utilised; and

(xi) Provide an audio or video intercom system at the entry or in the lobby for visitors to communicate with residents.

C3 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No. 65 and the Residential Flat Design Code in terms of site amenity and safety.

The proposal has been designed to meet the CPTED principles.

4C.5.17 Car Parking and Vehicle Access

Objectives

- O1 To provide for safe vehicle and pedestrian access to and from the site;
- O2 To ensure the provision of adequate on-site car parking and vehicle and pedestrian access;
- O3 To ensure that on-site car parking does not dominate or detract from the appearance of the development and the local streetscape;
- O4 To ensure that parking areas and access routes are integrated within the landscape design;
- O5 To ensure a high standard of surface finish;
- O6 To minimize the visual impact of expansive driveway surfaces; and
- O7 To ensure that traffic generated by a development does not have adverse impacts on the operation of surrounding street networks.

Controls

General

- C1 Residential flat buildings shall comply with the principles and provisions of State Environmental Planning Policy No. 65 and the Residential Flat Design Code in terms of parking and vehicle access
- C2 All developments must comply with the car parking and bicycle rates and design requirements within Part 3A - Car Parking.
- C3 Car parking areas must be located and designed to:
- (i) Conveniently and safely serve users, including pedestrians, cyclists

and vehicles;

- (ii) Enable the efficient use of car spaces and access ways, including adequate manoeuvrability for vehicles between the site and the street;
- (iii) Fit in with any street network hierarchy and the objectives of that hierarchy and with any other related local traffic management plans;
- (iv) Be cost-effective; and
- (v) Not dominate or detract from the appearance of the development and the local streetscape.

C4 All internal circulation roadways, aisles, ramps driveways and car parking areas and loading area must be designed to comply with the requirements in Part 3A - Car Parking and Australian Standard AS 2890.1 Off Street Car parking. Small car parking bays are not permitted for residential flat buildings.

C5 Visitor's car parking spaces shall be labelled clearly and resident car parking shall be numbered to the relevant dwelling.

C6 Provision is to be made for furniture removalist vehicles to be able to park wholly within the site for any development with more than 20 units/dwellings. The size of the furniture removalist vehicles shall be assumed to be a Medium Rigid Vehicle (MRV) as defined in AS2890.2.

A Traffic report is submitted with the application demonstrating compliance with these provisions.

Basement Car Parking

C7 Basement car parking:

- (i) Must not protrude further than 1.2 metres out of the ground when measured from natural ground to the top of the slab at ground floor level of the building;
- (ii) Must be located under the building footprint of the dwellings;
- (iii) Must not extend under dwelling balconies or landscaped areas;
- (iv) Must be located under balconies or landscaped areas that part of the basement car park is to be included in site coverage calculations;
- (v) Must be designed to have adequate vertical clearance for the largest vehicle accessing the basement car parking area;
- (vi) Must have a suitable intercom system link to all units within the development at the vehicle entrance to the car parking area to ensure visitors to the site can gain access to visitor parking;
- (vii) For mixed use developments shall located the loading/unloading facilities separate from the vehicle car parking area; and

(viii) For mixed use developments shall provide a security roller gate or door to provide separation between residential and non-residential car parking areas.
A Traffic report is submitted with the application demonstrating compliance with these provisions.
<p>Material</p> <p>C8 Stencilled concrete and exposed aggregate are unacceptable as they do not stand up well to the traffic movement and frequent turning common in multi-unit housing developments.</p> <p>C9 Plain and coloured concrete is not acceptable as it does not provide any visual interest (and hence attractiveness) for the observer and it also reflects strong light in the form of glare.</p> <p>C10 Driveway materials must be clay/concrete pavers, cobblestones or coloured, pattern stamped concrete.</p> <p>C11 If pattern-stamped concrete is used it must be coloured to reduce harsh glare and finished with a non-slip surface.</p>
Appropriate driveway materials are provided.
<p>4C.5.18 Bicycle Parking</p> <p>Objective</p> <p>O1 To provide for alternative modes of transport.</p> <p>Controls</p> <p>C1 A communal bicycle rack/storage space must be designed and provided in accordance with Part</p> <p>3A - Car Parking.</p> <p>Note: Multiple bicycle racks may be required in larger developments.</p> <p>C2 Communal bicycle racks must be well lit after sunset and before sunrise and be located in an area where passive surveillance is achieved.</p>
Bicycle parking is provided in the basement..
<p>4C.6 Social</p> <p>4C.6.1 Adaptable Housing</p> <p>People who design, build, own, manage, lease, operate, regulate and use premises have responsibilities to comply with the Disability Discrimination Act, 1992 (DDA). The DDA seeks to eliminate bias against people with disabilities and protect their rights. The DDA states that failure to provide equal access is unlawful, unless to do so would impose</p>

an unjustifiable hardship.

Objectives

O1 To provide housing for people with disabilities or mobility needs with the community; and

O2 To ensure the provision of equitable access to meet the housing demands of a cross section of people within the community.

Controls

C1 Development shall comply with Part 3C - Access and Mobility.

C2 Disabled access to all common areas shall be provided in compliance with the Disability

Discrimination Act, 1992 (DDA), Part D3 (Access for people with Disabilities) of the BCA and Australian Standards AS1428.1 (Access and Mobility for people with Disabilities).

C3 Disabled access to all common areas shall be provided even if the development has less than five (5) dwellings and does not contain an adaptable dwelling.

C4 Where a development includes five (5) or more dwellings at least one (1) dwelling must be constructed to meet either Class A or B adaptable housing standards under AS 4299-1995 Adaptable Housing.

C5 A statement from the architect or builder must be submitted with the development application certifying that the adaptable dwelling has been designed in accordance with the provisions of the Australian Standards AS 4299-1995 Adaptable Housing.

C6 Paths to and within buildings are to provide uninterrupted, comfortable access for all people (including those with disabilities) to all facilities and amenities, including car parking, mail boxes, external clotheslines and common landscaped areas, generally accessible to building users.

C7 Doors and doorways are to be of adequate width and design to enable access to all public areas within a building.

C8 All accessories such as door handles, bell pushes, switches and mail boxes are to be easy to manipulate, are located at an appropriate height and are accessible for all people.

C9 The finish on ground and floor surfaces is not to restrict access.

C10 The lengths of corridors are to be minimised.

C11 All pedestrian accessways and vehicle accessways are to be distinguishable and separated.

C12 Public through-site pedestrian accessways in large development sites is to be provided.
An access report is provided which demonstrates compliance with these provisions.
<p>4C.7 Large Development Sites (in excess of 2000m²)</p> <p>Botany Bay Local Environmental Plan 2013 contains bonus provisions in relation to height and FSR for larger sites (in excess of 2000 m²) in the Zone R3 Medium Density Residential and Zone R4 High Density Residential. The aim of these provisions is to encourage the development of additional housing to meet the residential targets for the City of Botany Bay on certain sites with good access to public transport and existing infrastructure.</p> <p>4C.7.1 General Objectives</p> <p>O1 To permit increased floor space ratios and building heights for new development of large sites;</p> <p>O2 To encourage the development of additional housing to meet residential targets for the City of Botany Bay; and</p> <p>O3 To ensure that the design of development on these larger sites is of an appropriate scale and form and minimises impacts on the surrounding locality.</p>
Not applicable.
<p>4C.8 Residential Flat Buildings in Association with Neighbourhood Shops</p> <p>Neighbourhood shops are permissible in the R2 Low Density Residential and R3 Medium Density Residential Zones and shop top housing and neighbourhood shops are permissible in the R4 High Density Residential zone under Botany Bay Local Environmental Plan 2013. This Part therefore applies to residential flat development proposed in association with neighbourhood shops or shop top housing.</p> <p>Objectives</p> <p>O1 To ensure that local shops and local refreshment rooms located with residential development are compatible and respect the character of the residential area in which they are sited;</p> <p>O2 To ensure the design of the development distinguishes and separates the residential and nonresidential functions of the building;</p> <p>O3 To minimise the conflicts between vehicular access, parking and pedestrian movement;</p>

O4 To ensure that local shops and local refreshment rooms located with residential development are compatible and respect the character of the residential area in which they are sited;
O5 To ensure the design of the development distinguishes and separates the residential and nonresidential functions of the building; and
O6 To minimise the conflicts between vehicular access, parking and pedestrian movement.
Not applicable.

5.0 Environmental Planning Assessment

Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 as amended specifies the matters which a consent authority must consider when determining a development application.

5.1 s. 4.15 (1)(a)(i) the provision of any Environmental Planning Instrument (EPI)

Consideration of SEPP 55, SEPP (BASIX) 2004 and Local Environmental Plan 2015 are discussed under Section 4.

5.2 s. 4.15 (1)(a)(ii) the provision of any draft Environmental Planning Instruments

Not applicable to this application.

5.3 s. 4.15 (1)(a)(iii) any development control plan

Consideration of Development Control Plan is discussed under Section 4.

5.4 s. 4.15 (1)(a)(iv) any matters prescribed by the regulations

Not applicable to this application.

5.5 s. 4.15 (1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

- Context and Setting

The area is in transition and the proposal responds to the desired future character for this context.

- Access, Transport and Traffic

Parking for 23 cars is to be contained within the basement.

- Public Domain

No change proposed.

- Utilities

The existing utilities are considered appropriate for the proposed development.

- Heritage

The site is well removed from the visual catchment of any heritage item although it is within proximity of the heritage item.

- Other Land Resources

Not applicable to this application.

- Water

The water requirements of the proposal are considered appropriate given the location and current access to services.

- Soils

The excavation proposed is consistent with the controls.

- Air and Microclimate

It is considered that the proposal will not give rise to any significant air or microclimate impacts.

- Flora and Fauna

There is no significant flora or fauna on the site which will be affected by the proposal.

- Waste

The garbage/recycling storage area is proposed to be located in the basement and will enable easy access to the street collection point.

- Energy

The proposal includes a number of energy saving design features. The design enables cross ventilation and natural daylight to penetrate all levels. (see BASIX Assessment).

- Noise and Vibration

Construction will be conducted in a manner that will minimise the impact of noise and vibration. After construction the development is not expected to have any noise or vibration impacts.

- **Natural Hazards**

No known site contamination has been identified.

- **Technological Hazards**

Not applicable to this application.

- **Safety, Security and Crime Prevention**

Casual surveillance to the street is possible from habitable rooms and balconies located at the front of the dwellings. Appropriate security devices will be installed throughout the dwellings and building entries.

- **Social Impact in the Locality**

The proposal is not expected to have an adverse social impact on the locality, as the proposal will upgrade the provision of housing consistent with the desired future character.

- **Economic Impact in the Locality**

Employment opportunities will be provided during the construction phase to the benefit of the local building sector, and the proposal will increase the value of the subject site.

- **Site Design and Internal Design**

The proposal draws on guidelines set out in the planning instruments to reinforce positive elements of urban form. The proposal incorporates open plan living, where the primary living areas of the dwellings open up to outdoor areas of private open space. The proposal has been designed in keeping with the orientation of the site, and measures have been taken in order to create the best possible outcome within the constraints of the site. Therefore it is considered that the proposal is an appropriate development solution to the use of the site.

- **Construction**

The building process will be managed to minimise disruption to the local community and the environment. However some noise is inevitable during the construction phase and this will be managed in accordance with Council's standards. The design of the development proposal has focused on durable renewable materials with low maintenance requirements.

- Cumulative Impacts

The subject allotment is generously sized, shaped and orientated to accommodate the proposed development. It is anticipated that the proposed residential flat building will have an acceptable level of cumulative effects.

5.6 s. 4.15 (1)(c) suitability of the site for development

Having regard to the location of the proposal, the site will adequately accommodate the proposed development.

5.7 s. 4.15 (1)(d) submissions made in accordance with the Act or the Regulations

The Consent authority will need to consider the submissions received in response to the public exhibition of the proposed development.

5.8 s. 4.15 (1)(e) the public interest

There are no known Federal and/or state Government policy statements and/or strategies other than those discussed in this report that are of relevance to this particular case. We are not aware of any other circumstances that are relevant to the consideration of this development application.

6.0 Conclusion

The proposal comprises the demolition of the existing buildings and to construct a residential strata unit development comprising 16 units in a four level residential building with basement car park and associated landscaping at 1109 - 1111 Botany Road, Mascot.

The subject site comprises Lot A DP 432 899 being 1109 - 1111 Botany Road. The site has frontage to Botany Road and currently accommodates a series of single storey buildings previously used as a butchery which are of little architectural merit and do not fit with the form or street wall height characteristic of the Botany Road in this locality.

It is proposed to demolish the structures and construct an infill development with a streetwall to Botany Road which adopts the height, form and scale frontage of the adjoining sites which extend south to the intersection with King Street. The proposal responds sympathetically to the form and scale of this development by adopting the parapet height, awning, rhythm and pattern of punched openings within a predominately solid rendered masonry faced. The proposal provides for the upper level setback from the streetwall parapet consistent with the planning controls.

The proposed development comprises at total of 16 dwellings being 16 x 2 bed and parking for 18 cars at ground level with access from Botany Road. The proposal comprises two buildings, the first addressing Botany Road and the second centrally located on the site consistent with the pattern of development on the surrounding sites.

The proposal has generally been designed in accordance with Council's policies and planning instruments and will make a positive contribution to the locality by providing a podium level garden setting which enhances the character of the development and the amenity of the occupants. The proposal utilises a corner alignment to address the street. Where non-compliances with the controls have occurred they have been designed so as not to adversely impact the amenity of surrounding residents.

The proposal has been designed in accordance with Council's policies and planning instruments and will make a positive contribution to the neighbourhood business locality. The proposal also addresses the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979. It will deliver a suitable and appropriate development and is worthy of approval.

Statement of Environmental Effects prepared by:

Name: Andrew Darroch of Mersonn Pty Ltd
Qualification: BA (Enviro. Sc.) Master City and Regional
Planning Grad. Dip Urban Estate
Management MPIA, MEPLA, MPCA
Address: 6/20 Wylde Street, Potts Point

In respect of the following Development Application:

Land to be developed: 1109 - 1111 Botany Road, Mascot

Proposed development: Demolish the existing buildings and to
construct residential strata unit development
and basement parking.

Declaration: I declare that I have prepared this
Statement and to the best of my knowledge:

1. The Statement has been prepared in
accordance with Section 4.12 of the EP
& A Act and Clause 50 of the EP & A
Regulations.
2. The Statement contains all available
information that is relevant to the
environmental assessment of the
development to which this Statement
relates, and
3. That the information contained in the
Statement is neither false nor
misleading.



Signature:

Name: Andrew Darroch

Date: December 2018

06/12/2018

Sepp 65 Design Verification Statement:

Property	1109 - 1111 Botany Road, Mascot; NSW 2020
Development Description	It is proposed to demolish the existing buildings and to construct a residential strata unit development with 16 x 2 bed units. The development is separated in two east-west oriented buildings above parking for 21 cars, with communal open space provided on the roof., Mascot (Lot A, DP 432899).

Introduction:

This statement is provided pursuant to the requirements of Clause 50 of the Environmental Planning and Assessment Regulation 2000. It verifies that I, Alan Mhanna an architect registered under the Architects Act 2003, reviewed the building design subject to this statement (referred to as 1109 - 1111 Botany Road, Mascot) and that I am of the opinion that this building achieves the design quality principles of Part 2 of the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development.

Yours Sincerely

Alan Mhanna
Registered Architect; NSW
Registration Number: 7755
Mob. 0405376059



Principle	Comment
<p>Principle 1: Context and neighbourhood character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the Desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighborhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The site is located on the eastern side of Botany Road north of the intersection with King Street. The site has an area of 791m² and is regular in shape with a frontage to Botany Road in the west of 10.61m and a common eastern boundary of 9.95m. The site has a common northern boundary of 77.11m and a common southern boundary of 77.01m. The site comprises one allotments and is known as 1109 - 1111 Botany Road (Lot A, DP 432899). The land falls from west to east from RL7.95 on the Botany Road frontage to RL7.21 in the north-east (740mm).</p> <p>The existing character of Botany Road in the vicinity of the subject site contains a range of land uses including industrial related, residential and retail. Linear retail strips are situated along Botany Road and residential uses occupy the remaining parts of the Precinct. Botany Road has a variety of residential buildings, with dominant styles being one/two-storey dwellings. This housing stock is of three main styles – Victorian Georgian, Californian Bungalow and Post-war. A variety of materials have been used in the construction of these dwellings, including fibro, brick or a rendered finish. The proposed building is built in materials that reflect the masonry construction of the area. The proposed bulk reflects the intent of the local planning regulations and therefore is part of the future desired characteristics for the area.</p> <p>The proposed bulk reflects the intent of the local planning regulations and therefore is part of the future desired characteristics for the area. The proposed building provides for residential uses. It replaces existing residential units with a proposal that is designed to be neighborly as it fits into its immediate context of the desired future character of the area. It is conceived as a development that will integrate into the form of the precinct as a whole, and become a dynamic part of the urban texture of the locality.</p> <p>It will contains required street and boundaries setbacks and green areas to boundaries. The architectural design allows articulation of the building facades to Botany Road. The forms that articulate the façade are reflective of contemporary modern architecture. The building form is straightforward and reflect the residential usage of the building. The proposal activates the Botany Road frontage through the geometric form and different materials usage.</p>

Principle 2: Built form and scale	
<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The Proposal has been designed to respond to this principle. The Proposal is:</p> <ul style="list-style-type: none"> • Demolition of the existing buildings, outbuildings and structures; • Construction of a five level residential flat building above basement parking; • 16 x 2 bed units. • 21 x basement parking spaces accessed from Botany Road; • Communal open space (144m²); <p>The proposal comprises two buildings, the first addressing Botany Road and the second centrally located on the site consistent with the pattern of development on the surrounding sites.</p> <p>The proposal relates to the context in that building heights are commensurate with others in plan for the future of the area and other buildings in the vicinity; the architectural vocabulary draws from materials used in the area and the desired future character. The use of the building is permitted by Council's planning instruments and is similar to anticipated developments nearby. The proposed building is designed to be neighbourly as it fits into its immediate context of the desired future character of the area. It is conceived as a development that will integrate into the form of the precinct as a whole, and become a dynamic part of the urban texture of the locality. The apartments have both excellent natural ventilation and daylight access.</p> <p>Setbacks are demonstrated on floor plans and they satisfy the building separation requirement and reflects the building separation recommendations of the ADG.</p> <p>The subject site has a height control of 14m. The proposal has a height of 16.7m for the lift and stair providing access to the communal space. It is noted that the residential portion of the development is within the 14m height control area with the exception of a portion of the roof slab and lift overrun. A Clause 4.6 exemption is submitted with the application.</p>
Principle 3: Density	
<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The site is located approximately 8km south of the Sydney CBD and within Mascot local centre. The Botany Road is well serviced bus routes. There is a bus stop within 50m of the site on the intersection of the Botany Road and King Street. The site is located adjoining an area characterised by business and medium density development following Future planning guidelines.</p> <p>The subject site is located on the eastern side of Botany Road. The site has a western street frontage to Botany Road.</p>

	<p>The proposed development does not seek to intensify the development above that which is contemplated by the controls. The combined lots area is 791m². The proposal has a gross floor GFA area = 1,579.8m², which is 2:1</p>
Principle 4: Sustainability	<p>The orientation of the site and the configuration of the buildings allow for a high level of solar access during winter, with the ability to restrict access in summer using overhangs. The majority of the apartments in the development have a northern orientation.</p> <p>Apartment layouts have been designed to maximise solar access by way of off-setting walls to the front and rear boundaries, providing generous building separation</p> <p>93% of units to receive 2 hours of direct sunlight in winter to living rooms and private open spaces. 75% of units to be cross-ventilated & 100% of the apartments have cross ventilation by way of two or more aspects. The proposal is considered to adequately address the provisions of the SEPP 65 and satisfy the requirements. The proposed development is designed for optimal energy efficiency. The use of energy efficient appliances, fluorescent/ LED lighting throughout, and highly rated fixtures will assist in reducing the development's energy consumption. The efficient use of on-site water detention and retention will recycle this resource as part of an overall scheme to minimise the development requirements upon energy and natural resources. A BASIX report is attached as part of the DA. A BASIX assessment has been undertaken and is submitted with the DA. This statement confirms that the proposed development will comply with the requirements of BASIX. Low energy fixtures and fittings will be implemented, including the provision of alternative energy supply. Native and drought tolerant vegetation will be incorporated into the Landscape Plan. On-site water retention and detention to a rainwater tank will be incorporated into the development.</p>
Principle 5: Landscape	
<p>Good design recognizes that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighborhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which</p>	<p>The proposed landscaping for this project complies with the Landscaping requirements of the Council. The accompanying Landscape plan demonstrate this compliance with the objective of this DCP</p> <p>All controls of the landscaping clause have been respected in the proposed landscape plan.</p>

Principle 6: Amenity	
<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, and outlook, visual and acoustic</p>	<p>The new building optimizes residential amenity while maximizing the development potential of the site. The proposed development incorporates two-bedroom apartments. Adaptable units are provided in accordance with the applicable standards. Dual aspect and cross through units are maximized in order to provide the opportunity for cross ventilation. 93% of the units receive 2 hours of direct sunlight in mid-winter between 12pm and 4pm to the living areas. 75% of units to be cross-ventilated & 100% of the apartments have cross ventilation by way of two or more aspects.</p> <p>Landscape buffer zones, perimeter planting, and wall projections are proposed to address any overlooking onto the adjacent development. The landscape strategy provide more passive uses assist in reducing acoustic impacts. Visual and acoustic privacy is further achieved for the residential apartments by adhering to the ADG building separation guidelines. Access to the ground floor residential amenity has been designed to ensure that all people, regardless of physical ability, are able to access the site. All residential levels are serviced by a lift with direct access from the basement floor car parking levels. A garbage room is located on the street level of Botany Road with direct access for the residential garbage collection. Bicycle storage lockers are included in the basement for the use by the residents. All units have balconies, with full height sliding doors. All balconies have been designed to comply with the ADG minimum area and depth requirements. Likewise, all apartments have been designed to comply with ADG minimum apartment area and room dimensions. Operable windows & doors are located to all bedrooms, and gives the occupant the ability to alter their internal environment</p>
Principle 7: Safety	
<p>Good design optimizes safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through</p>	<p>The ground level has been designed to make visible and attractive entries to the building. The entries are well lit, naturally during the day from both the front and rear, and will have security surveillance and intercoms to identify visitors to the building complex. Access to car parking from Botany Road is secured by means of a roller shutter, which will be secured at all times. The typical apartments above have balconies along the entire perimeter that allow a level of casual surveillance of the surrounding public walkways. Direct access to the lift and stair from the carpark allows residents to drive and enter through a completely secured means. The ground floor expression, lighting and facade act to invigorate the pedestrian plane while maintaining a level of privacy to the residential lobby spaces. The</p>

	design aims to promote a safe and aesthetically pleasing pedestrian connection along all street frontages.
Principle 8: Housing diversity and social interaction	
<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposed building is designed to respond to the social context in which it is situated and to achieve a range of housing choice to suit a diverse demographic and needs of its future residents. The new residential proposal will contribute positively to the surrounding area, allowing an injection of new life into this urban transitional area, to align with the desired future character of the locality and the social needs of the development were considered carefully. The proposed 2-bedroom apartment types support a range of socioeconomic groups and attract a majority of owner/occupier and tenants. The design promotes social interaction between residents through its variety of communal outdoor space. These dynamic spaces are visually appealing but also encourages a place of social interaction by providing a range of activities and uses.</p>
Principle 9: Aesthetics	
<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The aesthetics of the proposed development are the result of a close consideration of its local context and the desire future character of the area. These elements were the foundation of the design which informed the nature and articulation of the built form of its bulk, scale, form and materiality. The main design feature of the building facade is the dynamic and changing facade that defines the horizontal and vertical flow of the building geometry. The facade creates a highly articulated expression worthy of a landmark building but also emphasizes the streetscapes for both Botany Road. Extrusions and geometric forms assist in breaking down the visual bulk and scale of the facade. Materiality and form has been designed to play upon light across the façades, wrapping around to the sides in order to create a holistic geometric design aesthetic. The forms that articulate the façade are reflective of modern contemporary architecture and reflect the residential usage of the building. The proposal activates the Botany frontage through the balconies and different materials usage. This changing articulation of the façade results in a dynamic exterior that catches the subtle changes of light in the concave extrusions from sunrise to sunset. The design provides for a building that both enhances the new streetscape and provides an iconic and recognizable addition to the Botany Road in Mascot.</p>

Bayside Local Planning Panel

9/07/2019

Item No	6.4
Application Type	Modification to an approved hotel development
Application No	DA-2018/319/A
Lodgement Date	15/05/2019
Property	10-12 Sarah Street, Mascot
Ward	Mascot
Owner	Pro-Invest Australian Hospitality Opportunity (ST) Pty Ltd
Applicant	Pro-Invest Australian Hospitality Opportunity (ST) Pty Ltd
Proposal	Section 4.55(1A) Application to modify Development Consent No. 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.
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

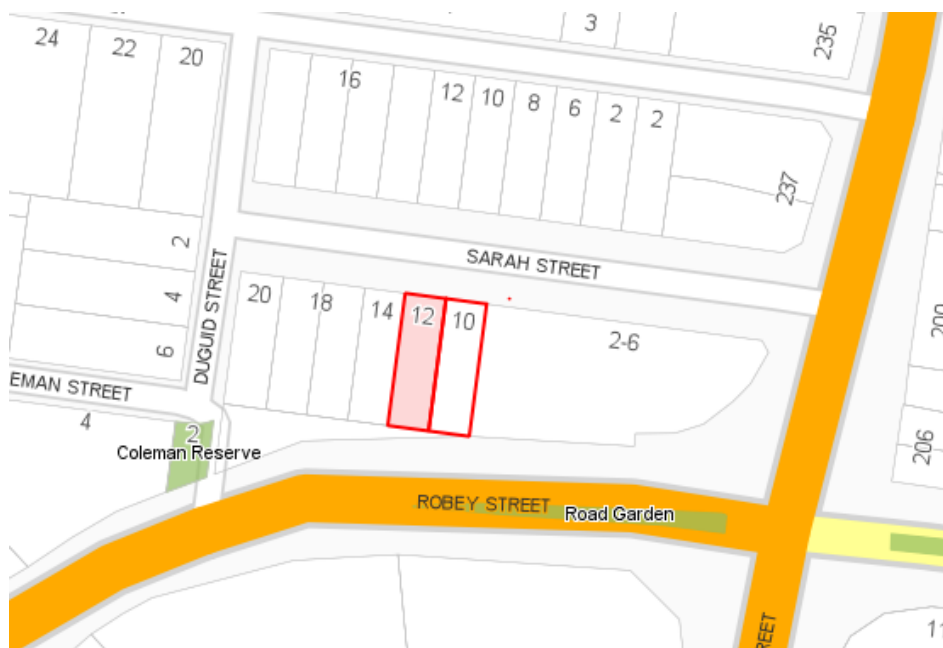
Officer Recommendation

- 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 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 be 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.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/319/A
Date of Receipt:	15 May 2019
Property:	10-12 Sarah Street, Mascot Lot 18 and 19 in DP 1248251
Owners:	Pro-Invest Australian Hospitality Opportunity (ST) Pty Ltd
Applicant:	Pro-Invest Australian Hospitality Opportunity (ST) Pty Ltd
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 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.
Recommendation:	Approval, subject to conditions of consent
Value:	N/A
No. of submissions:	Nil
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	17 June 2019

Key Issues

Bayside Council received Development Application No. 2018/319 was approved by the Bayside Local Planning Panel on 9 April 2019 for an addition to approved nine (9) storey hotel at 2-8 Sarah Street, comprising of 69 rooms, above ground parking and business identification signage at 10-12 Sarah Street, Mascot.

On 15 May 2019, the applicant lodged the subject Section 4.55(1A) Application to modify Development Consent No. 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.

The application was placed on public exhibition, in accordance with Part 2 – Notification and Advertising for a period of fourteen (14) days between 21 May to 5 June 2019. No submissions were received during the notification period.

There are no issues associated with the modifications proposed.

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

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 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 be 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.

Background

Site Description

The site is identified as 10-12 Sarah Street Mascot and comprises of two lots which are legally known as Lot 18 and 19 in DP 1339. The site is located on the southern side of Sarah Street between Duguid Street to the west and O'Riordan Street to the east. Robey Street bounds the rear of the site. The site has a site area of 545.4sqm and a street frontage along Sarah Street of 18.29 metres. The site is generally flat and access is provided off Sarah Street only.

The site is currently vacant land comprising of a concrete slab and limited vegetation. The site was previously occupied by a two storey commercial building by 'RSL cabs'. A triangular area of land directly to the south of the site, separating the site from Robey Street, is privately owned and does not form part of the site.

Sites surrounding the development include the Stamford Hotel and commercial building to its south, hotel development that is under construction and will form part of this development application, a two storey commercial building is contained on 14 Sarah Street. Directly across the street contains a number of commercial and light industrial buildings with one being a café/food production warehouse.

The site is in close proximity to Sydney Airport, Mascot Station and the Botany Goods Line. The site is affected by the 25-30 ANEF Contour.

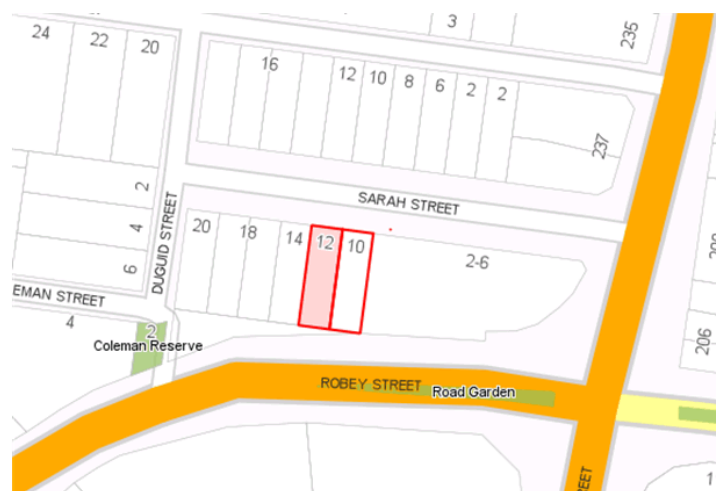


Figure 1. Locality Plan

Approved Development

The development application was approved by the Bayside Local Planning Panel on 9 April 2019 for the following:

- Demolition of the ground slab and removal of any trees on and adjacent to the site;
- Construction of a nine (9) storey hotel building comprising of 69 rooms above ground and first floor car parking for 32 car spaces. No basement level of external access proposed with access from 2-8 Sarah Street;
- Building name signage for the Holiday Inn Express Hotel (relocated sign from 2-8 Sarah Street); and
- Landscaping and associated works.

Functionally and operationally, the p+ building is an extension of the adjoining approved hotel. The proposed building on the subject site will not have any vehicle or pedestrian access, nor hotel service areas, significant plant rooms or mechanical equipment as these elements are provided for and approved on the adjoining 2-8 Sarah Street site. As such the proposed building will contain only additional car parking spaces and hotel room accommodation and will ultimately result in the operation of a single integrated hotel development across the two sites.

The approved site plan and elevations are as follows:

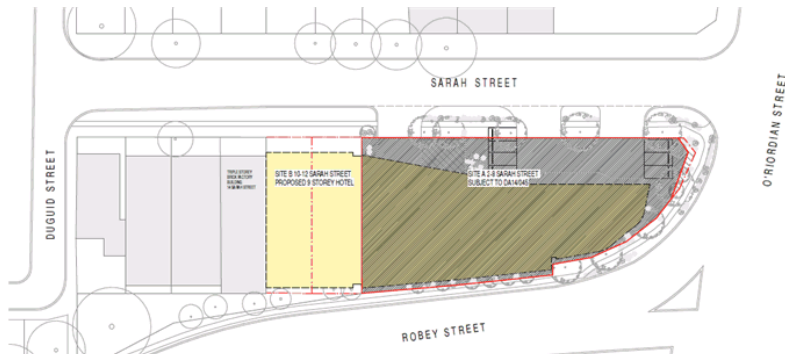


Figure 2. Proposed Site Plan (showing 2-8 Sarah Street hatched in grey)



Figure 3. Proposed Roof Plan (showing 2-8 Sarah Street hatched in grey)

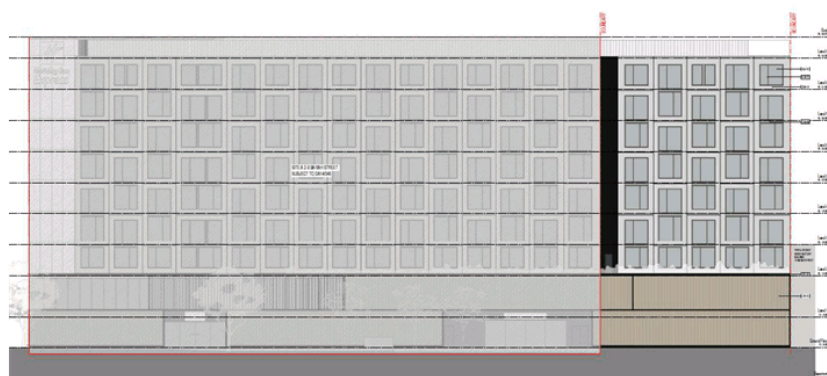


Figure 4. Proposed Northern Elevation (showing 2-8 Sarah Street hatched in grey)

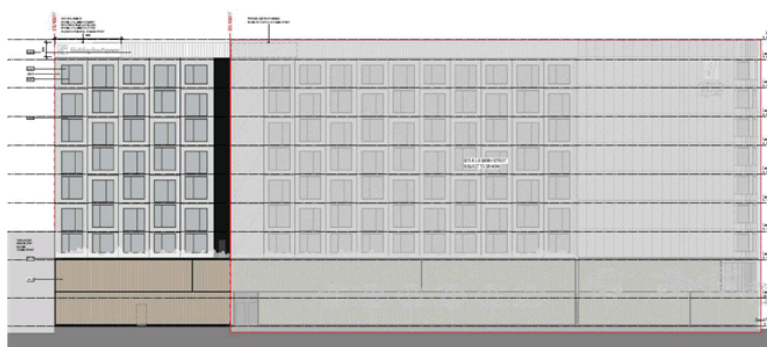


Figure 5. Proposed Southern Elevation (showing 2-8 Sarah Street hatched in grey)

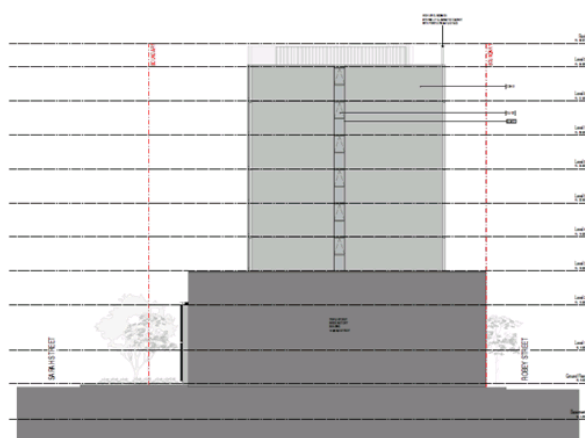


Figure 6. Proposed Western Elevation

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

The proposed modification subject to this application includes minor modifications to the location of the windows on each level on its western elevation in addition to changes to Condition Nos. 1, 55(b), 96 and 98.

Modification No. 1 – Modification of window locations along western elevation

The proposal seeks to amend the location of the windows at the end of the corridors on each floor along the western elevation. The proposed modification as approved and as proposed is demonstrated in the figure below:

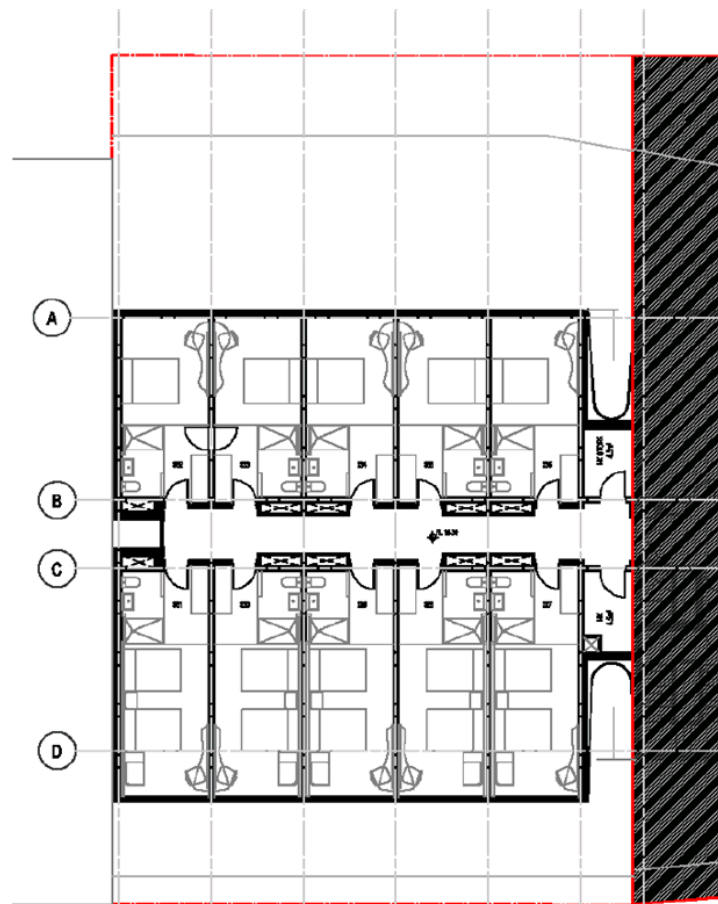


Figure 7. Approved hotel level showing location of window at the end of corridor on its western side

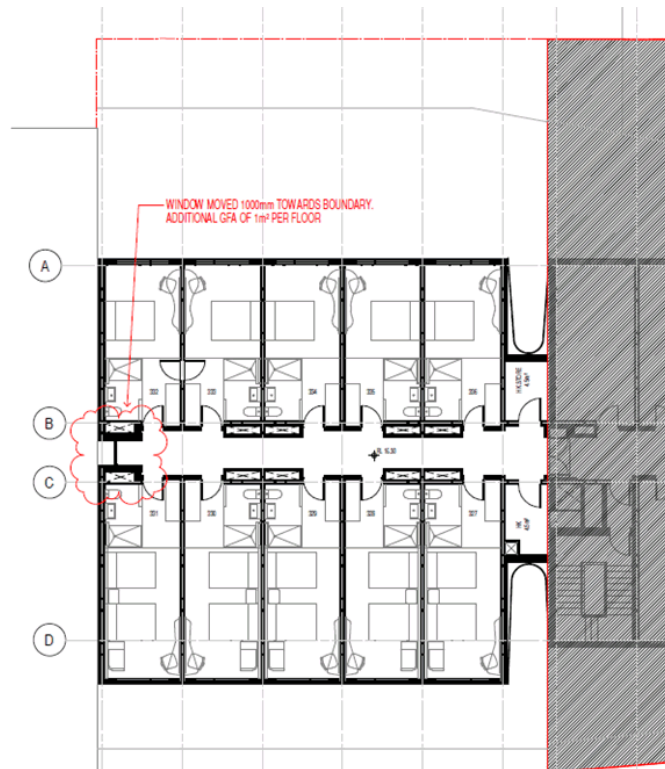


Figure 8. Proposed modification to location of window (indicative level)

The applicant provided the following justification to the modification of the proposal:

"The reason for this is that the service risers adjacent to the light well could not be easily accessed for maintenance particularly if another building is erected to the site boundary. SJB Architects advises that the slot window on the western side of 10-12 Sarah Street has been moved to enable constructability. This does not change its intended function as a light well to the internal corridor but rather enhances it by making a shallower slot for light to enter the guest levels of the hotel. The overall dimensions of the window remain the same as previously lodged. This change will result in an additional 1sqm of GFA per level which comes to 7sqm overall."

The proposed modification occurs on each floor and will result in an additional 1sqm of floor space per floor. Overall, the development will have a 7sqm increase in gross floor area for the development. The approved FSR/GFA for the site was 1,895sqm which is a FSR of 3.47:1. The additional GFA will result in a proposed GFA of 1,902sqm which is an FSR of 3.48:1. As the proposal is a modification, there is no requirement for a Clause 4.6 variation to be submitted with the application. Additionally, the amount of extra floor space is miniscule compared to the development and is spread equally per floor. Therefore the impact on the surrounding and neighbouring development will not be significant particularly as the portion which is impacted is within an articulation section of the building where the building protrudes further out to the boundary within this section. Therefore considering the above discussion and modified plans, the modification is supported.

Modification No. 2 – Modification to conditions

The proposed modification seeks to amend a number of conditions as part of the proposal. The conditions that are proposed to change and the reason for their amendment is as follows:

Condition No. 1

The condition relates to the approved plans and documents. The condition will be updated with the amended plans and documents accordingly.

Condition No. 55(b)

The applicant seeks to amend Condition No. 55(b) which relates to hours of construction works during all works. The condition is worded as follows:

“b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

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

Saturday: 08:00 am to 01:00 pm

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

The justification provided by the applicant is that the approved working hours for Saturday under this DA does not align with the approved hours under the development application at 2-8 Sarah Street which comprises of hours of 7am to 6pm on Monday to Friday, 7am to 4pm Saturday and with no works to be carried out on Sundays and Public Holidays. The applicant has stated that the construction of 10-12 Sarah Street will be rolled into the current 2-8 Sarah Street work program and construction will be undertaken simultaneously by the same builder, therefore it is necessary to amend the hours for 10-12 Sarah to align with the hours approved in 2-8 Sarah Street.

An assessment of the surrounding development and uses has found that there is no residential development surrounding the site that would be impacted by the longer hours of construction. Considering that the two sites form part of one development and that the buildings will be worked on concurrently, it is considered acceptable to amend the condition to be consistent with the approved hours of construction at 2-8 Sarah Street.

Therefore the condition will be amended as follows:

“b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

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

Saturday: ~~08:00 am to 01:00 pm~~ 7.00am to 4.00pm

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

Condition No. 96

The applicant seeks to delete Condition No. 96 which relates to the creation of service easements relating to stormwater. The condition is worded as follows:

"96. Prior to the issue of any Occupation Certificate, suitable service easements shall be created on the subject lots of the development at 2-8 Sarah Street benefiting 10-12 Sarah Street. A right of way easement(s) for vehicular access and an easement(s) to drain water for stormwater drainage shall be provided over the lots of 2-8 Sarah Street, benefiting the lots of 10-12 Sarah Street. The service easements are to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the Occupation Certificate."

The condition was originally imposed in both the consents of 2-8 Sarah Street (BDA-2014/45/A) and the original DA for 10-12 Sarah Street. At the Bayside Local Planning Panel meeting dated 9 April 2019, the Panel determined to remove the above condition from the 2-8 Sarah Street consent on the basis that the landowner intended to consolidate all existing lots within 2-8 Sarah Street and 10-12 Sarah Street into a single allotment prior to occupation. And this was conditioned in both consent to be carried out. In error, while the condition was removed from BDA-2014/45/A, it was not removed from the current consent therefore considering the above outcome and after discussions with Council's engineer, the removal of this condition is supported.

Condition No. 98

The applicant seeks to amend Condition No. 98 which relates to the timing of lot consolidation with 2-8 Sarah Street. The condition is worded as follows:

"98. Prior to the issue of any Occupation Certificate, the lots at 10-12 Sarah Street (Lots 18 and 19 DP 1248251) shall be consolidated into a single allotment together with 2-8 Sarah Street lots (Lot 1 DP 236339; Lot 2 DP 236339; Lot 3 DP236339; Lot 4 DP 236339; Lot 1 DP 262142; Lot 1 DP 1232424). Written notification as to the registration of such consolidation at NSW Land and Registry Services is to be submitted to Council."

The applicant seeks to amend the condition as their certifier has suggested to reword the condition to say 'Prior to the issued of a final occupation certificate' rather than 'any occupation certificate' to align with Condition No. 73A of the BDA-2014/45/A. The condition that is imposed within the 2-8 Sarah Street is worded as follows:

"73A Prior to the issue of a final Occupation Certificate, the lots at 2-8 Sarah Street (Lot 1 DP 236339; Lot 2 DP 236339; Lot 3 DP236339; Lot 4 DP 236339; Lot 1 DP 262142; Lot 1 DP 1232424) shall be consolidated into a single allotment together with the 10-12 Sarah Street lots (Lots 18 and 19 DP 1248251). Written notification as to the registration of such consolidation at NSW Land and Registry Services is to be submitted to Council. (BDA-2014/45/A)"

It is noted that there was an amendment to the EP&A Act 1979 in 2018 as part of broad reforms to the state planning laws which would remove all references to interim occupation certificates. This was to take effect from 1 September 2018. The Government has made the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 to push back the proposed changes under the EP&A Act with developers still able to obtain interim occupation certificates under the savings provisions until 1 September 2019. Regardless of this amendment, the proposal seeks to change the timing of the occupation to the final occupation certificate, or the occupation certificate should the amendments come into effect during the construction process. This is in line with the Governments provisions and allow for appropriate consolidation of the site to align with next door.

Based on the construction works for both sites being simultaneous and it is anticipated that the site will be consolidated at the same time, it is not unreasonable to amend the condition to reflect the final occupation certificate. Therefore the modification is supported.

Statutory Considerations

SECTION 4.55(1A) CONSIDERATIONS

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

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

The Section 4.55(1A) modification application relates to amendments 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, and as such, the modifications will result in minimal environmental impact as approved under DA-2018/1076 and then subsequently modified. It is considered that the proposed amendments are suitable in the context of the site and the locality.

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

The Section 4.55(1A) modification application relates to an approved hotel development which includes realignment of windows along the western façade and modifications to Condition Nos. 1, 55(b), 96 and 98. Therefore the modification application is substantially the same development to which consent was originally granted.

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

In accordance with Part 2 – Advertising and Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was notified for fourteen (14) days between 21 May to 5 June 2019.

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

No submissions were received during the notification period.

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 Panel proposed the following reasons for their determination:

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

Having reviewed the reasons for the decision by the Panel, and the majority of the changes relating to conditions of consent with minimal building changes to the approved built form, the proposal is considered substantially the same development and will not have any adverse impacts to neighbouring properties.

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

There is no change to the conclusions made under DA-2018/319 therefore the modification is supported.

State Environmental Planning Policy No. 64 – Advertising and Signage

There is no change to the conclusions made under DA-2018/319 therefore the modification is supported.

State Environmental Planning Policy (Infrastructure) 2007

There is no change to the conclusions made under DA-2018/319 therefore the modification is supported.

Botany Bay Local Environmental Plan 2013

The provisions of the Botany Bay Local Environmental Plan (BBLEP) 2013 have been considered in the assessment of the Modification 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 B5 – Business Development zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as a hotel development is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the B5 Business Development zone: <ul style="list-style-type: none"> To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of centres.
What is the height of the building? Does the height of the building comply with the maximum building height?	- N/A	A maximum height of 44 metres applies to the subject site. Approved max height: 29.97 metres (RL 36.37) The height of the building has not been modified as part of the proposal.
What is the proposed Floor Space Ratio? Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	- Acceptable	The maximum Floor Space Ratio requirement is 3:1 (1,636.23sqm). <u>Approved max GFA:</u> 1,895sqm <u>Approved max FSR:</u> 3.47:1 The modification will add an additional 7sqm of GFA to the development which will result in an overall GFA of 1,902sqm which results in an FSR of 3.48:1. There is no visual impact from the additional floor space. Refer to Modification No. 1 which goes into detail about the assessment of the proposal.

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Is the site within land marked "Area 3" on the Floor Space Ratio Map? If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A	The site is not located in an Area 3 zone.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not a heritage item, is not located within a heritage conservation area or is within the vicinity of a heritage item.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply– <ul style="list-style-type: none"> • 6.1 – Acid Sulfate Soils • 6.2 – Earthworks • 6.3 – Stormwater Management • 6.8 – Airspace Operations • 6.9 – Development in areas subject to aircraft noise • 6.16 – Design Excellence 	N/A	The proposed modification does not change the outcomes of DA-2018/319.

The development application has been considered against the BBLEP 2013 by which the proposal is considered satisfactory.

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

There are no relevant changes to the DCP controls as a result of the modification. However the modified proposal continues to be consistent with the approved development which took into consideration of the objectives and controls of the DCP and are continually applied.

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 hotel development which includes realignment of windows along the western façade and modifications to Condition Nos. 1, 55(b), 96 and 98 and as such, it is considered that the proposed amendment will have no significant adverse environmental, social or economic impacts on the locality. The proposed modifications will have no additional environmental impacts beyond those considered by Council during the assessment and determination of DA-2018/319.

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

The suitability of the site was addressed in the original approval of DA-2018/319.

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

In accordance with Part 2 – Advertising and Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was notified for fourteen (14) days between 21 May to 5 June 2019. No submissions were received during the notification period. No submissions were received as part of the notification period.

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

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

Conclusion

The Section 4.55(1A) Application seeking to modify Development Consent No. 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, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The proposal is substantially the same development as the proposed modifications will not impact on the use of the building, the change of the depth of the recessed window alignment with the light well will result in an indiscernible change to the building envelope and appearance and the minimal GFA increase will have no impact on the overall bulk and scale of the development.

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.

Attachment**Schedule 1 – Conditions of Consent**

Premises: 10-12 Sarah Street, Mascot

DA-2018/319/A

Conditions of ConsentGENERAL CONDITIONS

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

Drawing No.	Author	Dated/Received
DA-AR-0001- Cover- Rev 3	SJB Architects	Dated 16 November 2018; Received 23 November 2018
DA-AR-0102- Site Plan- Proposed- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0201- Plan- Basement- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0202- Plan Ground- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0203- Plan- Level 1- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0204- Plan- Level 2- Rev 3 4		Dated 16 November 2018; Received 23 November 2018 Dated 13 May 2019; Received 15 May 2019
DA-AR-0205- Plan- Level 3-7- Rev 3 4		Dated 16 November 2018; Received 23 November 2018 Dated 13 May 2019; Received 15 May 2019
DA-AR-0206- Plan- Level 8- Rev 2 3		Dated 16 November 2018; Received 23 November 2018 Dated 13 May 2019; Received 15 May 2019
DA-AR-0207- Plan- Roof- Rev 3 4		Dated 16 November 2018; Received 23 November 2018 Dated 13 May 2019; Received 15 May 2019

Drawing No.	Author	Dated/Received
DA-AR-0501- Elevation-North- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0502- Elevations-South- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0503- Elevations-East- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0504- Elevations-West- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-0601- Sections-Typical- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-2012- Additional Drawings- GFA- Rev 3		Dated 16 November 2018; Received 23 November 2018
DA-AR-2540- Finishes Schedule- Rev 3		Dated 16 November 2018; Received 23 November 2018
LD-DA001- Materials Finishes- Rev 1	Scott Carver	Dated 24 January 2019; Received 1 March 2019
LD-DA002- Planting Palette- Rev 2		Dated 24 January 2019; Received 1 March 2019
LD-DA003- Planting Schedule- Rev 2		Dated 24 January 2019; Received 1 March 2019
L-DA102- Ground Floor Landscape General Arrangement- Rev 2		Dated 24 January 2019; Received 1 March 2019
LD-DA111- Level 2 Landscape General Arrangement- Rev 1		Dated 24 January 2019; Received 1 March 2019

(DA-2018/319/A)

Reference Document(s)	Author	Dated/Received
Acid Sulfate Soil Management Plan	Douglas Partners	Dated 20 November 2018; Received 23 November 2018
Addendum Package and Additional Information	Urbis	Dated 20 February 2019; Received 1 March 2019
Arborist Report	The Ents Tree Consultancy	Dated 17 September 2018; Received 23 November 2018
BCA Capability Statement	Blackett, Maguire and Goldsmith	Dated 16 November 2018; Received 23 November 2018
Certificate of Design-Stormwater Management	Wood and Grieve Engineers	Received 23 November 2018

Reference Document(s)	Author	Dated/Received
Civil Engineering Works- CI-000-10, CI-050-10, CI-070-10, CI-076-10, CI-500-10, CI-520-10 and CI-526-10	Wood and Grieve Engineers	Dated 16 November 2018; Received 23 November 2018
Clause 4.6 variation request- Botany Bay LEP 2013- Clause 4.4 Floor Space Ratio	Urbis	Dated 21 November 2018; Received 23 November 2018
Construction Management	HLEX Hotel Mascot	Dated 14 November 2018; Received 23 November 2018
Design Verification Statement	SJB Architects	Dated 13 November 2018; Received 23 November 2018
Detailed Site (Contamination) Investigation	Douglas Partners	Dated February 2019; Received 1 March 2019
Environmental Sustainable Design Report	Cundall	Dated 15 November 2018; Received 23 November 2018
Geotechnical Desktop Study	Douglas Partners	Dated 19 November 2018; Received 23 November 2018
GFA Statement	SDG Land Development Solutions	Dated 19 November 2018; Received 23 November 2018
Noise Impact Assessment Report	WSP	Dated 21 November 2018; Received 23 November 2018
Operational Waste Management Plan	Foresight Environmental	Dated 15 November 2018; Received 23 November 2018
Plan of Management	-	Dated October 2018; Received 23 November 2018
Preliminary Site Investigation	Douglas Partners	Dated October 2018; Received 23 November 2018
QS Report	WT Partnership	Dated 18 September 2018; Received 23 November 2018
Qualitative Environmental Wind Assessment	SLR	Dated 19 November 2018; Received 23 November 2018
Statement of Environmental Effects	Urbis	Dated 22 November 2018; Received 23 November 2018
Stormwater Management Plan	Wood and Grieves Engineers	Dated 16 November 2018; Received 23 November 2018
Survey Plan	SDG Land Development Solutions	Dated 31 August 2018; Received 23 November 2018

Reference Document(s)	Author	Dated/Received
Traffic Impact Assessment	Ason Group	Dated 16 November 2018; Received 23 November 2018
Wind Turbulence Report	SLR	Dated 19 November 2018; Received 23 November 2018

2. This Consent relates to land in Lot 18 and 19 in DP 1339, 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 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. If they are located on balconies or in public, they are to be appropriately screened;
 - d) The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) – Design for Access and Mobility – Part 1 General Requirements for Access – Buildings. This requirement shall be reflected on the Construction Certificate plans.
4. 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.
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.

6. The development is approved as an addition to the approved hotel development at 2-8 Sarah Street under DA-2014/45 and any subsequent modification applications. All vehicle access and waste collection is to be carried out from the adjoining site.
7. No signage, other than signage shown on approved plans or signage permitted as exempt or complying development, shall be installed or displayed at the premises without a development application being lodged with Council and consent thereto being given by Council in accordance with Council's guidelines and SEPP No. 64.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

8. The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
 - a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
 - b) The application sought approval for the PROPERTY DEVELOPMENT to a height of 36.5 metres Australian Height Datum (AHD).
 - c) In his capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, Peter Bleasdale has no objection to the erection of this development to a maximum height of 36.5 metres AHD.
 - d) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
 - e) Should you wish to exceed this height a new application must be submitted.
 - f) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - g) Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
 - h) Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.
 - i) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).
 - j) The height of the prescribed airspace at this location is 51 metres above AHD.
 - k) Planning for Aircraft Noise and Public Safety Zones
 - l) Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land

uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF).

- m) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

9. The following conditions are imposed by **Sydney Water** as follows:

- a) The approved plans must be submitted to the 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.
- b) The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.
- c) The [Tap in™](#) service provides 24/7 access to a range of services, including:
 - i) building plan approvals
 - ii) connection and disconnection approvals
 - iii) diagrams
 - iv) trade waste approvals
 - v) pressure information
 - vi) water meter installations
 - vii) pressure boosting and pump approvals
 - viii) changes to an existing service or asset, e.g. relocating or moving an asset.
- d) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

10. The following comments are imposed by **NSW Police** as follows:

- a) The building site should be secured with durable fencing at all times whilst construction is taking place, to prevent theft and malicious damages and to deter undesirable persons from entering the site.
- b) CCTV and adequate lighting shall be installed and operational around the perimeter of the construction during construction phase and to be permanently fixed once building is completed.

- c) CCTV and adequate lighting to also be installed in above ground parking spaces and at entry and exit points.

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

11. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
12. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
13. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993:
- (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit 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.
14. All contractors shall comply with the following during all stages of demolition and construction:
- a) 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.
 - b) 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.
 - c) 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.
 - d) 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.
 - e) 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.
15. A Soil and Water Management Plan shall be prepared in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organization of Councils. A copy of the plan must be submitted to Council. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.
16. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

17. 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.
18. Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction. The controls are to be designed and installed in accordance with the Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Regional Organisation of Council. Copies of the guidelines are available from Council.
19. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
20. Should any hazardous materials be identified a Work Management Plan completed in accordance with AS2601 – Demolition of Buildings shall be submitted to the Principal Certifying Authority prior to the any excavation for the building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
21. Hazardous or intractable 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 and Climate Change and Water and with the provisions of:
 - a) New South Wales Occupational Health and Safety Act, 2000;
 - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
 - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
 - d) Protection Of the Environment Operations Act 1997 (NSW); and
 - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).

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

22. 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.
23. The applicant must prior to the release of the Construction Certificate, pay the following fees:
 - a) Development Control Fee \$3,081.00
 - b) Footpath Crossing deposit \$7,809.83 (see below)

- c) Street Tree Maintenance Bond \$3,000.00 (see below)
24. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing deposit of **\$7,809.83** (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.
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 and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
26. A Construction Management Program shall be submitted to, and approved by the Private Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,

- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

27. A detailed Traffic Management Plan for the pedestrian and traffic management of the site, Botany Road and King Street during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:

- a) be prepared by a RMS accredited consultant,
- b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

28. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifier.
- a) All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS/NZS 2890.1:2004 and Council requirements.
 - b) All accessible parking spaces shall comply with AS/NZS2890.6:2009,
 - c) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
29. Prior to the release of the Construction Certificate, details shall be submitted to the Principal Certifying Authority on the proposed method of any exhaust ventilation from the car park. The exhaust ventilation needs to be ventilated away from the property boundaries of the adjoining buildings, and in accordance with the provisions of AS1668.1 and AS1668.2.
30. 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.

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

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

32. Prior to the issue of any Construction Certificate, an application for 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.
33. Prior to the issue of a Construction Certificate, a public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
34. Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
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:
 - a. The additional load on the system; and
 - b. The relocation and/or adjustment of the services affected by the construction.

- c) As part of this development, the Ausgrid power and lighting poles along Sarah Street and Robey Street will need to be decommissioned and new underground and above ground infrastructure shall be provided as specified by Ausgrid and any other affected service provider. The location of the new electrical pillars and new lighting poles shall be confirmed with Council prior to the issue of the Construction Certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

- 37. Prior to the issue of any Construction Certificate, detailed design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's 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 but not be limited to the following:

- a) Provision of an On-site Infiltration system for the entire facility designed in accordance with but not limited to Part 5 of the SMTG. A part infiltration, part OSD system may be considered in exceptional circumstances when it can be demonstrated to Council that all other options to regulate the discharge from the site have been exhausted,
- b) Infiltration rates shall be determined by a suitably qualified geotechnical engineer and shall be part of the geotechnical report submitted to Council or alternatively the rate of 0.25L/m2/s shall be used,
- c) The 10kL rainwater tank shall be connected for internal reuse for the entire development in accordance with Section 4 of Botany Bay's SMTG,
- d) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- e) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- f) Any proposed discharge to Council and/or RMS Kerb and Gutter shall be limited to 10L/s. If a higher rate is proposed, a connection shall be made to RMS/Council's underground stormwater drainage system. Any connection to a Sydney Water or RMS stormwater system will require specific approval from the relevant organisation, and
- g) The submission of detailed calculations including computer modelling to support the proposal.

Design Certification, in the form specified in Botany DCP Part 10 Stormwater Management Technical Guidelines page 6 part (i), must be submitted with the detailed plans.

- 38. Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:

- 1) identify each item of plant and equipment;
- 2) the following additional criteria adopted by City of Botany Bay Council:
 - 1) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
 - 2) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.
 - 3) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds L_{Aeq} 65dB(A) day time/night time.
 - 4) For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

39. 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.
40. Prior to the issue of any Construction Certificate, the Development is to be constructed to meet all recommendations and requirements that have been detailed in the acoustic report provided by WSP dated 21 November 2018. The measures as detailed in the acoustic assessment report prepared by WSP, 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.

The work detailed in the report includes:

- a) The roof/ceiling must be constructed as per Table 3 of the report,
- b) All external walls need to be constructed as per Table 4 of the report,
- c) Glazing to all windows and glazed door systems are to be as per Table 5 of the report.

- d) Acoustically treated mechanical ventilation must be provided to this premise for it to comply with current guidelines.

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).

41. Prior to the issue of a Construction Certificate, the applicant is to submit payment for a Street Tree Maintenance Bond of \$3,000. The duration of the Bond shall be limited to a period of 12 months after planting of the new street trees. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the tree by Council. If the 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.
42. The landscape areas shown on the landscape plans prepared by Scott Carver and dated 24 January 2019 shall be the subject of detailed landscape construction documentation (plans and specifications) that are to be submitted to and approved by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape Technical Specifications. The detailed (construction level) plan shall include, but not be limited to:
 - (a) Landscape setback proposed along Sarah Street shall provide a mixed planting of low shrubs and groundcovers and canopy trees. Shrubs and groundcovers shall have a maximum mature height of 900mm and canopy over shall be supplied with four (4) to five (5) Australian native canopy trees with 1.5 metre clear trunk. The trees are to be a minimum mature height of eight (8) metres.
 - (b) All trees shall be planted in advance form, with a minimum pot size of 100 Litres.
 - (c) A site plan showing building envelopes, paved areas and areas to be landscaped.
 - (d) A planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense 3-tier planting of trees, shrubs and groundcovers in all landscaped areas.
 - (e) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
 - (f) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
 - (g) Areas of paving, schedule of materials, edge treatments and sectional construction details.
 - (h) All fencing, privacy screening and pergolas – elevations and materials.
 - (i) Details of other landscape elements such as furniture, pedestrian lighting, sculpture and water features. Provide sectional construction details and elevations.
 - (j) Planter box on slab sectional details. Planter box depths to be in accordance with Council's Landscape DCP.
 - (k) Trees shall be used extensively throughout the site – particularly in the setbacks. Trees must be of an appropriate scale to complement and scale with the building form and to pedestrianize landscaped open spaces. Trees to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration. Additional trees shall be provided along the setback at the corner of Robey St & O'Riordan Street.

- (l) Show the location of electrical kiosks and fire booster valves. Comply with conditions relating to their location and treatment.

DURING WORKS

- 43. If the work involved in the construction of a building:
 - a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
 - b) involves the enclosure of a public place:
 - i) a hoarding or fence must be erected between the work site and the public place.
 - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
- 44. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
- 45. During demolition and construction works, the applicant/builder is required to ensure the protection and preservation of all boundary fencing or boundary walls between the subject site and adjoining properties. Any damage caused as a result of such works will be at the full cost of the applicant/builder.
- 46. 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) Inspections of the Sarah Street road reserve prior and during the construction of the new road pavement,
 - e) Final inspection of driveway layback and adjacent kerb and gutter,
 - f) Final inspection of Council's kerb and gutter,
 - g) Final inspection of Council's footpath,

- h) Final Inspection of new road pavement on Sarah Street.
- 47. 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.
- 48. 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.
- 49. 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.
- 50. 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.
- 51. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 52. 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.
- 53.
 - a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
 - b) 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 Council prior to the issue of an Occupation Certificate.
- 54. Vibration levels induced by the demolition activities must not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
- 55. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.
 - a) **Level Restrictions**

Construction period of 4 weeks and under:

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

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

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

b) **Time Restrictions**

Construction/demolition work shall be limited to the following hours:

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

Saturday: ~~08:00 am to 01:00 pm~~ 7.00am to 4.00pm

No Construction to take place on Sundays or Public Holidays.

(DA-2018/319/A)

c) **Silencing**

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

56. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

b) Each toilet provided:

i) must be standard flushing toilet; and,

ii) must be connected:

1 to a public sewer; or

2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

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

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

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

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Construction Zone signs by the RTA.

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

58. 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.
59. 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.
60. 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.
61. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
62. 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;
 - (b) Protection of the Environment Operations Act 1997; and
 - (c) Protection of the Environment Operations (Waste) Regulation 2005.
63. 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.
64. During excavation, construction and any associated deliveries activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road related areas, Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
65. The following shall be complied with at all times:
 - a) The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department;
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations, which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;

- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (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; and
 - e) Shaker pads shall to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
66. 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.
- 67.
- a) The Applicant is required to obtain a Council inspection of new trees prior to the planting to ensure plant stock is suitable and post planting prior to the maintenance period commencing.
 - b) A rigid polyethylene sheet type tree root barriers shall be installed alongside the kerb and footpath edge for all new street trees for a depth of 900mm, for 3 metres each side of the tree centre and shall be located 1500mm inward of the footpath and kerb edge, or any other built element. Root deflectors/directors surrounding the rootball are not permissible. The Applicant is required to contact Council's Landscape Architect for an inspection of root barriers located within the public domain prior to backfilling and turfing.
68. 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 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.
- (e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
69. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- (a) Must preserve and protect the building/ fence from damage; and,
- (b) If necessary, underpin and support such building in an approved manner;
- (c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
- (d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- (e) If the soil conditions required it:
- (i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
- (ii) Adequate provision must be made for drainage.
70. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
71. 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.
72. The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principal contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles;
- b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas;
- c) Maintenance of equipment and plant to minimise vehicle exhaust emissions;
- d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources;
- e) All loads entering or leaving the site are to be covered;

- f) The use of water sprays to maintain dust suppression;
 - g) Keeping excavated surfaces moist.
73. 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.
74. 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.
75. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.
76. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
- All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
77. 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.

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

78. Prior to the issue of the Occupation Certificate:
- a) Replace all the existing above ground electricity and telecommunication cables to underground cables that adjoin the site and road reserve area fronting both Sarah Street and Robey Street in accordance with the guidelines and requirements of the relevant utility authorities and Ausgrid. The applicant shall bear all the cost of the construction and installation of the below ground cables and any necessary adjustment works. These works and payments shall be completed prior to the issue of the Occupation Certificate; and
 - b) Provide appropriate and suitable street lighting to a high decorative standard to both street frontages of the site together with those internally publicly accessible paths, spaces and corridors, so to provide safety and illumination for residents of the development and pedestrians in the area. All street lighting shall comply with relevant electricity authority guidelines and requirements.
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. 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.
81. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Botany Bay Stormwater Management Technical Guidelines. The certificate shall be in the form specified in Botany Bay Stormwater Management Technical Guidelines 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 (including the works on the adjacent development). A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority and Bayside Council.
82. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
83. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
 - a) On Sarah St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
 - b) On Sarah St, adjacent to development, demolish existing concrete footpath and construct new paved footpath as per Council's Infrastructure and Landscape Architect specifications,
84. 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.
85. Prior to the issue of the Occupation Certificate the Workplace travel Plan needs to be updated to address its implementation strategy and success measures.
86. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustical assessment report prepared by Acoustic Logic Consultancy Pty Ltd, updated and received by Council 17 April 2014 have been carried out and certify that the construction meets AS2021-2000 and AS3671-1989 and specified indoor sound levels. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
87. Prior to the issue of the Occupation Certificate, documentation from a suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the loading dock, pick-up/drop-off zone, car parking areas (including queuing area, turning area and disabled parking area), driveways and vehicular access paths have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. The internal parking facilities shall

be clearly designated, sign posted and line marked. Signage and line marking shall comply with the current Australian Standards.

88. Prior to the issue of the Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
89. Prior to the issue of the Occupation Certificate the applicant is responsible for the installation and protection of all regulatory/parking/street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant.
90. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
91. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
92. The landscaped areas on the property shall be installed in accordance with the Council approved landscape documentation, the conditions of development approval and Council's BBDCP at all times. 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 Council prior to the Issue of an Occupation Certificate.
93.
 - a) A notice of requirement shall be obtained from the Water Board;
 - b) A Certificate under Section 73 of the Water Board (Corporation) Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.
94. 32 off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction.
95. At the completion of landscaping on the site and public domain areas, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the Council prior to the Issue of an Occupation Certificate and to address the following:

- a) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
 - b) If required, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to their installation.
 - c) New street trees shall be maintained by the Owner for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
 - d) Upgrade the public domain by the reconstruction of half the road pavement, kerb and gutter, footpath, drainage system, street trees, landscaping and any associated works for the street frontage Robey Street and Sarah Street and of the site, at the applicant's expense. All improvements shall be in accordance with specifications and requirements from Council's landscape and engineering sections, the approved civil works construction plans and landscape plans, and Condition 27 of this Consent.
96. ~~Prior to the issue of any Occupation Certificate, suitable service easements shall be created on the subject lots of the development at 2-8 Sarah Street benefiting 10-12 Sarah Street. A right of way easement(s) for vehicular access and an easement(s) to drain water for stormwater drainage shall be provided over the lots of 2-8 Sarah Street, benefiting the lots of 10-12 Sarah Street. The service easements are to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the Occupation Certificate. (DA-2018/319/A)~~
97. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.
98. Prior to the issue of **a final any** Occupation Certificate, the lots at 10-12 Sarah Street (Lots 18 and 19 DP 1248251) shall be consolidated into a single allotment together with 2-8 Sarah Street lots (Lot 1 DP 236339; Lot 2 DP 236339; Lot 3 DP 236339; Lot 4 DP 236339; Lot 1 DP 262142; Lot 1 DP 1232424). Written notification as to the registration of such consolidation at NSW Land and Registry Services is to be submitted to Council. **(DA-2018/319/A)**

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

99. The operations of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
100. The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and shall be controlled in accordance with the requirements of this Act.
- 101.
- (a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA₉₀ level (in the absence of the noise under consideration).
 - (b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - (c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - (d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
102. 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.
103. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
104. The hotel development shall at all times be operated in accordance with the approved Plan of Management submitted to Council on Received 23 November 2018.
105. A shuttle bus required to service the Hotel must be provided to transport occupants to and from the development site to the Sydney Airport. Should the shuttle bus no longer be provided, for whatever reason a separate development application shall be submitted to Council to provide an alternative travel and parking arrangement for the use.
- 106.
- a) The approved Waste Management Plan for the site prepared by Foresight Environmental shall be complied with at all times during demolition works, construction works, and use of the premises; and
 - b) The building owner shall be provided with at least one copy of the waste management plan. The approved Waste Management Plan shall be complied with at all times.

107. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The Owners Corporation or building owner shall be responsible for the following:
- a) Where waste and recycling containers need to be moved to the street;
 - b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the on site waste storage area;
 - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
 - d) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers;
 - e) **Providing and maintaining signage and information to uses to encourage recycling;**
 - f) No waste or waste containers shall be placed on the public way (including: footpaths, roadways, and reserves) at any time.
108. The operation of the development and movements of vehicles shall comply with the following requirements:
- a) The largest size of vehicle accessing the development shall be restricted to MRV;
 - b) Garbage collection and loading and unloading activities associated with the delivery shall take place wholly within the loading dock;
 - c) Qualified traffic controllers shall be present when the delivery/service vehicle reverses to the loading dock;
 - d) No deliveries to the premises shall be made direct from a public places, public streets or any road related areas (eg. footpath, nature strip, road shoulder, road reserve etc);
 - e) Vehicular manoeuvring area shall be kept clear at all times. All vehicles shall be parked in the marked parking bays;
 - f) Maximum number of delivery vehicles on-site shall be limited to one (1).
- 109.
- a) The operations of the site must at all times fully comply with the requirements of the approved Plan of Management for the site; and
 - b) At all times the approved Workplace Travel Plan shall be fully complied with.
110. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.



**ANGEL PLACE
LEVEL 8, 123 PITT STREET
SYDNEY NSW 2000**

URBIS.COM.AU
Urbis Pty Ltd
ABN 50 105 256 228

14 May 2019

Ms Angela Laziridis
Senior Development Assessment Planner
Bayside Council
444-446 Princes Highway, Rockdale NSW 2216

Dear Angela,

SECTION 4.55(1A) MODIFICATION APPLICATION - DA-2018/319 - 10-12 SARAH STREET, MASCOT

1. INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared on behalf of Pro-invest (the owner and applicant) in support of a Section 4.55(1A) modification application to DA-2018/319 relating to 10-12 Sarah Street Mascot. The approved DA relates to an addition to an approved nine (9) storey hotel on the adjoining site at 2-8 Sarah Street. The approved DA comprises of 69 rooms, above ground car parking and business identification signage.

The modification application seeks to modify conditions of consent and to realign the recessed slot window on the western façade (to the light well) by moving it approx. 1m closer to the wester facade alignment. This change will have a minor and indiscernible impact on the approved built form.

This application has been prepared in accordance with Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act). Pursuant to section 4.55(1A) of the EP&A Act, the proposal, as modified will generate minimal environmental impact and will result in substantially the same development as development for which the consent was originally granted.

2. SITE DETAILS

This application relates to 10-12 Sarah Street, Mascot. The site is rectangular in shape and is made up of the following legally described lots:

- Lot 18 in Deposited Plan 1339: 272.7sqm
- Lot 19 in Deposited Plan 1339: 272.7sqm

The site is approximately 545.4 sqm in area, with a dual frontage of 18.29 metres to Sarah Street and Roby Street.

The site is in a prominent location near to Sydney Airport and has excellent access to a variety of public transport options, making it an ideal location for hotel development. The site is located approximately 8 kilometres south of Sydney CBD and is proximate to Sydney Domestic Airport (200m to the south), Sydney International Airport (2km to the west), Mascot Train Station (800m to the north) and Botany Road (750m to the east). **Figure 1** provides a location map of the site.

10-12 Sarah St_Modification Application SEE



Figure 1 – Aerial photograph of the site



Source: SIX Maps

The site is currently vacant land comprising of a ground level concrete slab and is largely devoid of vegetation, except for two palm trees which have been approved for removal. Public pedestrian footpaths run along Sarah Street and Roby Street frontages. The site has two existing concrete driveways providing access from Sarah Street.

3. OVERVIEW OF DA-2018/319

DA 2018/319 involved an addition (that is, an extension) to the adjoining approved hotel at 2-8 Sarah Street, onto the subject site at 10-12 Sarah Street. The approved application comprised of the following:

- Demolition of ground slabs and removal of trees on and adjacent to site;
- Construction of a nine (9) storey building comprising 69 rooms above ground and first floor car parking for 32 cars;
- No basement level or external access proposed, with 16 spaces on each of ground and first floor being accessed from 2-8 Sarah Street;
- Level 2 to 9 to contain 69 hotel rooms, accessed from to 2-8 Sarah Street;
- Building name signage for the Holiday Inn Express hotel (relocated sign from 2-8 Sarah Street); and
- Landscaping and associated site works.

Functionally and operationally, the development is an extension of the adjoining approved hotel. The approved building on the subject site will not have any vehicle or pedestrian access, nor hotel service areas, significant plant rooms or mechanical equipment as these elements are provided for and approved on the adjoining 2-8 Sarah Street site. The approved building contains only additional car parking spaces and hotel room accommodation and results in the operation of a single integrated hotel development across the two sites.



A further minor modification application (a S4.55(1A)) was also lodged to amend the 2-8 Sarah Street (BDA-2014/45/A) consent, to permit the integration of the proposed addition at 10-12 Sarah Street. This was lodged, assessed and approved concurrently with the DA 2018/319.

The DA was approved by the Bayside Local Planning Panel and the consent is dated 9 April 2019.

4. PROPOSED MODIFICATION

4.1. PROPOSED DESIGN MODIFICATION

This Section 4.55(1A) application proposes to realign the recessed slot window (light well) at the end of the corridor at the western façade. The reason for this is that the service risers adjacent to the light well could not be easily accessed for maintenance particularly if another building is erected to the site boundary. SJB Architects advises as follows:

The slot window on the western side of 10-12 Sarah Street has been moved to enable constructability. This does not change its intended function as a light well to the internal corridor but rather enhances it by making a shallower slot for light to enter the guest levels of the hotel. The overall dimensions of the window remain the same as previously lodged. This change will result in an additional 1m² of GFA per level which comes to 7m² overall.

4.2. PROPOSED MODIFICATION TO CONDITIONS

This Section 4.55(1A) application proposes to modify conditions 1, 55, 96 and 98. **Table 1** gives an overview of the conditions relevant to D-2018/319 which require modification:

Table 1 – Overview of proposed modifications to conditions

DA-2018/319 - 10-12 Sarah Street Condition	Issue / Justification	Proposed
1. Approved documentation DA-AR-0204- Plan- Level 2- Rev 3 Dated 16 November 2018; Received 23 November 2018 DA-AR-0205- Plan- Level 3-7- Rev 3 Dated 16 November 2018; Received 23 November 2018 DA-AR-0206- Plan- Level 8- Rev 2 Dated 16 November 2018; Received 23 November 2018 DA-AR-0207- Plan- Roof- Rev 3 Dated 16 November 2018; Received 23 November 2018	As outlined in Section 4.1, four plans require update to reflect the realigned window location on levels 2 to 8. The roof plan is also impacted.	Condition 1 DA-AR-0204- Plan- Level 2- Rev 4 Dated 13 May 2019 ; Received [TBC] DA-AR-0205- Plan- Level 3-7- Rev 4 Dated 13 May 2019 ; Received [TBC] DA-AR-0206- Plan- Level 8- Rev 3 Dated 13 May 2019 ; Received [TBC] DA-AR-0207- Plan- Roof- Rev 4 Dated 13 May 2019 ; Received [TBC]



DA-2018/319 - 10-12 Sarah Street Condition	Issue / Justification	Proposed
<p>55. Approved working hours</p> <p>55 (b) Time Restrictions</p> <p>Construction/demolition work shall be limited to the following hours:</p> <p>Monday to Friday: 07:00 am to 06:00 pm</p> <p>Saturday: 08:00 am to 01:00 pm</p> <p>No Construction to take place on Sundays or Public Holidays.</p>	<p>The approved working hours for Saturday do not align with the approved hours for the 2-8 Sarah Street site, which are as set out below.</p> <p><i>32 (d) Time Restrictions</i></p> <p><i>(i) Monday to Friday 07:00 am to 06:00 pm</i></p> <p><i>(ii) Saturday 07:00 am to 04:00 pm</i></p> <p><i>(iii) No Construction to take place on Sundays or Public Holidays.</i></p> <p>Because the construction of 10-12 will be rolled into the current 2-8 Sarah St work program and construction will be undertaken simultaneously by the same builder, it is necessary to amend the hours for 10-12 Sarah Street to align.</p>	<p>Condition 55</p> <p>(b) Time Restrictions</p> <p>Construction/demolition work shall be limited to the following hours:</p> <p>Monday to Friday: 07:00 am to 06:00 pm</p> <p>Saturday: 08:00 am to 01:00 pm 07:00 am to 04:00 pm</p> <p>No Construction to take place on Sundays or Public Holidays..</p>
<p>96. Service Easements</p> <p>96 Prior to the issue of any Occupation Certificate, suitable service easements shall be created on the subject lots of the development at 2-8 Sarah Street benefiting 10-12 Sarah Street. A right of way easement(s) for vehicular access and an easement(s) to drain water for stormwater drainage shall be provided over the lots of 2-8 Sarah Street, benefiting the lots of 10-12 Sarah Street. The service easements are to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the Occupation Certificate.</p>	<p>This condition should have been deleted and replaced with the lot consolidation condition. Instead, the lot consolidation condition was added as an additional condition (condition 98). This appears to be an oversight as Council and the Local Planning Panel agreed that the consolidation condition was to replace the easement condition</p>	<p>Delete Condition 96 requiring creation of easements</p>



DA-2018/319 - 10-12 Sarah Street Condition	Issue / Justification	Proposed
<p>98. Lot consolidation</p> <p>98 Prior to the issue of any Occupation Certificate, the lots at 10-12 Sarah Street (Lots 18 and 19 DP 1248251) shall be consolidated into a single allotment together with 2-8 Sarah Street lots (Lot 1 DP 236339; Lot 2 DP 236339; Lot 3 DP 236339; Lot 4 DP 236339; Lot 1 DP 262142; Lot 1 DP 1232424). Written notification as to the registration of such consolidation at NSW Land and Registry Services is to be submitted to Council.</p>	<p>The certifier has suggested that this be amended to "Prior to the issue of a final Occupation Certificate" to align with Condition 73A of the 2-8 Sarah Street DA.</p>	<p>98. Prior to the issue of any a final Occupation Certificate...</p>

5. SECTION 4.55(1A) ASSESSMENT

This modification application has been prepared in accordance with the relevant requirements of Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

5.1. MINIMAL ENVIRONMENTAL IMPACT

The proposed modifications have been assessed with regard to its environmental impact, taking into account the potential implications arising from the proposed modifications.

A detailed assessment of environmental impacts is provided at **Section 6.6** of this letter, where it is confirmed that the proposed amendments will result in minimal environmental impacts for the reasons outlined therein.

5.2. SUBSTANTIALLY THE SAME DEVELOPMENT

The proposed modification will result in substantially the same development and is consistent with the principles set out in the relevant case law that applies to test whether a development is 'substantially the same' for the reasons outlined below:

- The proposed modifications do not impact on the use of the building;
- The change to the depth of the recessed window alignment with the light well will result in an indiscernible change to the building envelope and appearance;
- The minor (7sqm or 0.37%) increase in GFA arises because the internal corridors will be longer. This increase in GFA will have no impact on the intensive of use, will not impact the nature of the development or overall bulk and scale;



- The changes to the conditions regarding lot consolidation and service easements will result in harmonisation with the approach approved on the adjoining site at 2-8 Sarah Street and does not impact on the delivery or operation of the development; and
- The proposed minor change in construction hours brings it into alignment with the construction hours of the adjoining site at 2-8 Sarah Street; and
- From a quantitative and qualitative perspective, the development remains substantially the same as that originally approved.

5.3. PUBLIC NOTIFICATION AND SUBMISSIONS

The s4.55(1A) application will be publicly notified in accordance with the provisions of the DCP and any third-party submissions will need to be assessed by Council.

6. SECTION 4.15 ASSESSMENT

The matters referred to in Section 4.15(1) of the Act must be considered in the assessment of the proposed modifications. The Section 4.15 assessment is provided in the following sections.

6.1. THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

6.1.1. State Environmental Planning Policies

The proposed modifications are minor in nature and do not give rise to any additional issues that have not already been considered.

6.1.2. Botany Bay Local Environmental Plan 2013

The proposed modifications in general do not raise additional inconsistencies in compliance with the controls of the *Botany Bay Local Environmental Plan 2013*.

The exception is floor space ratio (FSR), with the increase in GFA of 7sqm resulting in a further breach of the 3:1 FSR development standard compared with the approved DA.

	Approved DA	Proposed Modification
Site area	545.4 sqm	545.4 sqm
GFA	1,895 sqm	1,902 sqm
FSR	3.475:1	3.487:1

Despite this breach:

- The minor (7sqm or 0.37%) increase in GFA arises because the internal corridors will be longer. This increase in GFA will therefore have no impact on the intensiveness of the land use, will not impact the nature of the development or overall bulk and scale;
- The change to the depth of the recessed window alignment with the light well will result in an indiscernible change to the building envelope and appearance; and



- No issues arise in relation to achievement of and consistency with the objectives of the zone or development standard as outlined in the Clause 4.6 variation request with the original DA; and
- The proposal remains in the public interest despite the variation to the development standard.

6.2. THE PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT

None relevant to the modification.

6.3. ANY DEVELOPMENT CONTROL PLAN

The proposed modifications do not raise any additional inconsistencies in compliance with the provisions of the *Botany Bay Development Control Plan 2013*.

6.4. ANY PLANNING AGREEMENT

None relevant to the proposal.

6.5. ANY MATTERS PRESCRIBED BY THE REGULATIONS

None relevant to the proposal.

6.6. THE LIKELY IMPACTS OF THE DEVELOPMENT

6.6.1. Overall

The likely impacts of the proposal have been assessed throughout the report and accompanying documents.

This assessment concludes that the proposed development will not have any significant detrimental environmental, social and economic impacts on the locality or wider community.

6.6.2. Realignment of window

As outlined in Section 4.1 and 5.2, the realignment of the window to the light well will be virtually indiscernible and the light well will remain functional as intended. A small additional increase in GFA within the corridors of levels 2 to 8 will have no adverse environmental impacts despite representing a further breach of the FSR development standard, as outlined in Section 6.1.2.

6.6.3. Construction Hours

The proposed modification of construction hours on Saturdays will bring the site into alignment with the approved construction hours for the adjoining site at 2-8 Sarah Street. The hotel is being constructed concurrently and construction will be undertaken in accordance with the Construction Noise Management Plan that was prepared in accordance with the Conditions of Consent for DA2018/319 and BDA-2014/45/A.

6.6.4. Lot Consolidation / Easements

These two related conditions were subject to agreement with Council and the Local Planning Panel. Essentially, it was agreed that the draft condition requiring the creation of cross-easements with the adjacent hotel site would be deleted and replaced with a condition requiring the consolidation of allotments prior to occupation. This approach addressed the concern of Council staff in relation to ensuring the two sites were connected for operational and servicing purposes. The changes now sought will correct the oversights made in the final consent and ensure the consents on the two sites are harmonised.



7. CONCLUSION

As outlined above, the proposed modifications are minor in nature, considered substantially the same development and to be reasonable under the assessment and determination through the s4.55(1A) provisions of the Act. The proposed modifications will enable the 10-12 Sarah Street and 2-8 Sarah Street to be constructed concurrently

Based upon the assessment in this report, it is concluded that the proposed modifications are suitable for approval pursuant to the provisions of Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*.

If you have any questions please don't hesitate to contact me on 0408 971 591 or abrown@urbis.com.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Alison Brown".

Alison Brown
Director

Bayside Local Planning Panel

9/07/2019

Item No	6.5
Application Type	Residential - New Single Dwelling
Application No	DA-2019/94
Lodgement Date	18/03/2019
Property	12 O'Connell Street, Monterey
Ward	Botany Bay
Owner	Mr Oleksiy Rigby
Applicant	Mr Rabi Moussawel
Proposal	Construction of a two (2) storey dwelling, including basement car parking, roof top terrace, inground swimming pool and removal of trees in the rear yard.
No. of Submissions	1
Cost of Development	\$946,452
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 Section 4.16 of the Environmental Planning and Assessment Act 1979 not support the variation to the building height prescribed by cl.4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011, as it is not satisfied that the applicant's request has 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.
 - 2 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 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. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the height, bulk and privacy impacts associated with the proposed development do not satisfy the following objective of the R3 Medium Density Residential zone in Rockdale Local Environmental Plan 2011:
-

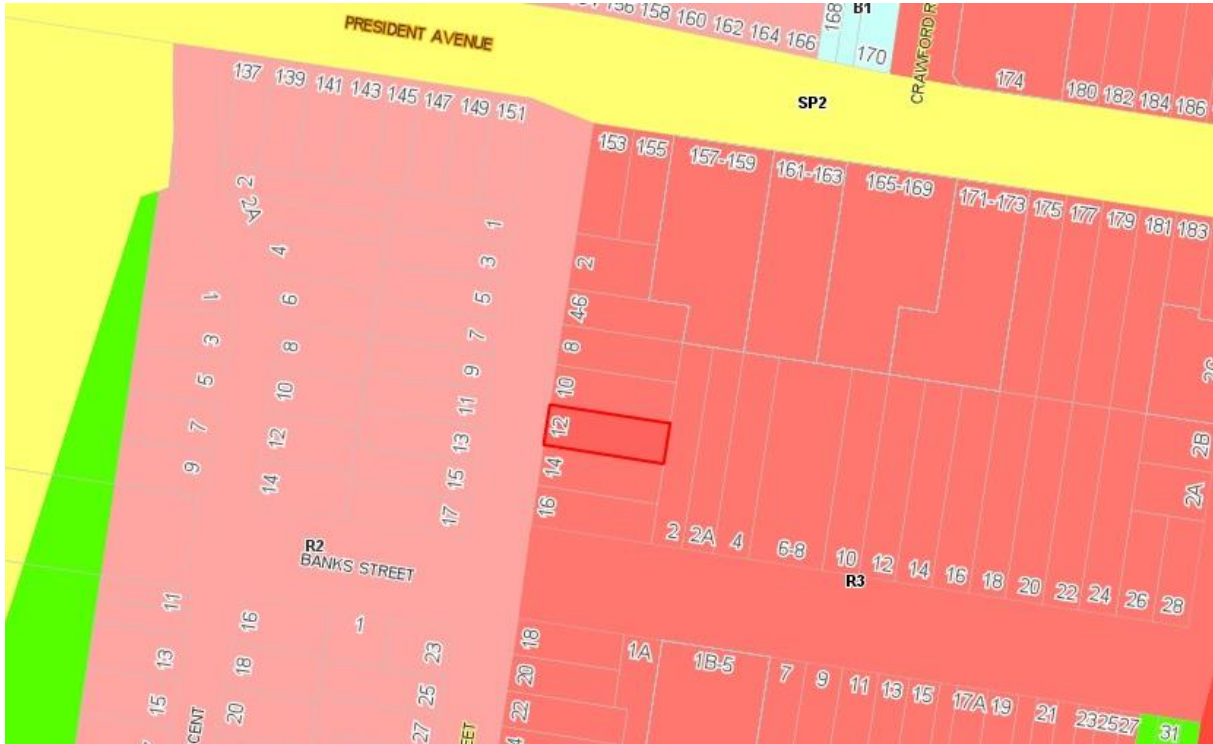
- *To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.*
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011 relating to the following objectives:
 - *to establish the maximum limit within which buildings can be designed and floor space can be achieved,*
 - *to permit building heights that encourage high quality urban form,*
 - *to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain, and*
 - *to nominate heights that will provide an appropriate transition in built form and land use intensity.*
 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 relating to relating to the following objectives:
 - *to minimise adverse environmental effects on the use or enjoyment of adjoining properties; and*
 - *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*
 5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.4(2) of the Rockdale Local Environmental Plan 2011 as it exceeds the 0.6:1 FSR standard applicable to the subject site and is not accompanied by a request for variation to that standard as specified under Clause 4.6 of the Rockdale Local Environmental Plan 2011.
 6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.6 of the Rockdale Local Environmental Plan 2011 relating to variation to maximum height of buildings under Clause 4.3 of Rockdale Local Environmental Plan 2011.
 7. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development provides no justification for the removal of several established trees on the site and therefore does not meet the objectives of 4.1.7 *Tree Preservation* of the Rockdale DCP 2011.
 8. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of 4.3.1 *Open Space & Landscape Design - Low & medium density residential* of the Rockdale DCP 2011. The removal of several established trees will eliminate privacy screening for a visually obtrusive land use.
 9. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of 4.4.2 *Solar Access - Low and medium density residential* of the
-

Rockdale DCP 2011, as the height and bulk of the dwelling will result in a significant reduction of solar access to habitable spaces at 14 O'Connell Street Monterey.

10. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development including an elevated alfresco, rear deck and rooftop terrace will create significant overlooking to neighbouring properties and does not, therefore, meet the objectives of *4.45 Visual Privacy* of the Rockdale DCP 2011.
 11. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of *4.46 Noise Impact* of the Rockdale DCP 2011 as the rooftop terrace poses significant noise-generating impacts to neighbouring properties.
 12. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of *5.1 Building Design - General* of the Rockdale DCP 2011 in terms of bulk appearance of bare expanse, exceedance of FSR and building height provisions, and potentially hazardous window design.
 13. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is likely to result in the following adverse environmental impacts:
 - a) Natural Environment – unnecessary removal of established vegetation; and
 - b) Built Environment - approval of the proposal would set a precedent for additional over-development of a similar kind.
 14. 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 surrounding built environment.
 15. 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 height, bulk, scale, size and density and would adversely impact upon the amenity of the locality.
 16. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of height and bulk and is likely to adversely impact on the solar access, and visual and acoustic privacy of neighbouring properties.
 17. Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable noise and overlooking impacts on adjoining nearby properties, as well as an unacceptable reduction in solar access to 14 O'Connell Street, Monterey.
 18. 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 submitter(s) be notified of the Bayside Local Planning Panel's decision.

Location Plan



Attachments

- 1 Planning Assessment Report - 12 O'Connell Street, Monterey [↓](#)
- 2 Statement of Environmental Effects - 12 O'Connell Street, Monterey [↓](#)
- 3 Site Plan - 12 O'Connell Street, Monterey [↓](#)
- 4 Elevations S and N - Section AA - 12 O'Connell Street, Monterey [↓](#)
- 5 Elevations E and W - Section BB Streetscape - 12 O'Connell Street, Monterey [↓](#)
- 6 Ramp Section - 12 O'Connell Street, Monterey [↓](#)
- 7 Roof Plan - 12 O'Connell Street, Monterey [↓](#)
- 8 Windows and Doors Schedule - 12 O'Connell Street, Monterey [↓](#)
- 9 Existing Elevation Shadows - 12 O'Connell Street, Monterey [↓](#)
- 10 Proposed Elevations Shadows - Winter - 12 O'Connell Street, Monterey [↓](#)
- 11 Shadow Diagrams Winter 1 - 12 O'Connell Street, Monterey [↓](#)
- 12 Shadow Diagrams - Winter 2 - 12 O'Connell Street, Monterey [↓](#)
- 13 Shadow Diagrams - Winter 3 - 12 O'Connell Street, Monterey [↓](#)
- 14 Shadow Diagrams - Equinox - 12 O'Connell Street, Monterey [↓](#)
- 15 Shadow Diagrams - Summer - 12 O'Connell Street, Monterey [↓](#)
- 16 Concept landscape plan - 12 O'Connell Street, Monterey [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2019/94
Date of Receipt:	18 March 2019
Property:	12 O'Connell Street, MONTEREY (Lot 3 DP 6524)
Owner:	Mr Oleksiy Rigby
Applicant:	Mr Rabi Moussawel
Proposal:	Construction of a two (2) storey dwelling, including basement car parking, roof top terrace, inground swimming pool and removal of trees in the rear yard
Recommendation:	Refused
No. of submissions:	1
Author:	Gary Choice
Date of Report:	12 June 2019

Key Issues

The key issues related to this application are:

- Non-compliance with the maximum height requirement for the area RLEP 2011
- The development is not sympathetic to the surrounding streetscape in terms of height and bulk and features such as a rooftop terrace
- The development poses a significant reduction in solar access to the adjoining southern property at 14 O'Connell Street
- The elevated alfresco area, rear deck and rooftop terrace pose visual and acoustic privacy impacts as well as impacts to neighbouring properties
- The proposed removal of established vegetation poses a significant reduction of privacy screening to the rear property at 2 Banks Street

Recommendation

That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 not support the variation to the building height/floor space ratio prescribed by cl.4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011, as it is not satisfied that the applicant's request has 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-2019/94 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 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. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the height, bulk and privacy impacts associated with the proposed development do not satisfy the following objective of the R3 Medium Density Residential zone in Rockdale Local Environmental Plan 2011 :

- *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.*

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 Height of Buildings of the Rockdale Local Environmental Plan 2011 relating to the following objectives:

- *to establish the maximum limit within which buildings can be designed and floor space can be achieved,*
- *to permit building heights that encourage high quality urban form,*
- *to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain, and*
- *to nominate heights that will provide an appropriate transition in built form and land use intensity.*

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 relating to relating to the following objectives:

- *to minimise adverse environmental effects on the use or enjoyment of adjoining properties; and*
- *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy Clause 4.4(2) of the Rockdale Local Environmental Plan 2011 as it exceeds the 0.6:1 FSR standard applicable to the subject site and is not accompanied by a request for variation to that standard as specified under Clause 4.6 of the Rockdale Local Environmental Plan 2011.

6. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.6 of the Rockdale Local Environmental Plan 2011 relating to variation to maximum height of buildings under Clause 4.3 of Rockdale Local Environmental Plan 2011.

7. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development provides no justification for the removal of several established trees on the site and therefore does not meet the objectives of *4.1.7 Tree Preservation* of the Rockdale DCP 2011.

8. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of *4.3.1 Open Space & Landscape Design - Low & medium density residential* of the Rockdale DCP 2011. The removal of several established trees will eliminate privacy screening for a visually obtrusive land use.

9. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of *4.4.2 Solar Access - Low and medium density residential* of the Rockdale DCP 2011, as the height and bulk of the dwelling will result in a significant reduction of solar access to habitable spaces at 14 O'Connell Street MONTEREY.

10. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development including an elevated alfresco, rear deck and rooftop terrace will create significant overlooking to neighbouring properties and does not, therefore, meet the objectives of *4.4.5 Visual Privacy* of the Rockdale DCP 2011

11. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of *4.4.6 Noise Impact* of the Rockdale DCP 2011 as the rooftop terrace poses significant noise-generating impacts to neighbouring properties.

12. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of *5.1 Building Design - General* of the Rockdale DCP 2011 in terms of bulk appearance of bare expanse, exceedance of FSR and building height provisions, and potentially hazardous window design.

13. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is likely to result in the following adverse environmental impacts

- a) Natural Environment – unnecessary removal of established vegetation; and
- b) Built Environment - approval of the proposal would set a precedent for additional over-development of a similar kind.

14. 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 surrounding built environment.

15. 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 height, bulk, scale, size and density and would adversely impact upon the amenity of the locality.

16. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of height and bulk and is likely to adversely impact on the solar access, and visual and acoustic privacy of neighbouring

properties.

17. Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable noise and overlooking impacts on adjoining nearby properties, as well as an unacceptable reduction in solar access to 14 O'Connell Street MONTEREY.

18. 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 submitter(s) be notified of the Bayside Local Planning Panel's decision.

Background

History

Council's records show that the following application was previously lodged:

- CD-2019/20 for the demolition of the existing fibro cottage APPROVED on 14 January 2019

A written request for additional information was issued to the applicant on 18 April 2019 which identified the following issues:

1. The original four-car basement parking design did not qualify for full exclusion from GFA calculations. The resulting GFA was calculated to be 389m², resulting in an FSR of 0.72:1 or 12% variation to the allowable 0.6:1 FSR applying to the site.
2. A swept path analysis was requested with a B99 vehicle entering and exiting the basement from the proposed parking spaces in a forward direction.
3. Revised shadow diagrams were requested at scale (1:100 or 1:200) showing true north, site dimensions and boundaries of adjoining properties.

Subsequent to the above letter, the assessing officer raised issue with the roof terrace, in terms of its area, height and potential privacy impacts.

Additional plans were received by Council on 15 May 2019. The amendments reduce the basement though maintains excessive usable parking area and does not delete the roof terrace.

Proposal

Council is in receipt of a development application DA-2019/94 at 12 O'Connell Street MONTEREY, which seeks consent to carry out the 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.

The proposed two-storey dwelling development comprises the following features:

Basement

- Two space garage with turning bay and additional nominated storage space (calculated at 52m²)

Ground floor

- Double-height ceiling entrance foyer
- Living room with balcony
- Study/spare room
- Laundry
- Bathroom
- Open plan kitchen/dining/lounge
- Separate courtyard
- Alfresco
- In-ground swimming pool

First floor

- 4 bedrooms including Master bedroom with ensuite and double-WIRs, and separate shared balcony for bedrooms 1 and 2
- Rumpus room
- Separate bathroom

Roof

- Rooftop terrace

Site location and context

The subject site is known as Lot 3 DP 6524 12 O'Connell Street MONTEREY. The site is a rectangular shape with front and rear boundary widths of 13.41 metres. The side boundaries are 40.235m deep. The total site area is 537.5m². The topography of the site is relatively flat.

The subject site is currently a vacant allotment with a number of established trees to the rear of the property. The site is located on the east side of O'Connell Street between Wycombe Avenue (east) and Colson Crescent (west). The nearest crossroads are President Avenue to the north and Banks Street to the south. Adjoining development to the sides includes a two-storey brick dwelling at both 10 and 14 O'Connell Street. There is a mix of one storey and two storey residential buildings within close proximity to the subject property.

Several trees are to be removed as part of this application.



Figure 1: Site locality 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*.

S4.15 (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 (Building Sustainability Index: BASIX) 2004

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 1001288S.

The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 50%

Reduction in Water Consumption 40%

Thermal Comfort Pass

The proposal satisfies the provisions of this SEPP.

State Environmental Planning Policy No 55—Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 4.1.5 Contaminated Land of the Rockdale Development Control Plan 2011. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. The site appears to have been continuously used for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes; and
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.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R3 Medium Density Residential	No - see discussion	No - 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
6.1 Acid Sulfate Soil - Class 3	Yes - see discussion	Yes - see discussion
6.2 Earthworks	Yes - see discussion	Yes - see discussion
6.4 Airspace operations	Yes - see discussion	Yes - see discussion
6.7 Stormwater	Yes - see discussion	Yes - see discussion
6.12 Essential services	Yes - see discussion	Yes - see discussion

2.3 Zone R3 Medium Density Residential

The subject site is zoned R3 - Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a dwelling house which constitutes a permissible development only with development consent. The objectives of this zone are:

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

The proposed development is inconsistent with the objectives of the zone, particularly:

- To ensure that land uses are carried out in a context and setting that minimises any impact on

the character and amenity of the area.

The proposal will impact significantly on the character and streetscape of O'Connell Street. The proposed rooftop terrace poses significant noise-generating impacts as well as compromising the visual privacy of neighbouring properties. Furthermore, the proposal will result in a significant reduction of solar access to the neighbouring southern property of 14 O'Connell Street. Therefore, the proposal does not satisfy the subject Clause.

4.3 Height of buildings

The height of the proposed building is 9.45m which exceeds the maximum 8.5m height permitted in Clause 4.3 (Height of buildings) of RLEP 2011 BY 11%. In accordance with clause 4.6 of RLEP 2011, the applicant has requested that a variation to the maximum building height requirement be permitted which is discussed later in this report.

The proposed height will have an adverse impact in terms of building dominance, solar access, and visual and acoustic privacy, and does not, therefore satisfy the relevant objectives of Clause 4.3 in RLEP 2011 specifically:

- (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

4.4 Floor space ratio - Residential zones

The proposed development will result in a gross floor area of 375.5m² and an overall FSR of 0.7:1 (69.86%) and does not, therefore, comply with the numerical standard of Clause 4.4(2). This is owing to the additional 52m² of basement labelled 'GARDEN SHED AND EQUIPMENT AREA' which is included in GFA as the labelling of the area on the plan does not preclude the area for parking of an additional two cars. Other areas such as for two car spaces, turning area and pedestrian access to the parking have been excluded from the calculation as per the definition in the LEP. The Applicant has not submitted a request for verification to the development standard in accordance with cl 4.6 of RLEP 2011, hence, a variation to the standard cannot be considered.

The observable maximisation of GFA results in a dwelling which poses significant negative impact on the character, amenity and enjoyment of neighbouring resident as discussed in detail elsewhere in this report. The proposal is inconsistent the objectives of this Clause, specifically:

- *to minimise adverse environmental effects on the use or enjoyment of adjoining properties;*
and
- *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

Accordingly, the application cannot be supported.

4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant

justifying the variation by demonstrating:

(3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient environmental planning grounds to justify the variation.

In considering the applicant's submission, the consent authority must be satisfied that:

(i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and

5(b) the public benefit of maintaining the development standard.

In accordance with clause 4.6 RLEP 2011, the applicant has provided a detailed statement requesting that a variation to the maximum 8.5m building height requirement be permitted with Council consent. The applicant has addressed each element of Clause 4.6, and specific subclauses have been accordingly referenced, however the arguments for compliance with the standard to be treated as unreasonable or unnecessary in the circumstances of the proposed development are unfounded.

Summary of 4.6(3)(a) justification by Applicant

With regards to clause 4.6(3)(a), the Applicant asserts the 4.6 request falls within the justifications raised in *Wehbe* decision by NSW LEC specifically *Method 1* and *Method 4*.

With regards to *Method 1*; that the objectives of Clause 4.3 Height of Buildings standard are achieved notwithstanding non-compliance with the standard, the Applicant asserts the following:

Objective (a) *to establish the maximum limit within which buildings can be designed and floor space can be achieved is met since the building is designed such that the residential storeys/floors are substantially below the maximum 8.5m LEP standard and as such the principle building and its floor space is also designed within the limits. The exceedance is only a result of vertical circulation features to enable access to the rooftop terrace and there is no additional floor space above the height limit. 12 O'Connell St Monterey*

Objective (b) *to permit building heights that encourage high quality urban form is met since the variation also results in high quality urban form that creates a feature on the roof allowing the rooftop to be accessible and useful as an alternative private open space. To not allow the variation would discourage high quality urban form since it would go against urban design principles of maximising views of the natural water front, maximising solar access, and making an otherwise useless space highly attractive and useable.*

Objective (c) *to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain is met since the proposed building (including where it is under the maximum 8.5m height standard as well as where it exceeds the height standard) maintains satisfactory solar access and does not restrict sky exposure and/or daylight to adjoining buildings, key areas or the public domain. The portion of the rooftop access which*

exceeds the building height standard by 950mm does not result in any impact on the south-adjointing property. The variation also allows the proposed dwelling to maximise its own sky exposure and solar access by enabling a small void on the roof, to allow daylight to penetrate to the lower levels of the building, providing excellent internal amenity.

Objective (d) *to nominate heights that will provide an appropriate transition in built form and land use intensity is met and is not contravened by this proposal. The principle building is below the maximum height limit and it can be said that the small portion of rooftop access features exceeding the height limit is counterbalanced against the rest of the lower building height. An appropriate transition is provided by staggering the building height and by generously setting back the portion that is over the height from all site boundaries, such that there is minimal visibility from the street and from side neighbours and such that the non-compliant portion is an appropriate contextual fit that does not appear to intensify the site.*

Officer Comment: The proposed rooftop terrace is inherently linked to several key issues with the proposal that pose the biggest impacts to neighbouring properties including impacts to visual privacy by overlooking and noise-generation. The excessive bulk of built form is exacerbated by the addition of the basement which, in turn, elevates the floor levels above by a degree proportionate to the measure of HOB non-compliance. This results in a number of issues including significant overlooking and overshadowing of 14 O'Connell Street with the justification - as provided by the Applicant - of maximising a 'water front' view on a property located over 500 metres from Botany Bay, with an upslope/flat topography between the subject site and the water. The development poses a significant reduction in solar access. The above mentioned 'small void' has an area of 19m² which makes it larger than any of the proposed bedrooms, with the exception of the Master bedroom. This justification is unsubstantiated.

With regards to method *Method 4*; which requires the applicant to demonstrate that the standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard, the Applicant cites the following two (2) examples:

DA-2017/30 – 4 Primrose Avenue, Sandringham was approved at Council Meeting of 14 December 2016, allowing lift and stair access to a new roof terrace to exceed the allowable 8.5m maximum height limit by 970mm; and

DA-2014/365 - 102 General Holmes Drive, Kyeemagh was approved at Council Meeting of 1 October 2014, allowing lift and stair access to the roof terrace to exceed the allowable 8.5m maximum height limit by 1.1m.

Based on the examples above, the Applicant claims:

'these examples demonstrate that Council has previously abandoned the standards and that the proposal is in-line with Council's established approach...and under these circumstances, strict numerical compliance with the standard is unreasonable. Considering the proposal 12 O'Connell St Monterey despite its 950mm variation satisfies the objectives of the height of buildings standard and the objectives of the zone, approval of the variation does not contravene the public interest and should be supported.'

Officer Comment: In the case of DA-2017/30, Primrose Avenue SANDRINGHAM is located approximately 3.8km from 12 O'Connell Street MONTEREY. The streetscape is dominated by

dwelling of a similar height bulk and scale. Many of these dwelling exceed the maximum 8.5m height requirement. Properties on the eastern side of Primrose Avenue, including the subject dwelling for DA-2017/30, are located less than 150m to the water and rear properties overlook Cook Park to the east. Impacts of noise generation and visual privacy to neighbouring properties are considered minimal by comparison to the proposed development.

In the case of DA-2014/365, General Homes Drive KYEEMAGH is located 3km from 12 O'Connell Street MONTEREY with a frontage to a busy State road. Properties on the western side of General Homes Drive, including the subject dwelling for DA-2014/365, are located less than 150m to the water and the roof terrace related to 102 General Homes Drive predominantly overlooks Cook Park to the east. Impacts of noise generation and visual privacy to neighbouring rear properties are mitigated by setback design and considered minimal by comparison to the proposed development.

The 4.6(3)(a) justifications offered by the Applicant lack substantial evidence to support the variation of standard. Of the two examples provided, neither demonstrates an abandonment of the Clause 4.3 standard that can be considered applicable to the subject proposal. Both development sites are located several kilometres from 12 O'Connell Street MONTEREY and each example site is characterised by surrounding natural and built form features which differ considerably to that of the subject site and, ultimately, justify a variation to the standard in their own right.

Summary of 4.6(3)(b) justification by Applicant

With regards to clause 4.6(3)(b), it must be demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard. The Applicant claim the HOB variation is justified on grounds particular to the circumstances established in 'Four2Five' decision by NSW LEC. The Applicant suggests the location of the site in relation to the Botany Bay waterfront should be considered the aspect or feature of the development that contravenes the relevant development standard. In their 4.6 statement, the Applicant claims the site:

'is one of the most appropriate locations for rooftop terraces to take advantage of views and the residential amenity that this affords...without varying the standard, access to a rooftop would be unachievable...The variation of 950mm to the building height standard for the purpose of providing access to a rooftop terrace to maximise the unique site location and residential amenity; together with the proposed height minimising the environmental impact on the basement excavation level, it is considered that there are sufficient environmental planning grounds justifying that compliance with the standard is unreasonable in the particular circumstances of this case.'

Officer Comment: With regards to site location, O'Connell Street is located over 500 metres from Botany Bay, with an upslope/flat topography between the subject site and the water. On this basis, the assertion that the site qualifies as a 'waterfront' property is incorrect, and the impacts to neighbouring properties outweigh the water view that the development is likely to achieve. The variation to maximum building height in order to retain a 2.6m basement ceiling height whilst minimising excavation depths is not considered a sufficient environmental planning ground to justify a variation to this control.

In summary, the Applicant's Cl.4.6 request for a variation to the height standard is not supported as it is inconsistent with the objectives HOB standards of the RLEP 2011; it does not adequately demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, nor does it demonstrate sufficient environmental planning grounds for the variation.

6.1 Acid Sulfate Soil - Class 3

Acid Sulfate Soils (ASS) – Class 3 affects a small area of the western bounds of the property property. Development Consent is required as the proposal involves works below the natural ground level and the works may lower the watertable. In this regard, an Acid Sulfate Soils Assessment prepared by Eswman Pty Ltd (dated 28 October 2018 Ref No. ESWN-PR-2018-310) was prepared for the proposed development.

The report states that the site can be classified as "Class 4" in accordance with Acid Sulfate Soils Map, since the site is underlain predominately by "Class 4" with very small portion of Class 3 ASS land near the street within front garden. The report finds that it is unlikely to encounter groundwater during excavation of proposed basement level. The proposed works are unlikely to lower the water table and the potential impacts of Acid Sulfate Soils (ASS) due to proposed works are considered negligible.

Therefore, the proposal is consistent with the objectives and requirements of clause 6.1.

6.2 Earthworks

Earthworks including excavation are required on site for basement car parking and an in-ground swimming pool. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

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 14 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves the construction of an on site detention system comprising absorption pits and a 2000 litre rainwater tank to manage stormwater. Council Engineers have assessed the proposed stormwater system and the basement must be designed as a tanked system through conditions of consent due to the sandy soil. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

6.12 Essential services

Services will generally be available on the site.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes - see discussion	Yes - see discussion
4.1.3 Water Management	Yes - see discussion	Yes - see discussion
4.1.3 Groundwater Protection	Yes - see discussion	Yes - see discussion
4.1.4 Soil Management	Yes - see discussion	Yes - see discussion
4.1.7 Tree Preservation	No - see discussion	No - see discussion
4.2 Streetscape and Site Context - General	Yes - see discussion	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	No - see discussion	No - see discussion
4.4.1 Energy Efficiency - Residential	Yes - see discussion	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 - see discussion	Yes - see discussion
4.4.4 Glazing - General Controls	Yes - see discussion	Yes - see discussion
4.4.5 Visual privacy	No - see discussion	No - see discussion
4.4.5 Acoustic privacy	Yes - see discussion	Yes - see discussion
4.4.6 Noise Impact	No - see discussion	No - see discussion
4.6 Parking Rates - Dwelling House	Yes - see discussion	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes - see discussion	Yes - see discussion
5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings	Yes - see discussion	Yes - see discussion
5.1 Building Design - General	No - see discussion	No - see discussion

4.1.1 Views and Vista

The siting of the proposed building will have minimal adverse impact on the surrounding views presently enjoyed by adjacent residents.

4.1.3 Water Management

The roofwater and runoff is to be directed to an absorption trench and 2000 litre rainwater tank. A stormwater plan has been submitted.

4.1.3 Groundwater Protection

The site is affected by the Groundwater Protection Zone 3. The geotechnical report prepared by Eswinman Pty Ltd (dated 28 October 2018 Ref No. ESWN-PR-2018-310) found that 'no groundwater was measured or encountered during borehole drilling up to 3.0m BGL...(and it) is unlikely to encounter groundwater during construction excavation of proposed basement level (pp.10-12).

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.

Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site.

4.1.7 Tree Preservation

The Development Application follows on from a CDC Application to demolish the existing fibro cottage only and a number of trees on the site have been removed without Council approval. The application is not supported by Council's Tree Management Officer whom asserts the application undermines the significance of a number of established trees to be removed. Furthermore, the Tree Management Officer could not positively identify the full extent of impacts to site vegetation due to mesh fencing at the front of the property on the edge of the Council nature strip. Council's Tree Management Officer concludes that an Arboricultural Impact Assessment Report prepared by a Consultant Arborist with minimum AQF Level 5 qualifications in Arboriculture is needed to identify all trees on the site or adjacent to the site, assess the potential impacts of the proposal, and recommend measures for protection of the trees identified for retention.

The findings of such a report would only be considered in conjunction with the impacts of tree removal to natural privacy screening as detailed elsewhere in this report. As such, the proposal cannot be supported with respect to this control due to insufficient information.

4.2 Streetscape and Site Context - General

The proposal is located in a R3 Medium Density Residential Zone. The immediate context is relatively low scale, consisting of single and two- storey dwellings and O'Connell Street. The local character is strongly maintained through the prominence of gabled and hipped roofs. There are no examples of similar flat roof housing on O'Connell Street within close proximity to the site. The proposed front setback is increased to accommodate the proposed basement garage entrance, making it consistent with 10 O'Connell Street, but greater than 14 O'Connell Street.

The dwelling design is lacking in appropriate use of articulation & modulation to the facades. Furthermore, a more balanced approach between horizontal and vertical articulation to the O'Connell Street façade could be adopted so as to reduce first floor floor and ceiling height levels, windows and balcony that (in current form) overbear the first floor, first floor windows and guttering of both dwellings at adjoining properties (10 and 14). The proposed dwelling is, however, of a similar height and bulk to the adjoining properties and displays some semblance to prevalent elements in O'Connell Street such as smooth rendering.

Despite the criticisms above, the proposed dwelling is considered to be compatible with that of the surrounding area of Monterey.

4.3.1 Open Space & Landscape Design - Low & medium density residential

The proposed development provides 147m² of private open space (including in-ground swimming pool) which comfortably satisfies the private open space requirements of the RDCP 2011. Private open spaces are usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping. The proposal provides landscaping with capability to contain storm water runoff as per the provisions of the RDCP 2011, however, the feasibility of a green feature wall on the southern side of the dwelling is unknown and more information is required regarding the planting and ongoing maintenance of such landscaping feature. Additionally, the application is not supported by Council's Tree Management Officer whom asserts the application undermines the significance of a number of established trees to be removed. The subject trees currently provide screening to the rear yard of 2 Banks Street MONTEREY, and their removal will eliminate screening for visually obtrusive use of the rooftop terrace.

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

The adjoining dwelling to the south at 14 O'Connell Street is situated on a property that has an east-west orientation. The proposal includes a setback behind the established setback of 14 O'Connell Street to accommodate an oversized basement garage. This feature combined with the double height ceiling void at the south-west corner of the dwelling design, and the height and bulk of the proposed two-storey dwelling creates excessive overshadowing on the adjoining property.

The applicant has submitted aerial and elevation shadow diagrams affecting 14 O'Connell Street from 8am until 4pm on June 22. The shadow diagrams show that at least 50% of the private open space will receive sunlight for at least three hours a day, however, the adjoining windows will not receive the prescribed amount of sunlight. The proposed dwelling will create overshadowing to habitable rooms of the adjoining property resulting in a reduction of solar access well in excess of the 20% guideline set out in the RDCP 2011.

Although overshadowing of the property is inevitable due to its east-west orientation, the development, which seeks to vary from the minimum standards of RDCP 2011, has failed to demonstrate that the site constraints and orientation prohibit the achievement of these standards. The significant reduction in existing solar access is unacceptable and cannot be supported.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating minimum ceiling heights of 2.7m to the ground and first floors.

4.4.4 Glazing - General Controls

The proposed development provides appropriate sun protection for glazed areas facing north using narrow highlight windows, and incorporates awnings into east and west facing windows at ground floor.

4.4.5 Visual privacy

The key design elements affecting visual privacy are:

- Rooftop terrace - a 7.33m rooftop terrace (11.9 RL to AHD) is proposed to maximise opportunities to view the Botany Bay 'water front' located more than 500m from the subject property. The proposed 1.2m high balustrade does not prevent overlooking from the rear of the rooftop terrace. The removal of these trees poses a significant increase of overlooking to the rear adjoining back yard of 2 Banks Street from the rooftop terrace. Having regard to the above, the proposed development does not provide a reasonable level of visual privacy to the adjoining properties of 2 Banks Street with the potential for further impacts on the visual privacy of 10 O'Connell Street.
- Elevated alfresco and deck - an alfresco and deck are proposed in the south-east bounds of the site, elevated to 950mm above NGL, with a 0m setback from the southern boundary. A 1.8m privacy screen is proposed for the southern boundary to prevent overlooking into the adjoining 14 O'Connell Street property, however this is not considered an acceptable outcome as it will only extend the visual bulkiness of the proposed dwelling to the rear yard.

- Significant tree removal - the proposal includes the removal of several trees from the rear yard which currently provide screening to the rear yard of 2 Banks Street MONTEREY.
- Kitchen window - the location of the kitchen window will likely enable viewing into the existing rear ground floor window at 10 O'Connell Street.

4.4.5 Acoustic privacy

There will be minimal adverse impact on the acoustic privacy of adjoining and surrounding properties as consideration has been given to the location and design of habitable space and landscaping in relation to private recreation areas to minimise noise intrusion on the amenity of adjoining properties. Additional noise impacts are discussed in the next section.

4.4.6 Noise Impact

The likelihood of the proposed rooftop terrace as a noise-generating recreation area has not been addressed in the Statement of Environmental Effects (SEE). It is indeterminable whether such an elevated design will have more or less of an acoustic impact compared to the proposed first floor balconies. In this regard, a determination cannot be made on the noise impacts to adjoining residential properties.

4.6 Parking Rates - Dwelling House

The development will have minimal impact on access, parking and traffic in the area. The provision of 2 car spaces is in accordance with RDCP 2011.

4.7 Air Conditioning and Communication Structures

The plans do not depict the location of proposed residential air conditioning units on site. Accordingly, a condition is imposed in the draft conditions requiring air conditioning units to be obscured from public view should they be provided and operate in accordance with the relevant provisions of the Protection of the Environment Operations Act, 1997. Subject to conditions, the development is acceptable with regards to this Clause.

5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings

The subject site comprises a 13.41m frontage which qualifies the proposed two-storey dwelling for side setbacks of 0.9m at ground floor and 1.2m at first floor. The proposal involves a 1.2m north side setback and a 1.6m south side setback. The proposed 11.305m rear setback comfortably achieves the minimum required 6m rear setback for two-storey buildings. The proposed rear deck with a 0m setback to the southern boundary creates several issues which are discussed elsewhere in this report.

The proposed street frontage setback is consistent with the neighbouring 10 O'Connell Street, but setback behind the adjoining southern dwelling at 14 O'Connell Street. In this regard, the proposed setback is considered to adversely impact upon the adjoining dwelling by way of overshadowing and will significantly reduce the solar access to 14 O'Connell Street as discussed elsewhere in this report.

5.1 Building Design - General

With regard to this control, key issues of the proposed development are:

- The bulk appearance of bare concrete surfaces from the neighbouring 14 O'Connell Street;
- The proposed 7.33m rooftop terrace is inconsistent with the existing development of O'Connell Street characterised by gabled and hipped roofs, and poses significant impacts to the visual and acoustic privacy of neighbouring properties;

- The proposal exceeds FSR and building height provisions of the RLEP and RDCP; and
- The proposed kitchen window will serve as a splash-back for the stove appliance which creates a potentially hazardous area.

With regard to the above mentioned issues, the proposal is considered to be unsympathetic to the surrounding built form and topographical features of the site, and the amenity and enjoyment of residents at the neighbouring property of 14 O'Connell Street and 2 Banks Street. The height, bulk and scale of the proposed two-storey dwelling with rooftop terrace will result in a development that is visually obtrusive from the adjoining property and the public domain.

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

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

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

The proposed two-storey dwelling with basement parking, rooftop terrace and swimming pool has been assessed against relevant controls in regard to potential impacts on the environment and neighbouring properties. The proposal is considered to have no regard for the acoustic and visual privacy of adjoining properties. A proposed development, in the context of 12 O'Connell Street MONTEREY, would result in a towering structure with high noise-generating potential and direct impacts to visual privacy. Such a development poses significant negative impact on the character, amenity and enjoyment of neighbouring residents and is therefore unsatisfactory.

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. Given the location of the subject site and its relation to neighbouring properties, the proposal in its current form is assessed as posing too great an impact on neighbouring properties and the public domain.

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

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

Issue 1: Noise generated from the pool pump and filtration system.

Comment: Plans show the pool pump and filtration system located in the south-east corner of the site. This provides a maximum separation from 10 and 14 O'Connell Street, but is located close to the dwelling at 2 Banks Street (rear property). Appropriate conditions could be imposed to ensure the system must be installed with sound-proof housing.

Issue 2: Impacts on solar access from overshadowing of proposed dwelling

Comment: An accurate assessment of the impacts of overshadowing to 2 Banks Street could not be determined with the shadow diagrams submitted, however, overshadowing to 14 O'Connell street has been addressed earlier in this report as a reason for refusal.

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

If approved, the proposal would set a precedent for continued oversized dwellings and inappropriate

rooftop terracing in this area resulting in significant impacts on the built environment and public domain. As such it is considered that the proposed development is not in the public interest.

S7.12 Fixed development consent levies

Section 7.12 of the Environmental Planning and assessment Act 1979 (as amended) applies to the proposal. In this regard, a standard condition of development consent has been imposed in respect to a levy applied under this section.

Schedule 1 - Draft Conditions of consent

STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED SINGLE DWELLING
AT
12 O'Connell Street Monterey

Prepared by RM Designers

FOR

MR & MRS Rigby

M: 0405204511 rabi@rmdesigners.com

Address: 31 Hillard Street Wiley Park 2195

ABN: 29460817110 Date: 14.13.19



12 O'Connell St Monterey

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INTRODUCTION

This Statement of Environmental Effects has been prepared by RM Designers in support of a development application (DA) lodged with Bay Side City Council for a new 2 storey dwelling with basement parking, inground swimming pool and roof top terrace at No. 12 O'Connell Street Monterey.

This report addresses the nature of the proposed development and the characteristics of the site and surrounding areas

The proposal is assessed in accordance with the following planning instruments and policies:

Rockdale Local Environmental Plan 2011; and

Rockdale Development Control Plan 2011.

Pursuant to Rockdale Local Environmental Plan 2011, the site is zoned R3 – medium density residential and the proposed development is permissible with the consent of Council.

The proposal is consistent with the various uses, scale and form of the immediate locality and complies with relevant Council controls and objectives. Thus, the proposal is worthy of support. This report is to be read in conjunction with the architectural plans attached with the submission and prepared by RM Designers.

Site Description

- The proposed development is located within the site boundary at 12 O'Connell Street Monterey, Sydney which has a total allotment size of 537.5sqm.
- The site has a gentle slope from the front to the rear.
- The proposed site is considered suitable, as there are no visible site constraints.
- The main Pedestrian entry to the site is via O'Connell street
- The main vehicular entry to the site is via O'Connell Street
- The site is not contaminated
- The site is not heritage listed
- The site is classed as Acid Sulfate Soils - Class 3 and 4 (LEP 2011) the water table will not be affected and an acid Sulfate and geo tech report is accompanied with the DA submission
- There is a large tree in front of the site which will be retained

Site information

12 O'Connell Street MONTEREY NSW 2217
Property Number: 431499
Status: C
Ward: Botany Bay Ward
Lot 3 DP 6524

Zone(s):

Medium Density Residential (R3)

Hazards and Overlays:

450sq.m minimum lot size (LEP 2011)
8.5 metres - maximum building height (LEP 2011)
Acid Sulfate Soils - Class 3 (LEP 2011)
Acid Sulfate Soils - Class 4 (LEP 2011)
FSR - 0.6:1 (LEP 2011)
Groundwater Protection Zone 3
LEP 2011 - Affected by Obstacle Limitation Surface

12 O'Connell St Monterey

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DEVELOPMENT STANDARDS (Rockdale Local Environmental Plan 2011)**4.1 Minimum subdivision lot size**

There is no subdivision proposed

The site area is 537.5sqm

4.2 Rural subdivision and Minimum lot size for attached and semi-detached dwellings in Zone R3

Not applicable

4.3 Height of buildings

The objectives of this clause are as follows:

- To establish the maximum limit within which buildings can be designed and floor space can be achieved,
- To permit building heights that encourages high quality urban form,
- To provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
- To nominate heights that will provide an appropriate transition in built form and land use intensity.

The maximum allowed height is 8.5m

The maximum building height of this proposal is no higher than 7.4m but the pop-up roof which services the roof top terrace exceeds the height limit by 950mm (see clause 4.6 variation attached)

4.4 Floor space ratio

The objectives of this clause are as follows:

- To establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,
- To minimise adverse environmental effects on the use or enjoyment of adjoining properties,
- To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.
- (2A) the floor space ratio for a building on land that is in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone R4 High Density Residential and that has an area of less than 460 square metres is not to exceed 0.55:1.

The maximum allowed FSR is 0.6:1

The proposed FSR is 0.59:1

4.5 Calculation of floor space ratio and site area

Site area = 537.5qm

Ground floor 171.3sqm + first floor 146.45sqm = 317.75qm = 59%

(Measured to internal face of external skin and excludes voids, lifts, stairs, balconies, alfresco and basements, roof top terraces)

4.6 Exceptions to development standards

We seek an exception to the max building height

Clause 4.6 variation attached.

Design Guidelines

The site is affected by the provisions of Rockdale DCP 2011 – low and medium density residential

4.1 Site planningViews and Vistas

O'Connell street is a busy street and relatively flat with now views or vistas.
(No views to Botany Bay, heritage items nor the rivers)

Heritage Conservation

The subject site is not listed as heritage or conservative

Water management

The proposed house provides ample of landscaping and open space. The landscaping deep soil area is in excess of 140sqm. The site coverage is roughly 55%, this allows for better water runoff and absorption into the ground. The development has a proposed 2000L rainwater tank which will help with stormwater detention and runoff. A stormwater plan has been submitted with this application.

The development will not have an adverse impact on Council's existing drainage network.
The subject site will be using recycled water from the tank for the irrigation of plants and vegetation.

The proposal will not involve any dewatering of the site.

Soil management

A sediment control and erosion plan has been submitted with this application. The aim is to protect the environmental quality of waterways and to reduce erosion hazard and prevent soil, building material and pollutants leaving the site and entering waterways

Contaminated land

The site is not known to be contaminated

Development on sloping sites

The site has a gentle fall from west to east.

Some backfilling will be required at the rear

Tree Preservation

There are currently several trees at the rear of the site which we seek council's permission to remove (not native or significant trees). As for the large tree at the front on council nature strip it will remain and be protected during construction.

Lot size and site consolidation

The area of Rockdale is characterised with small lots averaging 12m wide and 446.9qm in area. This proposal has no major impact on the streetscape and neighbours. It is a very simple, yet detailed building, well confined and fits in well in the streetscape.

4.1.8 Biodiversity (Endangered Ecological Community)

The site is not adjacent to an Endangered Ecological Community

4.2 Streetscape and site context

Rockdale is a city which promotes good design. It is known for its diversity in culture and architecture, breaking away from conventional monotonous buildings.

One will see a variety of styles ranging from brick houses, cement rendered, pitched roofs and flat roofs, thus making Rockdale a joyful and interesting city to live in.

The proposed house will be 2 storeys in height, cement rendered with timber slats and have aluminium windows and sliding doors and will be well articulated. The front and rear yard are well landscaped. This building fits in well with its surrounding. The house is designed to overlook the street and provide casual surveillance.

The proposed front fence will not exceed 1m in height. Side and rear fences will have a max height of 1.8m.(privacy screens where needed)

Examples of cement rendered, glass, flat roof houses in the streets of Monterey. The streets are rich in style and variety. This proposal uses the same materials, colour and style.



12 O'Connell St Monterey

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4.3 Landscape planning and design

Landscaping

A landscape plan has been submitted with this proposal demonstrating that the open space and landscaping requirements have been met.

REQUIRED= MIN 25% = 134.3m²

PROPOSED= 26.82% = 144.22m²

FRONT LANDSCAPING = 66.98m²

REAR LANDSCAPING = 59.94m²

COURTYARD = 18.70m²

Private open space

The proposal has been designed to have several private open spaces.

The alfresco area is one private open space, which acts as an extension to the main living space. The alfresco will link the inside spaces to the backyard. The alfresco has an area of 31sqm.

The alfresco area is covered, allowing it to be used all year round.

The second main private open space is the rear yard and pool which has a total area of 120sqm,

The combined POS meet the minimum required POS area of 80sqm.

The rear yard is clearly defined by planting, 1.8m high fencing and will capture the northern sunlight

4.4 Sustainable building design

Energy efficiency

A basix report has been submitted with this application
A 2000L rainwater tank has been proposed and will be used for irrigation and toilets.
The proposed house has been designed to promote natural ventilation and lighting.
Sufficient low water irrigation vegetation has been proposed for the yards
All lights will be LED and the hot water system will be instant gas (natural)
The use of Double brick construction is considered a good insulator and the house will be warmer or cooler in the various seasons.

Solar access

The DCPs Solar Access Control, Section 4.4.2

RDCP prescribes the following relevant control which applies to the subject site and proposal:
Low and medium density residential

Dwellings within the development site and adjoining properties should receive a minimum of 3 hours direct sunlight in habitable rooms and in at least 50% of the private open space between 9am and 3pm in mid-winter.

- The objectives of the control are as follows:

Objectives

- A. To ensure that sunlight access is provided to private open space and habitable rooms within the development
- B. To ensure that development does not unreasonably diminish sunlight to neighbouring properties and within the development site

We note that in the Definitions, RDCP defines 'habitable room' as: Habitable room means a room used for normal domestic activities other than a bathroom, toilet, pantry, walk-in wardrobe, corridor lobby, photographic darkroom, clothes drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods of time.

Windows of Southern Adjoining Residence

The southern adjoining residence has 6 windows directly facing the boundary of the subject site as depicted in the elevational shadow diagrams:

According to RDCP, all 6 windows facing the subject site are associated with 'habitable rooms' and the habitable rooms therefore require 3 hours of solar access at mid-winter.

However, while there are 6 impacted windows, technically the 3 bottom windows are already affected by the existing house shadows during mid-winter (refer to existing shadow diagrams DA 52)

In addition, all neighbouring windows/rooms are not living/dining rooms.

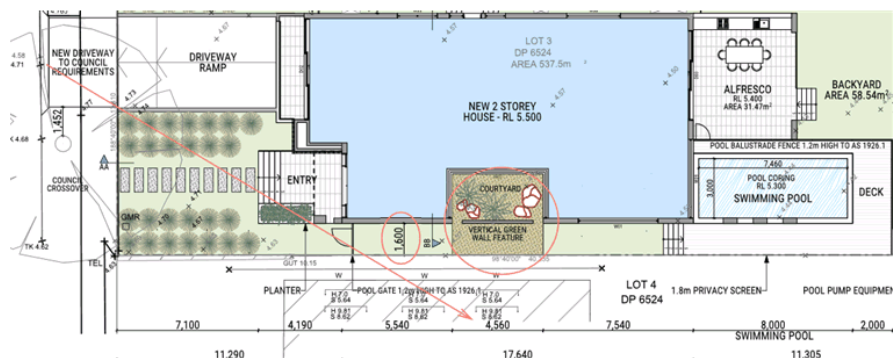
The neighbours front and rear rooms/windows can also gain sunlight from an alternate Window which faces the back yard and street)

four of these windows are still receiving 3 hours of light from 12pm to 4pm. (Refer to DA 51 proposed shadows)

How the design of the dwelling minimises the impacts onto the adjoining property

The proposed dwelling has been designed to minimise overshadowing impacts on the southern adjoining residence such as

- larger side setback 1.6m instead of 1.2m (despite the narrowness of the site)
- the design of the courtyard on the southern side which helps achieve direct sunlight into neighbouring residence (this courtyard increases the side setback to 3.6m)
- setting back / pushing back the entry door to 11.29m to help sunlight into the neighbour's front windows during the afternoon
- the design of a flat roof dwelling to help reduce overshadowing.



Summary

despite being impacted, only the neighbouring bedroom receives less than the required minimum 3 hours of solar access representing a technical variation to RDCP. The dining/living room continues to receive above and beyond RDCPs minimum requirement. While most Sydney Councils exclude bedrooms from solar access controls, we acknowledge that the RDCP appears to include bedrooms, despite the night time nature of their use. Sunlight to bedrooms is typically undesirable since it discourages sleeping in both children and adults. For example, residents will tend to incorporate additional shading devices such as to a baby or child's

bedroom to encourage a darkened room for sleeping. Given the non-compliant rooms are bedrooms, we consider that the variation to Council's solar access controls of RDCP is reasonable, representing a minor variation and presents sufficient merit to warrant Council's approval.

Despite the minor nature of the variation to bedrooms, the architect has thoughtfully responded to the natural site characteristics. Specifically, the natural orientation of the site is such that the rear boundary is oriented to the east and front boundary oriented to the west (see Survey Plan)

The natural orientation has driven the proposed design response, which incorporates a generous 1.6 m side setback at first floor (instead of 1.2m) to the southern side boundary plus a courtyard cut-out and flat roof design. The increased setbacks and flat roof design are in order to minimise overshadowing to the southern neighbour, which is inevitable from 9am to 12pm due to the natural site orientation. At all other times of the day, the proposal does not impact the neighbour.

Lastly, despite the technical variation, the proposal is consistent with the objectives of the solar access control in that:

Sunlight access continues to be provided to the non-compliant bedroom albeit at less than the minimum 3 hours.

Considering that the nature of the rooms are bedrooms where a darkened environment is more desirable than a sunlit environment, it is considered that the proposal would not unreasonably diminish sunlight to the southern property. We request Council to apply flexibility in its application of the solar access control in this instance, on the basis that impacts of the proposal are negligible and reasonable as demonstrated in this report

.

Visual and acoustic privacy

The house has been designed to have visual surveillance to the street.

Rear balconies have privacy screens.

Window sill heights on the first floor are all a minimum of 1.5m high from finished floor level, this is an adequate height to protect neighbours and provide privacy.

All glazing to wet areas and stairwells has opaque glass.

The pool deck area has a 1.8m high privacy screen along the boundary fence.

The proposal does not have any acoustic effects on neighbouring houses.

pool pumps are located at the rear of the yard far away from habitable rooms

the roof top terrace has a balustrade which is setback from the edge 1.5m and is uncovered

4.5 Social equity

n/a

4.6 Car parking access and movement

The requirement for a dwelling which has 3 bedrooms or more is 2 car spaces
 The proposed garage can accommodate up to 2 car spaces and jet ski/bike. (This complies)
 The garage is naturally ventilated (window)

4.7 Site facilities

All site facilities will be designed and located to meet council's requirements and compliment the streetscape

5.1 Low and medium density residential**Dwelling house**

Subject	Requirement	Proposal
Max height in storey	2	2
Street setback	Consistent with street	Within the average of two neighbouring properties
Secondary street setback	n/a	n/a
Side setback	0.9m single storey 1.2m two storey for lots less than 15m wide	0.9m for single storey portion (garage) 1.2m and 1.6m for two storey portions (site is less than 15m wide)
Rear setback	Min 3m for single storey Min 6m for two storeys	11.3m ground 9.4m first floor
Ground floor / basement height above NGL	Max height above NGL = 1m	Proposed less than 1m
Privacy	Sill height min 1.5m & privacy screens on balcony	1.5m height of Sill and 1.8m high privacy screens

CONCLUSION

This proposal to undertake the construction of a new 2 storey house with basement parking and roof top terrace is in compliance with council provisions.
 It is evident through the above assessment that the proposal largely satisfies Council's prescribed control and density. The development would conform to the bulk and scale of similar style development throughout the locality. Accordingly, this Development Application is submitted in the belief that it deserves Council's favourable consideration.

Clause 4.6 Request for Variation to Building Height Standard**1.0 Background**

This written request is prepared on behalf of the applicant, in accordance with provisions of Clause 4.6 Exceptions to Development Standards of Rockdale Local Environmental Plan (LEP) 2011 which has as its objectives to allow a degree of flexibility in applying development standards, where a better outcome is able to be achieved.

2.0 Request to Vary Building Height Standard**2.1 What standard is being varied?**

This Clause 4.6 variation request seeks a variation to Clause 4.3 of Rockdale LEP with respect to the height of buildings standard which allows 8.5m. The standard is not a performance-based control.

2.2 What are the objectives of the standard?

The objectives of Clause 4.3 Height of Buildings standard are:

- (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

The justification provided in Section 4.1 demonstrates that the proposal meets the objectives of the standard and is in the public interest, despite the numerical standard being contravened.

2.3 What is the numerical variation?

The proposed building will have a maximum height of 9.45m to the top of the roof access, varying the standard by a maximum 950mm equivalent to a variation of 11%. The reason for the variation is strictly to provide access to the roof terrace, resulting in the wall of the staircase to be situated above the LEPs height limit.

2.4 What is the zoning of the land?

The land is zoned R3 medium Density Residential under Rockdale LEP.

2.5 What are the objectives of the zone?

The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The justification provided in Section 3.3 demonstrates that the proposal meets the objectives of the zone and is in the public interest, despite the numerical standard being contravened.

3.1 Established Framework for Justifying and Assessing Contraventions to Development Standards

The NSW Land and Environment Court (LEC) has established widely used tests to assist developers in justifying contraventions and to assist Councils in considering contraventions against the specific matters listed in Clause 4.6 of standard LEPs. The main tests include:

3.1 'Five-part test' established in 'Wehbe' decision by NSW LEC

In this decision, Chief Judge Preston identified ways in which an applicant can establish that compliance with a development standard is unreasonable or unnecessary and that it may be done in any of the following ways:

1. that the objectives of the standard are achieved notwithstanding non-compliance with the standard, or
2. that the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary, or
3. that the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable, or
4. that the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable, or
5. that the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

The first and fourth methods are of relevance to this proposal and are discussed in Section 4.1.

3.2 'Grounds particular to the circumstances' established in 'FourFive' decision by NSW LEC

In this decision, Commissioner Pearson suggested that simply demonstrating the development achieves objectives of the standard is insufficient to justify that a standard is unreasonable or unnecessary; and that to justify that there is 'sufficient' environmental planning grounds for the variation may require identification of 'grounds particular to the circumstances of the proposed development' (meaning something more specific to the site and the development, not just generic grounds that apply to any similar development on the site or the vicinity). This

additional test was expressly stated in subsequent appeals as being a discretionary or subjective opinion of the Commissioner and does not mean that variations can only be allowed where there is some special or particular feature of the site that justifies non-compliance.

The justification provided in Section 4.2 demonstrates circumstances that are particular to this development that provide additional environmental planning grounds to satisfy Council that compliance with the standard, for this particular site is unreasonable.

3.3 Matters prescribed in Clause 4.6 Exceptions to Development Standards of LEP

According to provisions of Clause 4.6, Council must be satisfied with the following three matters before approving development that contravenes a development standard:

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

The justification provided in Section 4.3 demonstrates that compliance with the development standard is unreasonable; that there are more than sufficient environment grounds to justify contravening the standard; and that the proposal does not contravene the public interest.

4.0 Justification for Contravening Height of Buildings Standard

4.1 'Five-part test' established in 'Wehbe' decision by NSW LEC As noted earlier, the first and fourth methods out of the five methods established in the Wehbe decision are relevant to this proposal:

Method 1 - Meeting objectives of the standard: requires the applicant to demonstrate that the objectives of Clause 4.3 Height of Buildings standard are achieved notwithstanding non-compliance with the standard. The following demonstrates that the proposal meets each objective despite the non-compliance with the standard:

Objective (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved is met since the building is designed such that the residential storeys/floors are substantially below the maximum 8.5m LEP standard and as such the principle building and its floor space is also designed within the limits. The exceedance is only a result of vertical circulation features to enable access to the rooftop terrace and there is no additional floor space above the height limit.

Objective (b) to permit building heights that encourage high quality urban form is met since the variation also results in high quality urban form that creates a feature on the roof allowing the rooftop to be accessible and useful as an alternative private open space. To not allow the variation would discourage high quality urban form since it would go against urban design principles of maximising views of the natural water front, maximising solar access, and making an otherwise useless space highly attractive and useable.

Objective (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain is met since the proposed building (including where it is under the maximum 8.5m height standard as well as where it exceeds the height standard) maintains satisfactory solar access and does not restrict sky exposure and/or daylight to adjoining buildings, key areas or the public domain. The portion of the rooftop access which exceeds the building height standard by 950mm does not result in any impact on the south-adjoining property. The variation also allows the proposed dwelling to maximise its own sky exposure and solar access by enabling a small void on the roof, to allow daylight to penetrate to the lower levels of the building, providing excellent internal amenity.

Objective (d) to nominate heights that will provide an appropriate transition in built form and land use intensity is met and is not contravened by this proposal. The principle building is below the maximum height limit and it can be said that the small portion of rooftop access features exceeding the height limit is counterbalanced against the rest of the lower building height. An appropriate transition is provided by staggering the building height and by generously setting back the portion that is over the height from all site boundaries, such that there is minimal visibility from the street and from side neighbours and such that the non-compliant portion is an appropriate contextual fit that does not appear to intensify the site.

Method 4 - Standard abandoned by Council: requires the applicant to demonstrate that the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. Council officers have confirmed that they regularly accept building height variations to enable access to similar rooftop terraces. This was confirmed in examples of approved developments including:

DA-2017/30 – 4 Primrose Avenue, Sandringham was approved at Council Meeting of 14 December 2016, allowing lift and stair access to a new roof terrace to exceed the allowable 8.5m maximum height limit by 970mm.

DA-2014/365 - 102 General Holmes Drive, Kyeemagh was approved at Council Meeting of 1 October 2014, allowing lift and stair access to the roof terrace to exceed the allowable 8.5m maximum height limit by 1.1m.

These examples demonstrate that Council has previously abandoned the standards and that the proposal is in-line with Council's established approach, such that insisting or maintaining the standard for this proposal would not have any public benefits and under these circumstances, strict numerical compliance with the standard is unreasonable. Considering the proposal

despite its 950mm variation satisfies the objectives of the height of buildings standard and the objectives of the zone, approval of the variation does not contravene the public interest and should be supported.

4.2 'Grounds particular to the circumstances' established in 'Four2Five' decision by NSW LEC

The combination of the following factors particular to the site demonstrate there are additional environmental planning grounds (in addition to Council's abandonment of the standard, consistency with objectives etc.), to justify that the standard is unreasonable:

Waterfront area / property: the site is geographically unique being located close to waterfront and parks. It is considered that this is one of the most appropriate locations for rooftop terraces to take advantage of views and the residential amenity that this affords. Unfortunately, without varying the standard, access to a rooftop would be unachievable. The proposal in its non-compliant form achieves a better outcome than if it were amended to comply with the 8.5m height limit.

To minimise environmental impacts as a result of this particular feature, the design has aimed to maintain the current overall building height without lowering it any further. In this regard, this feature of the site, combined with the above features, has had implications on the extent of the building height variation. The variation of 950mm to the building height standard for the purpose of providing access to a rooftop terrace to maximise the unique site location and residential amenity; together with the proposed height minimising the environmental impact on the basement excavation level, it is considered that there are sufficient environmental planning grounds justifying that compliance with the standard is unreasonable in the particular circumstances of this case.

4.3 Matters prescribed in Clause 4.6 Exceptions to Development Standards of LEP

As noted earlier, Council required to be satisfied with the following matters prescribed under Clause 4.6 of Rockdale LEP:

1. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and: It was demonstrated in Section 4.1 that compliance with the development standard is unreasonable in the circumstances of the case, particularly having regard to Council's abandonment of the control where it enables access to rooftop terraces; in addition to the particular circumstances of the site and development; as well as considering that the proposal satisfies the objectives of the height of building standards despite the minor numerical variation.

2. that there are sufficient environmental planning grounds to justify contravening the development standard, and: It has been demonstrated that there are more than adequate environmental planning grounds to justify contravening the standard including but not limited to the proposal's consistency with objectives of the standard and the zone despite its numerical

non-compliance; its minimal impacts on the built and natural environment; its contextual fit within the streetscape; the fact that the standard has virtually been abandoned by Council, the specific circumstances of the site such as its unique waterfront area and the depth of the basement level and the minor 11% or 950mm extent of the variation. These factors further demonstrate that compliance with the standard is unreasonable and that the benefits of allowing the variation exceed any perceived negative effects.

3. That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out:

It was demonstrated in Section 4.1 that the proposal is in the public interest in terms of meeting the objectives of the particular standard, that is, the objectives of the Clause 4.3 Height of Buildings standard.

This Section demonstrates that the proposal is also in the public interest in terms of meeting the following generic objectives for development within the R3 medium Density Residential zone:

To provide for the housing needs of the community within a medium-density residential environment This objective is met since the proposal provides housing in a medium density setting. The minor variation of 950mm above the building height standard does not contribute to unreasonable bulk that would contravene the medium density setting and the building overall is compatible with the streetscape, especially as the bulk of the principle dwelling is well below the maximum height limit.

To enable other land uses that provide facilities or services to meet the day to day needs of residents This objective is not relevant to the proposal since it relates to proposals that incorporate non-residential development.

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 This objective is met since the impact on the character and amenity of the area is negligible and entirely acceptable through the following aspects:

the variation does not result in unreasonable impacts or other amenity impacts, nor does it result in any overlooking, (setback 3.5m from side boundary)

the non-compliant part of the rooftop access structures is substantially setback from the frontage and are obscured from view of the public domain by the physical buffer of the adjoining neighbouring building.

it does not contribute to excess bulk and scale and has been reduced to a slim structure,

It remains consistent with the streetscape and with similar developments approved by Council

5.0 Conclusion

This written request has demonstrated that it is appropriate for Council to allow a variation to Clause 4.3 Height of Buildings Standard under the Rockdale Local Environmental Plan (LEP) 2011 and pursuant to the provisions of Clause 4.6 Exceptions to Development Standards on the basis that a better outcome is able to be achieved.

CALCULATIONS:
SITE AREA = 537.5m²
GROUND FLOOR = 171.30m²
FIRST FLOOR = 146.45m²
BASEMENT = 147.23m²
ALFRESCO = 31.47m²
GROUND FLOOR BALCONY = 6.53m²
FIRST FLOOR FRONT BALCONY = 6.78m²
FIRST FLOOR REAR BALCONY = 20.05m²
VOID = 19.00m²
TOTAL FLOOR AREA: 171.30m² + 146.45m² = 317.75m² = FSR 0.59:1

NOTES
GROSS FLOOR AREA EXCLUDES BALCONIES, ALFRESCO, STAIRWELL (FIRST FLOOR) AND VOIDS, AREA MEASURED FROM INSIDE SKIN OF EXTERNAL WALLS.

LANDSCAPE AREAS
BACKYARD TOTAL = 151.60m²
POOL AND DECK AREA = 59.20m²
BACKYARD LANDSCAPED AREA = 58.54m² = 10.9% (DEEP SOIL)
COURTYARD = 18.70m²
FRONTYARD = 112.11m² (LANDSCAPED AREA = 66.98m²) = 59.74% OF FRONTYARD AREA
PRIVATE OPEN SPACE/ALFRESCO = 31.47m²
OVERALL LANDSCAPED AREA = 144.22m² = 26.8%

BASIX NOTES

**ALTERNATIVE WATER
RAINWATER TANK**

The applicant must install a rainwater tank of at least 2500 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.

SWIMMING POOL

The swimming pool must not have a volume greater than 35 kilolitres.
The swimming pool must be outdoors.

THERMAL COMFORT COMMITMENTS

SIMULATION METHOD

The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Assessor Certificate requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor to certify that this is the case. The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.

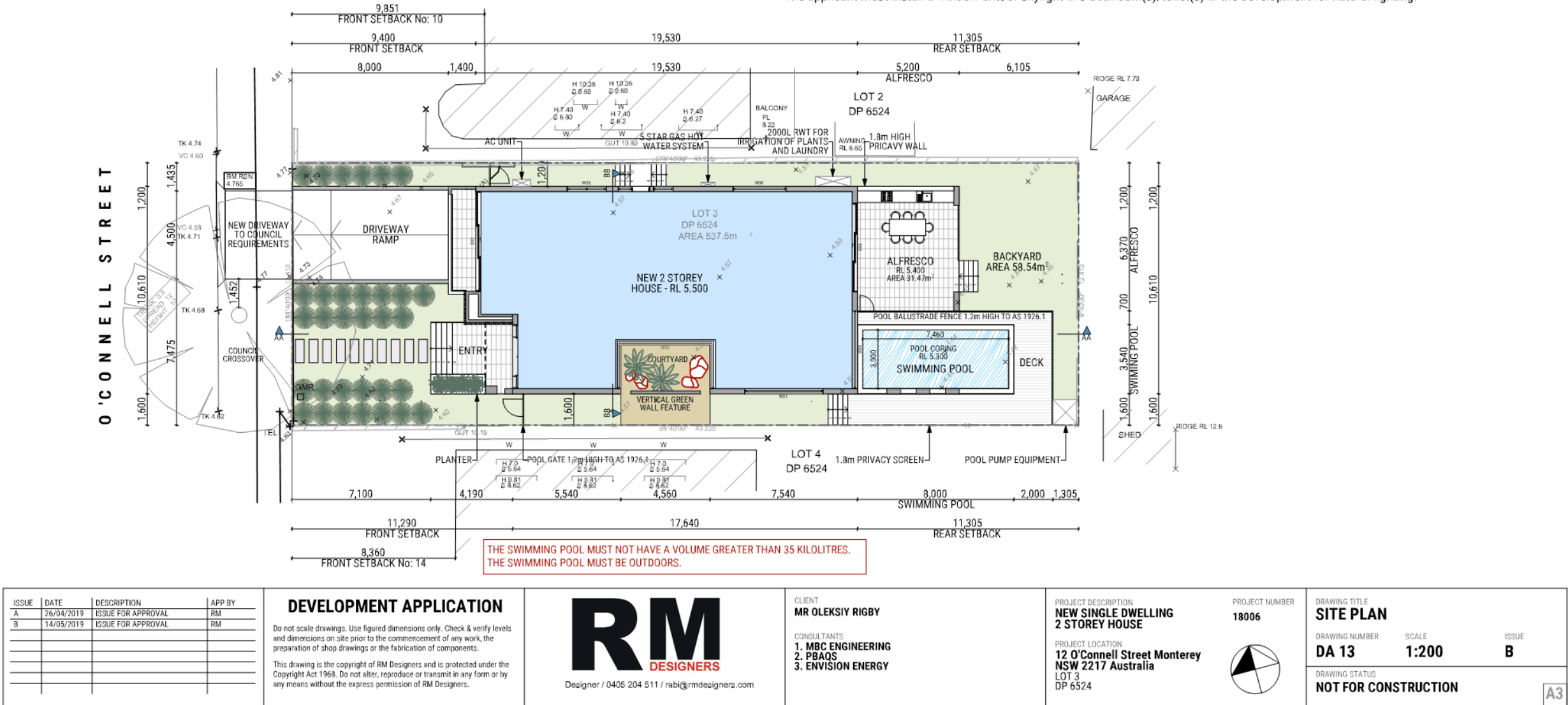
The applicant must construct the floors and walls of the dwelling in accordance with the specifications listed in the table below.

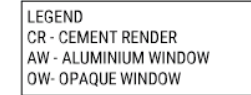
ENERGY COMMITMENTS

The applicant must install the following hot water system in the development, or a system with a higher energy rating: gas instantaneous with a performance of 6 stars.

NATURAL LIGHTING

The applicant must install a window and/or skylight in the kitchen of the dwelling for natural lighting.
The applicant must install a window and/or skylight in 3 bathroom(s)/toilet(s) in the development for natural lighting.





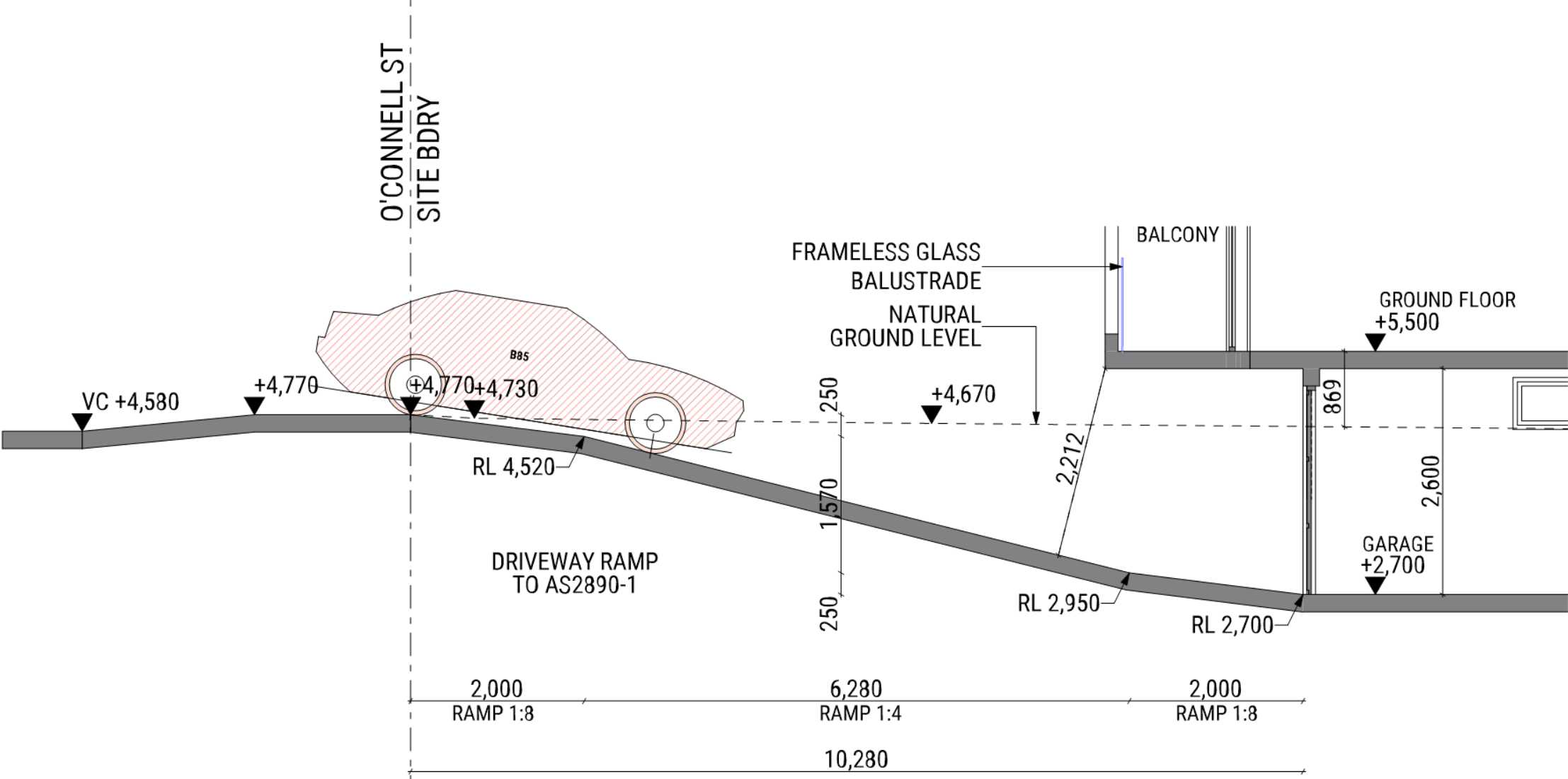
THE SWIMMING POOL MUST NOT HAVE A VOLUME GREATER THAN 35 KILOLITRES.
THE SWIMMING POOL MUST BE OUTDOORS.

NORTH ELEVATION
1:200

[illegible]

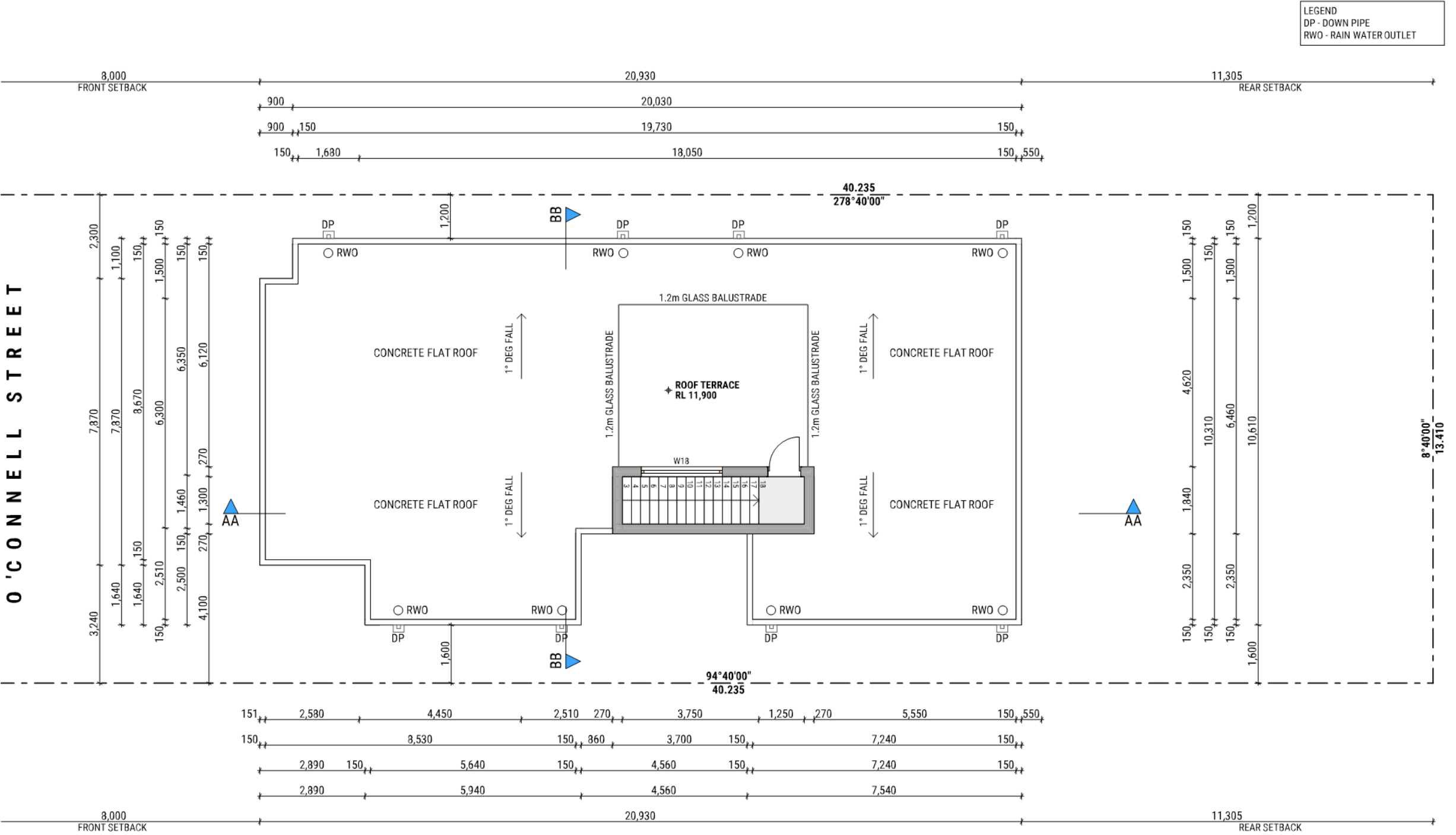


Item 6.5 – Attachment 5



DRIVEWAY RAMP SECTION CC
1:50

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B	14/05/2019	ISSUE FOR APPROVAL	RM

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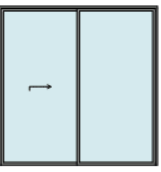
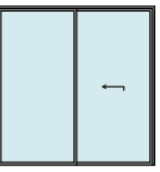

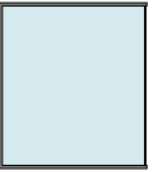

CLIENT
MR OLEKSIY RIGBY
CONSULTANTS
1. MBC ENGINEERING
2. PBAQS
3. ENVISION ENERGY






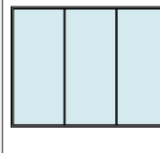
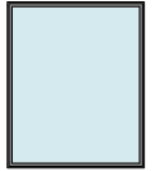

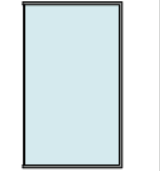



PROJECT DESCRIPTION
NEW SINGLE DWELLING
2 STOREY HOUSE
PROJECT LOCATION
12 O'Connell Street Monterey
NSW 2217 Australia
LOT 3
DP 6524


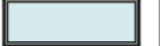
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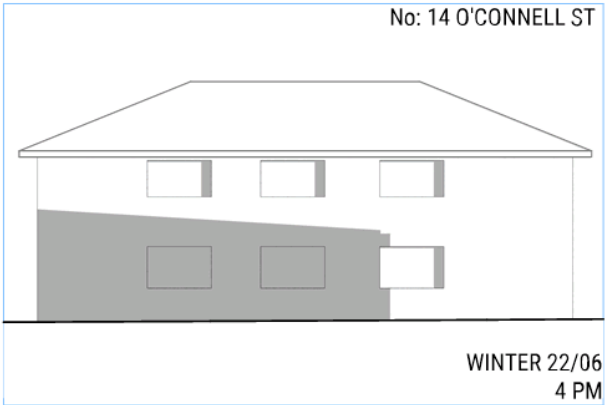
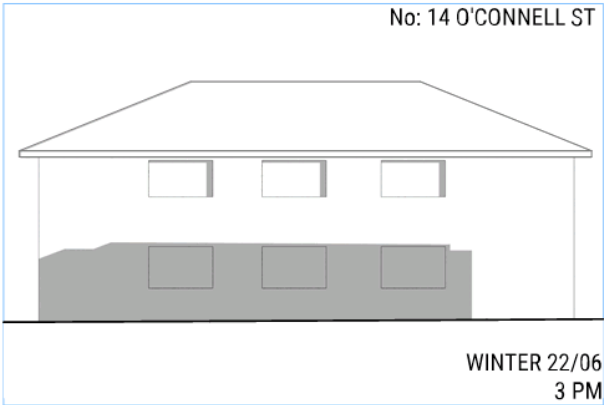
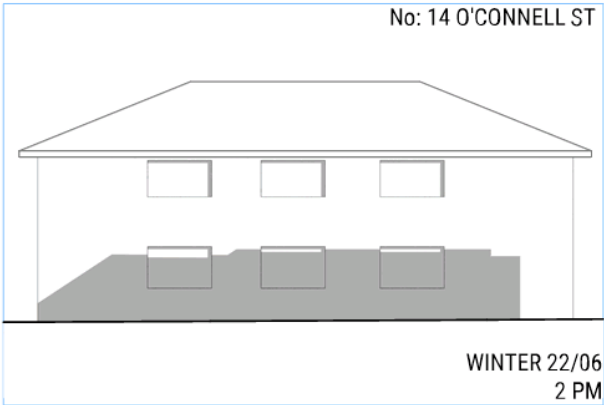
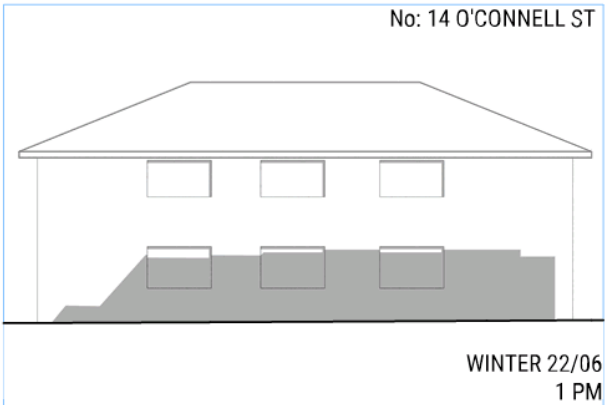
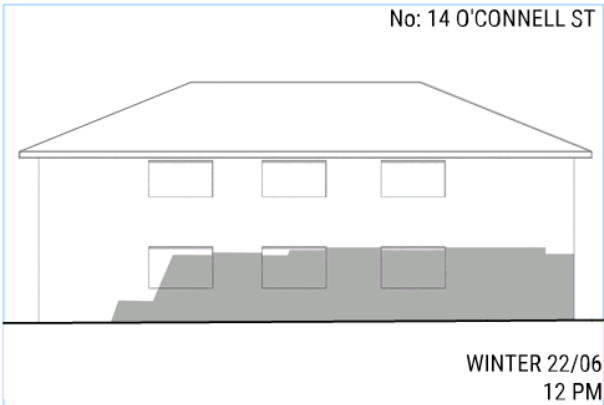
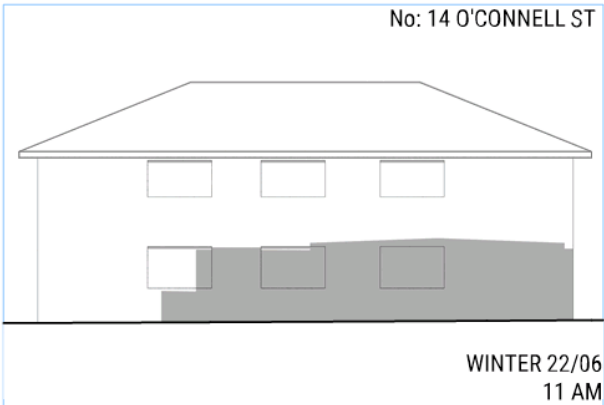
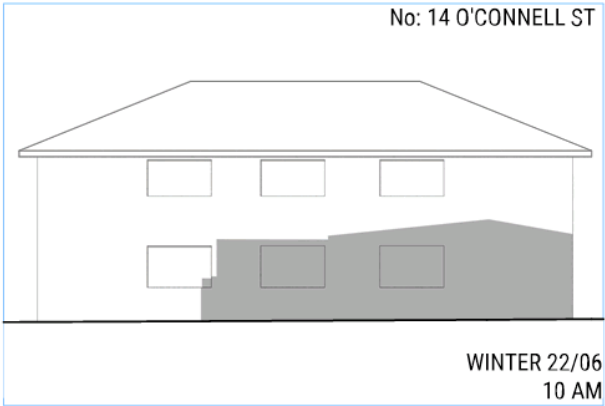
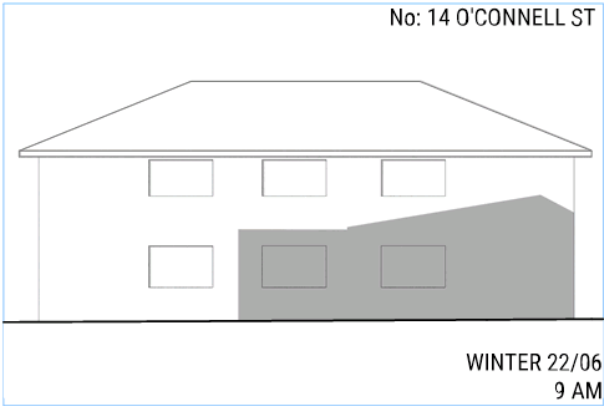
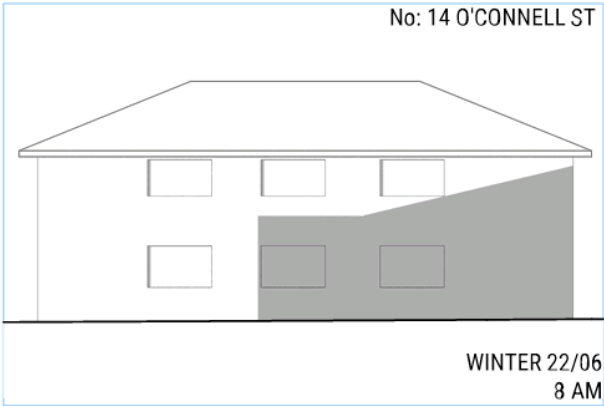
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Home Story Name	Basement	Basement	Basement	Basement	Ground Floor	Ground Floor	First Floor	First Floor	First Floor	Ground Floor	Ground Floor	Ground Floor
W x H Size	1,600×600	1,600×600	1,600×600	1,600×600	5,100×3,000	4,530×3,000	5,010×3,000	3,000×3,000	3,000×3,000	4,000×700	2,320×2,700	4,740×2,700
Sill height	1,900	1,900	1,900	1,900	0	0	0	0	0	1,700	0	0
Head height	2,500	2,500	2,500	2,500	3,000	3,000	3,000	3,000	3,000	2,400	2,700	2,700
GlassType	Glass - Clear	Glass - Clear	Glass - Clear	Glass - Clear	Glass - Clear Fast	Glass - Clear Fast	Glass - Clear	Glass - Clear Fast	Glass - Clear Fast	Glass - Clear	Glass - Clear	Glass - Clear
View from Reveal Side												

Window Schedule												
Element ID	W04	W05	W06	W07	W08	W09	W10	W11	W13	W14	W15	W16
Home Story Name	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	Ground Floor	First Floor	First Floor	First Floor	First Floor	First Floor	First Floor
W x H Size	2,320×2,700	2,000×900	700×700	1,000×700	2,700×700	3,970×3,000	2,230×2,700	2,230×2,700	1,710×3,000	3,310×700	2,000×900	900×700
Sill height	0	1,500	1,700	1,700	1,700	900	0	0	0	1,700	1,500	1,700
Head height	2,700	2,400	2,400	2,400	2,400	1,600	3,000	2,700	2,700	3,000	2,400	2,400
GlassType	Glass - Clear	Glass - Clear	Glass - Opaque	Glass - Opaque	Glass - Clear	Glass - Clear	Glass - Clear	Glass - Clear	Glass - Clear	Glass - Opaque	Glass - Clear	Glass - Opaque
View from Reveal Side												

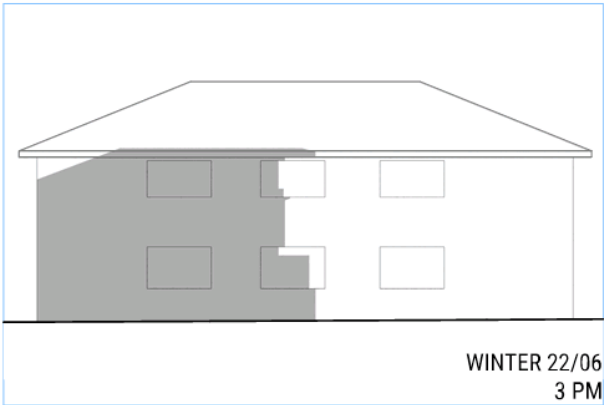
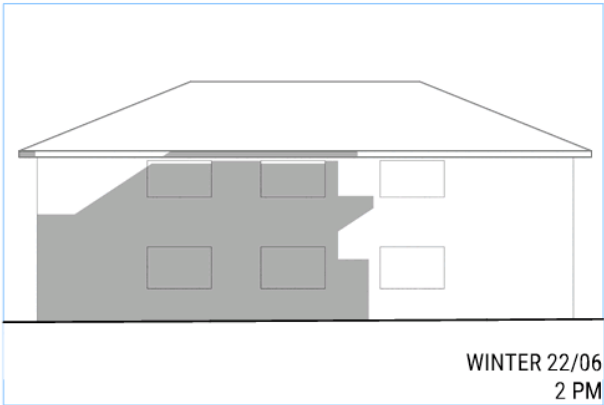
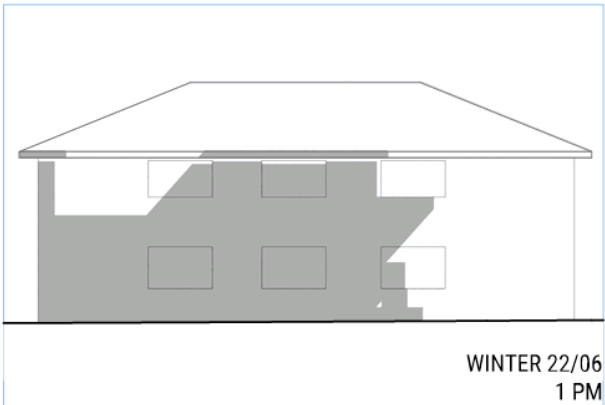
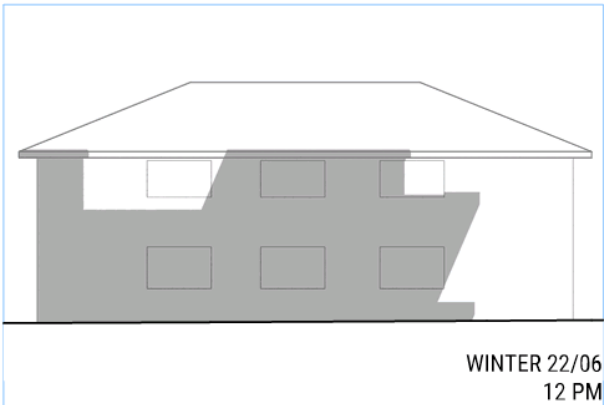
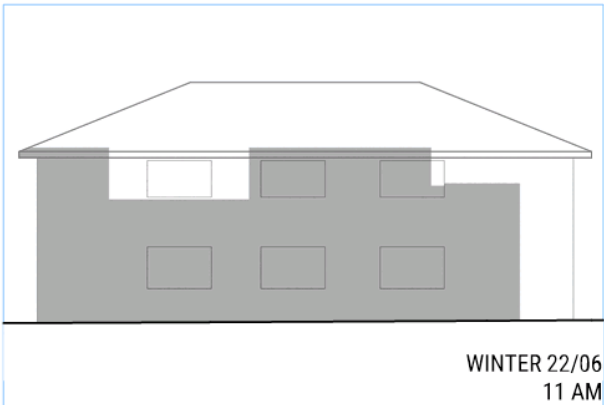
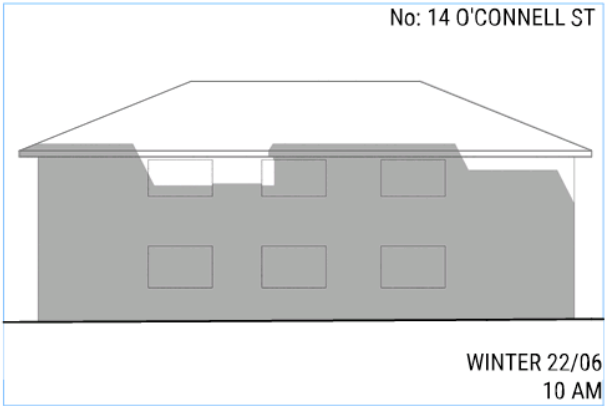
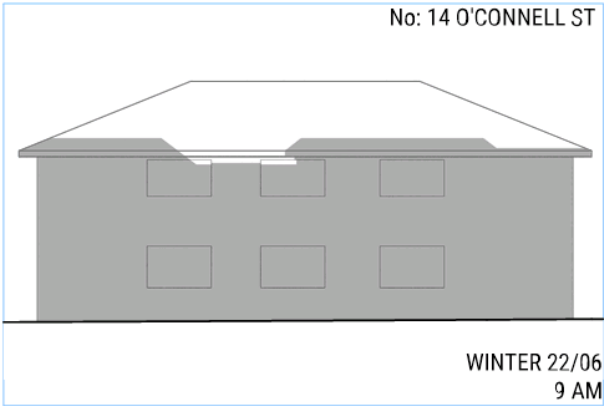
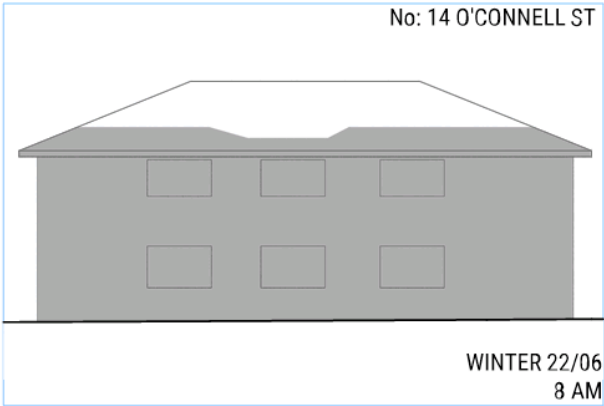
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Home Story Name	First Floor	Roof
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Sill height	1,700	1,000
Head height	2,400	1,800
GlassType	Glass - Opaque	Glass - Clear
View from Reveal Side		

CUSTOM FRAME		
Element ID	D01	W12
Height	3,000	2,800
Width	3,270	3,270
3D VIEW		

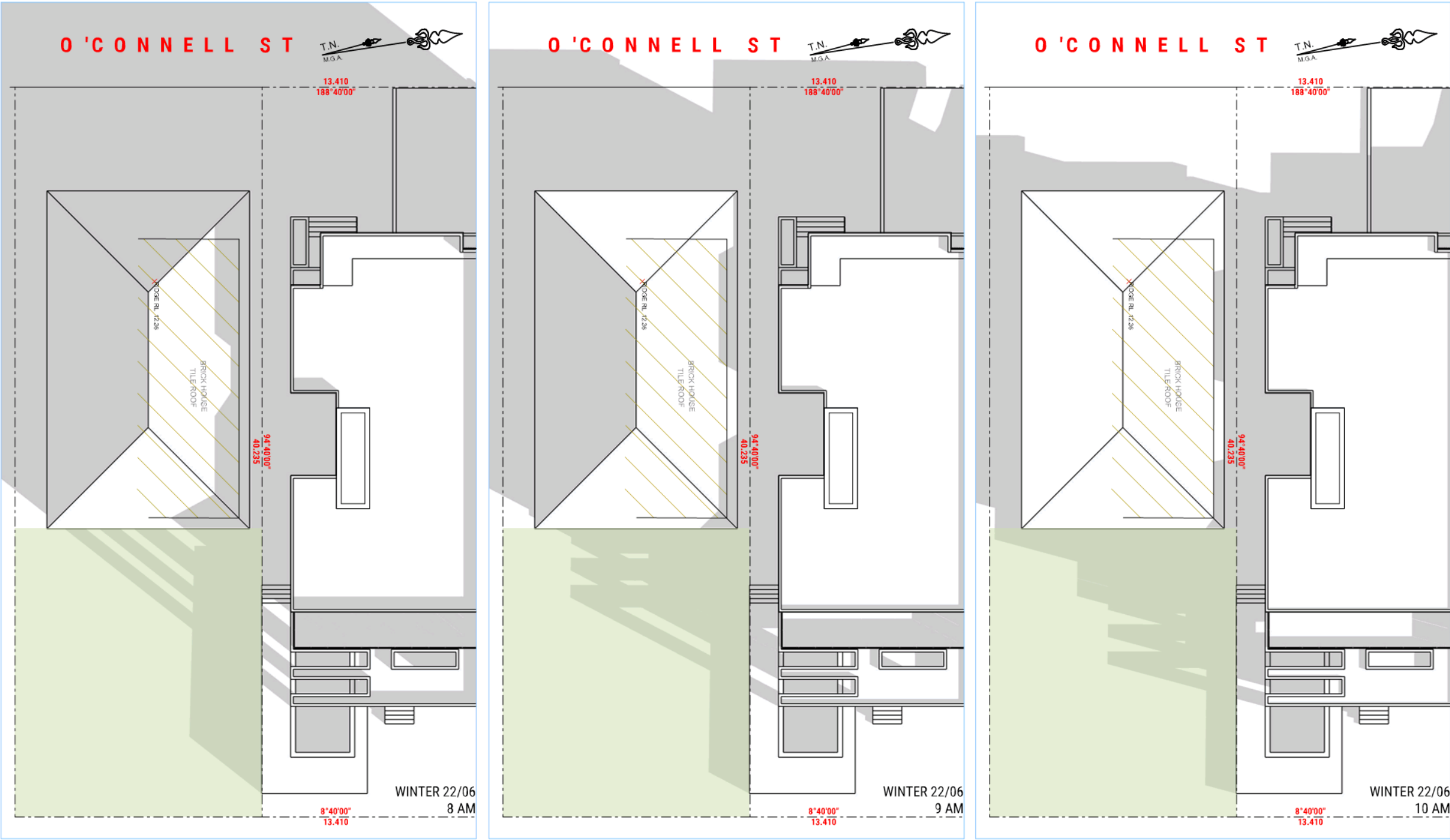
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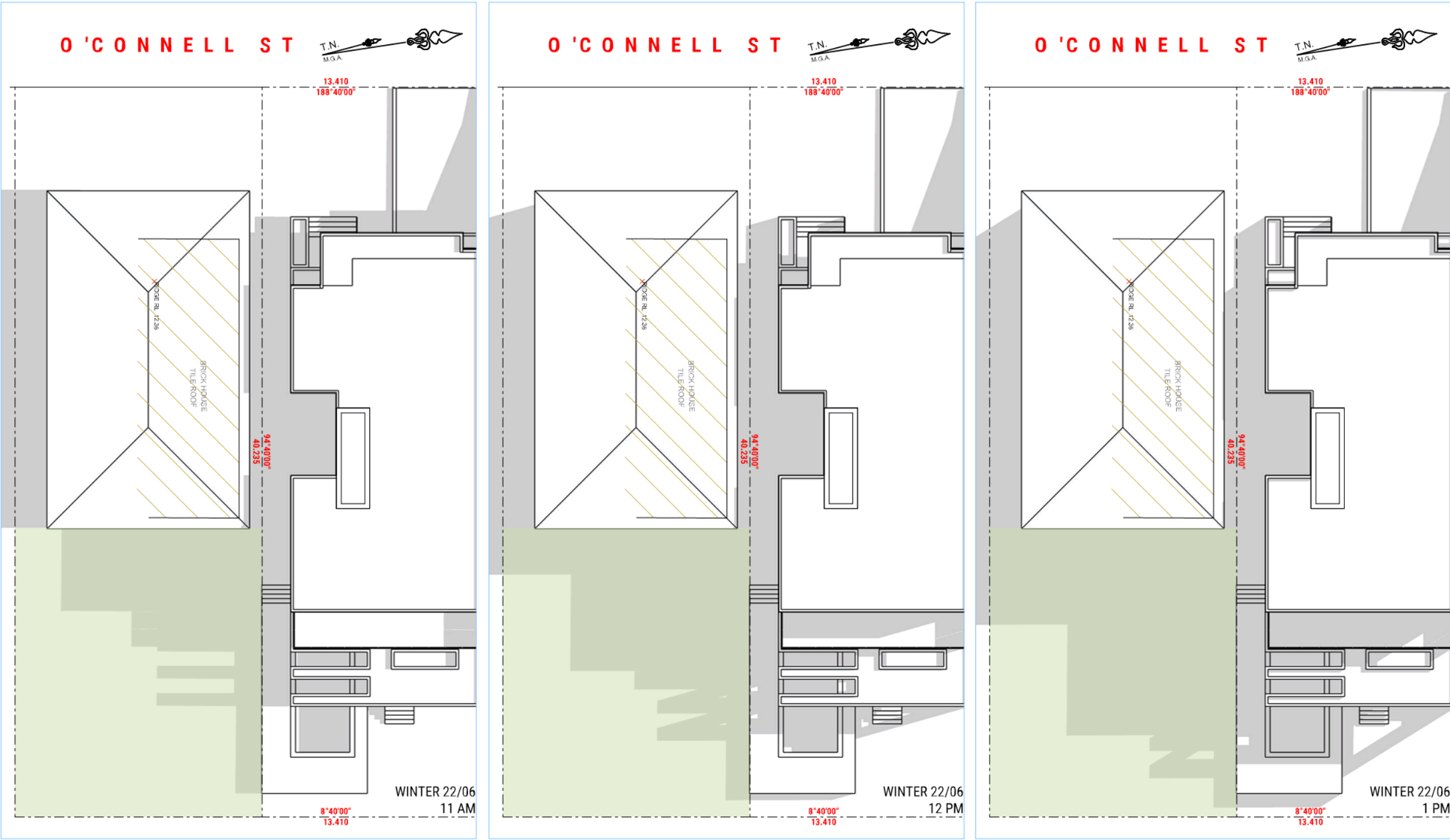
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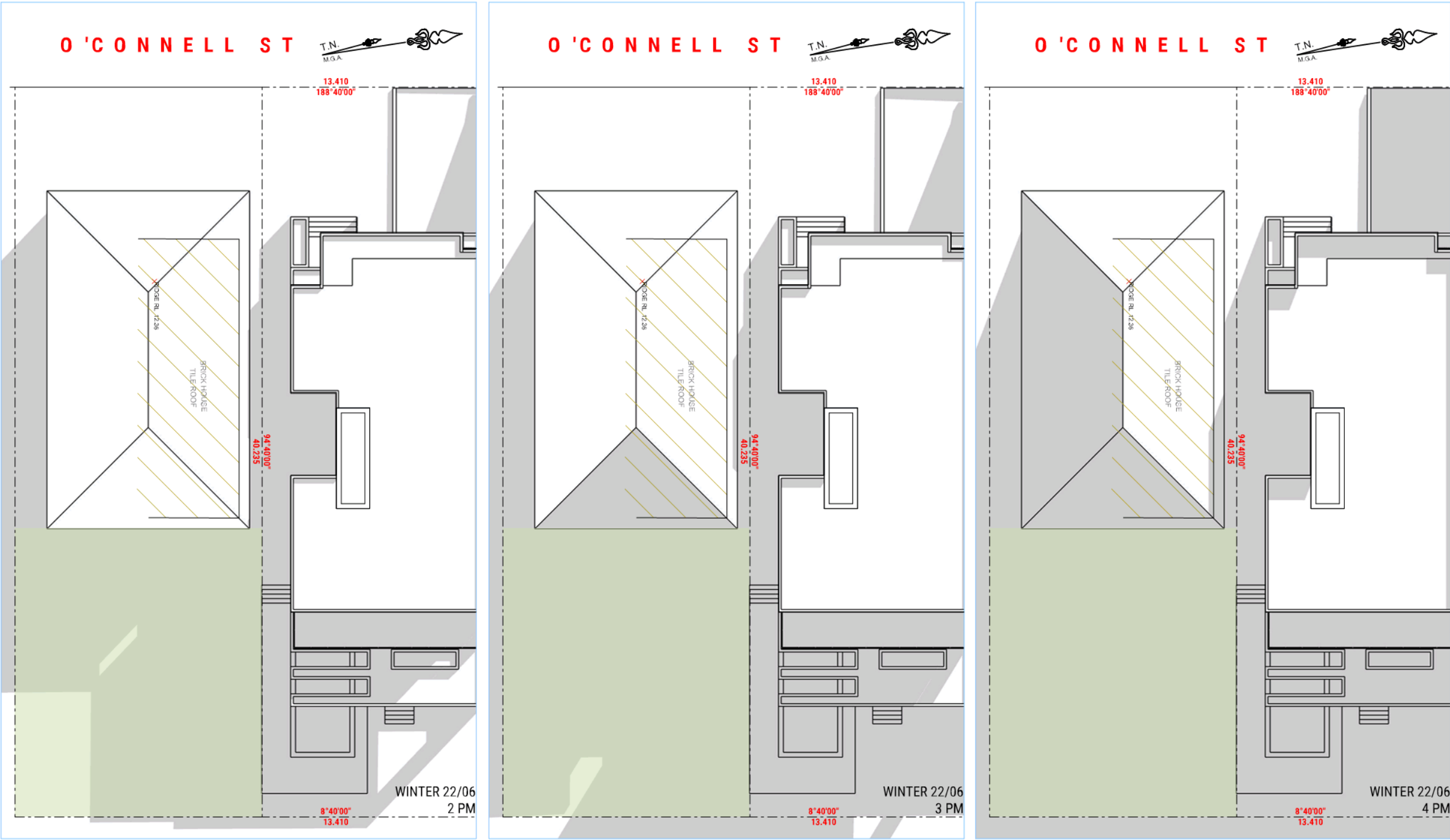
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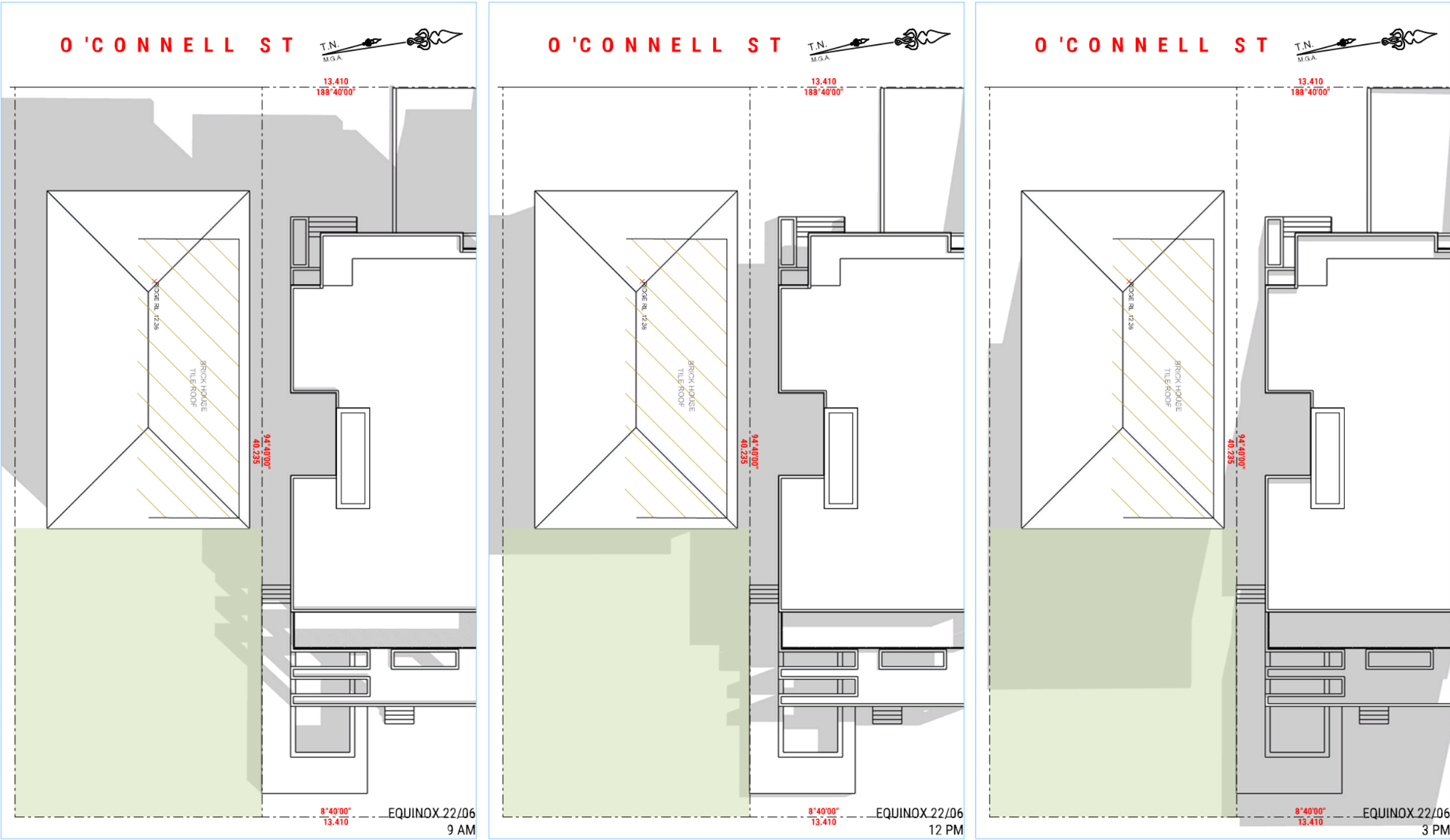
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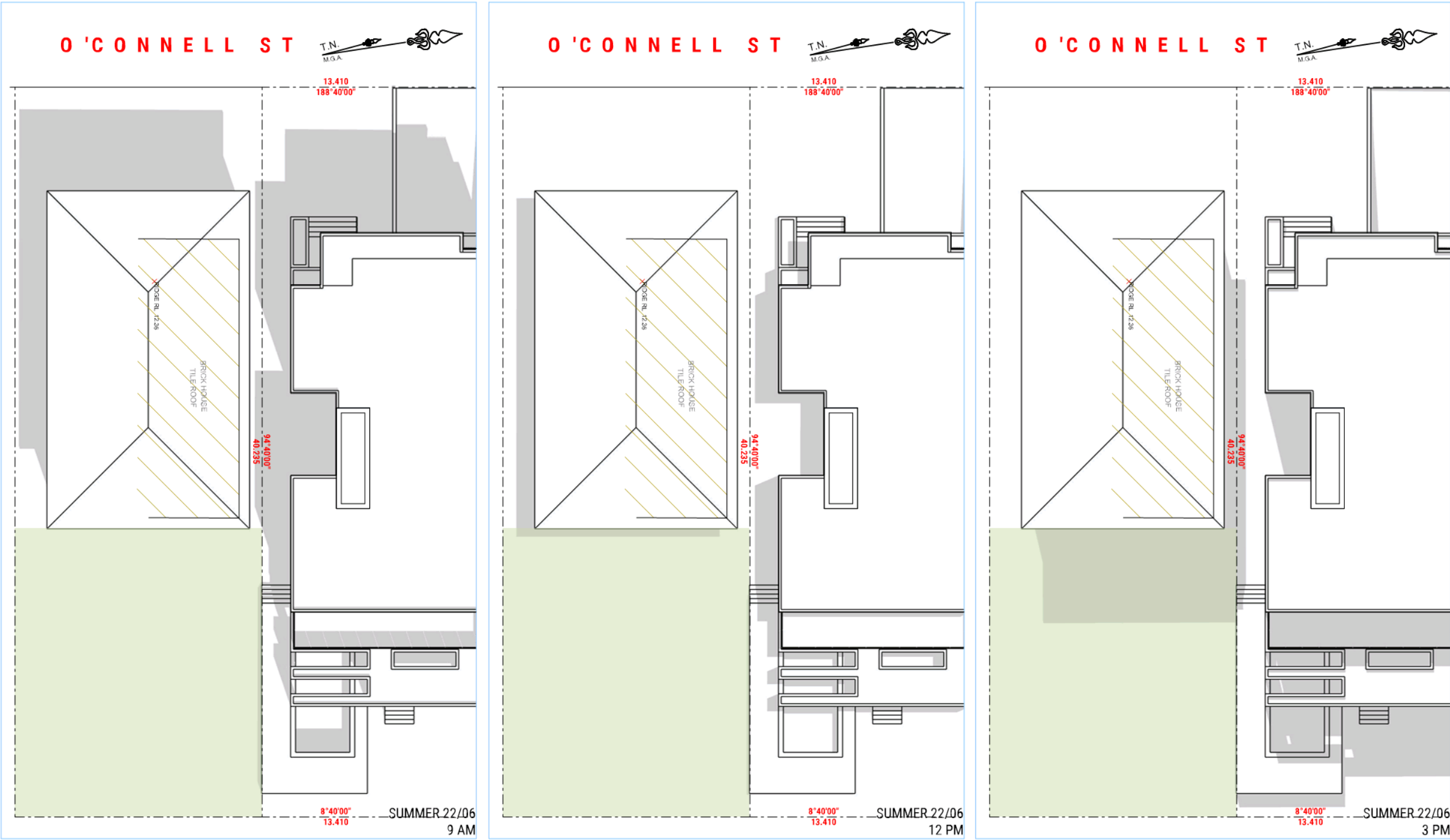
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							Designer / 0405 204 511 / rabi@rmdesigners.com							DRAWING STATUS NOT FOR CONSTRUCTION		

TURF

Excavate / grade all areas to be turfed to 120mm below required finished levels. Do not excavate within 1500mm of the trunk of any existing tree to be retained. Ensure that all surface water runoff is directed towards the inlet pits, kerbs etc.. and away from buildings. Ensure that no pooling or ponding will occur. Rip the subgrade to 150mm. Install 100mm depth of imported topsoil. Just prior to spreading the turf, spread "Shirley's No.17 lawn fertilizer" over the topsoil at the recommended rate. Lay "Kikuyu" turf rolls closely butted. Fill any small gaps with topsoil. Water thoroughly.

Brick Garden Edging

Lay a single course of paving bricks in a mortar haunch (200mm wide and 100mm deep). The edges are to be laid in even curves and straight line as shown on the plan. Where tight curves are shown use half bricks to show a more even curve. The top of the edge is to finish flush with the adjacent turf and mulch levels.

Planting areas

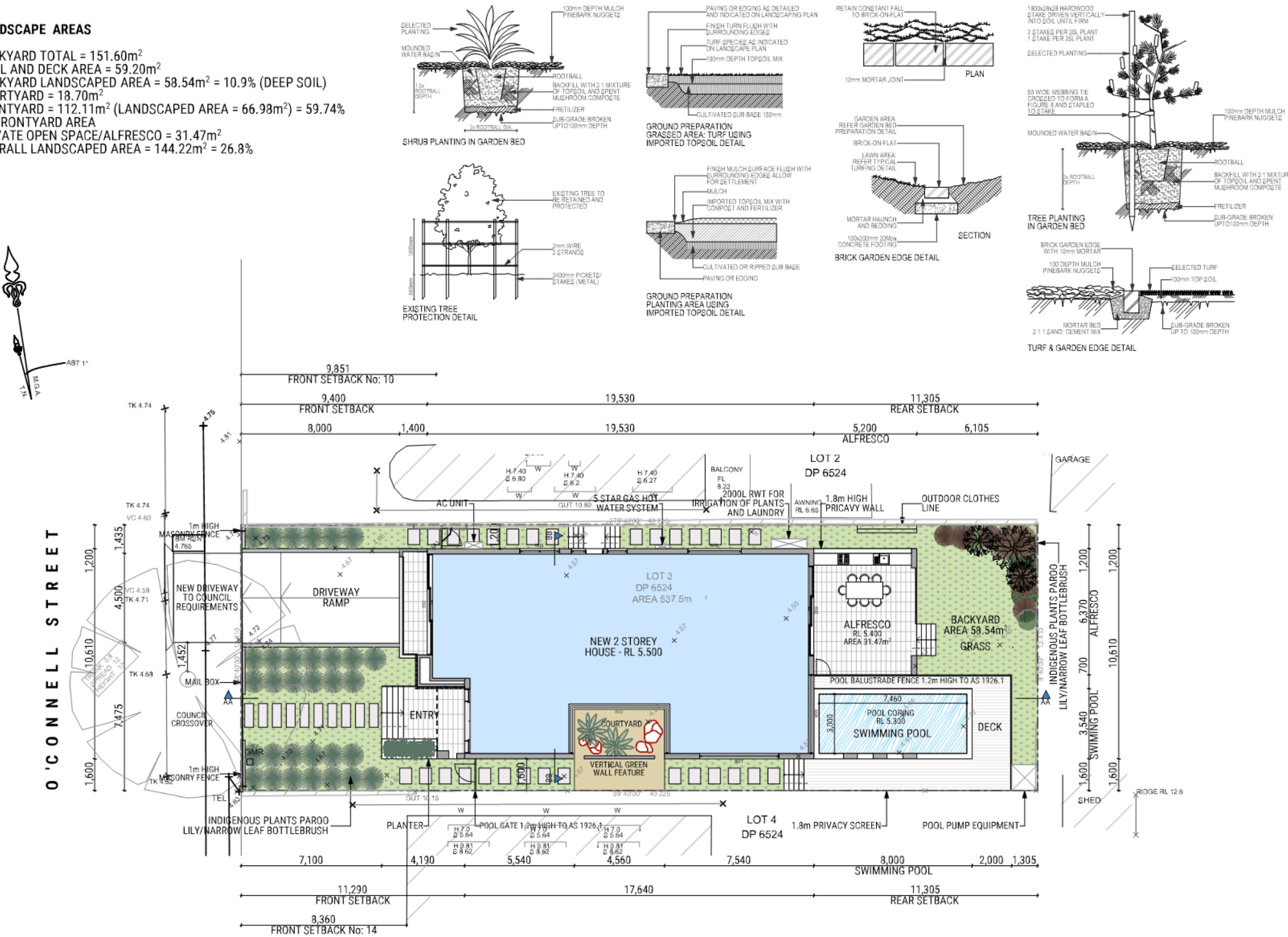
Ensure that the mass planting areas have been excavated to 300 below finished levels. Rip to a further depth of 150mm. Supply and install 300mm soil mix. Soil mix to comprise of one part approved compost to three parts topsoil. Topsoil shall be either imported topsoil or stockpiled site topsoil (if suitable ie: No clay) Install 75mm depth of selected mulch.

Note: Maintenance:

All landscape works are to be maintained for a period of three months from the date of practical completion. This includes all watering, weeding, spraying and re-mulching necessary to achieve vigorous growth. Any defects which arise during this period are to be rectified immediately. Any plants or areas of turf which fail during this period are to be replaced at no additional cost.

LANDSCAPE AREAS

BACKYARD TOTAL = 151.60m²
POOL AND DECK AREA = 59.20m²
BACKYARD LANDSCAPED AREA = 58.54m² = 10.9% (DEEP SOIL)
COURTYARD = 18.70m²
FRONTYARD = 112.11m² (LANDSCAPED AREA = 66.98m²) = 59.74% OF FRONTYARD AREA
PRIVATE OPEN SPACE/ALFRESCO = 31.47m²
OVERALL LANDSCAPED AREA = 144.22m² = 26.8%



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