

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 13 August 2019 at 6:00 pm.**

ON-SITE INSPECTIONS

On-site inspections will precede the meeting.

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

4.1 Minutes of the Bayside Local Planning Panel Meeting - 16 July 2019.....2

4.2 Minutes of the Bayside Local Planning Panel Meeting - 23 July 2019.....7

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1 DA-2018/379 - 1274 Botany Road, Botany19

6.2 S82-2019/5 - 11 Aylesbury Street, Botany81

6.3 BDA-2018/1140/A - 11 Edward Street, Botany178

6.4 DA-18/1164 - 14-16 Ramsgate Street, Botany227

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

13/08/2019

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 16 July 2019
Report by	Michael McCabe, Director City Futures
File	SF18/3003

Recommendation

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 16 July 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

Present

Jan Murrell, Chairperson
Robert Montgomery, Independent Expert Member
Greg Wright, Independent Expert Member
Thomass Wong, Community Representative

Also Present

Fausto Sut, Manager Governance & Risk
Michael McCabe, Director City Futures
Clare Harley, Manager Strategic Planning
Charlotte Lowe, Acting Coordinator Statutory Planning
John McNally, Urban Planner
Howard Taylor, Urban Planner
Wolfgang Gill, IT Technical Support Officer
Anne Suann, Governance Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.02 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

Nil

5 Reports – Planning Proposals

5.1 Post-Exhibition Report - Planning Proposal: 8 Princess Street, Brighton-Le-Sands

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

No persons elected to speak at the public meeting.

Panel Consideration

This draft Planning Proposal for 8 Princess Street, Brighton-Le-Sands seeks to rezone the site from SP3 Tourist to B4 Mixed Use under the Rockdale LEP 2011.

The Draft Plan has been publicly exhibited for 30 days ending 7 June 2019. Six submissions were received as detailed in the Officer's report with 5 in support.

The Council did not support the LEP amendment and the applicant requested a Rezoning Review in a letter to the Department of Planning, Industry and Environment.

Recommendation to Council

The Bayside Local Planning Panel, after considering the submissions and merits of the Planning Proposal, recommends the Local Environmental Plan amendment for 8 Princess Street, Brighton-Le-Sands, as exhibited, be made in accordance with Section 3.36 of the Environmental Planning and Assessment Act, 1979.

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

Reason for the Panel's Recommendation

- The Panel notes the response to the Community Objection contained in the Officer's Report and is satisfied there are no outstanding reasons as to why the rezoning should not be made.

- As recommended by the Panel prior to exhibition, the Panel is satisfied that the adjoining B4 zone be extended over the subject site as this is not contrary to the strategic planning for the area and in the circumstances has merit. The Panel is of the opinion that activation of the streetscape for residential units in this location, with a raised elevation above the street level, is appropriate in its context.

5.2 Draft Planning Proposal: 146-154 O'Riordan St, Mascot

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

The following person spoke:

- David Krepp from Toplace, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Consideration

The subject site is unique in that it adjoins Mascot Oval and has a lower permissible building height (22m) than nearby properties. The Oval and associated infrastructure are significant public recreation assets for the community.

The Planning Proposal was accompanied by an urban design report which indicates the built form to be achieved as a consequence of the increased height limit for the site.

Whilst the Planning Proposal has merit in that it seeks to extend the 44m building height limit for the western part of the site with frontage to O'Riordan Street, noting this is the same as the majority of the O'Riordan Street sites on both sides of the road, however, at the same time the juxtaposition of the northern boundary to the public open space and Lionel Bowen Oval must be carefully considered.

The panel observed that newer developments along the western side of O'Riordan Street in particular appear to have achieved the 44m building height with a smaller building footprint than would be expected with a lower height restriction. This creates additional landscaping and setbacks, providing a superior urban design outcome.

Although not technically relevant to the Planning Proposal, the applicant has a current DA with Council for the construction of four commercial buildings on the site. The buildings proposed in the DA achieve an FSR of 2.61:1 with a GFA of 36,850m². In its submission to the Panel, the applicant confirmed his view that the maximum permissible FSR of 3.0:1 cannot be achieved within the 22m building height without compromising good design.

The urban design report prepared by Peddle Thorp and Walker Pty Ltd indicates the massing height and FSR comparison (Figure 3.2) between the current DA and what may be achieved with a 44m height limit over part of the site. This comparison simply adds additional storeys to two of the buildings proposed in the current DA to achieve the maximum permitted FSR of 3.0:1, with a total GFA for the site of 51,063m².

The relevance of the current DA and the comparison diagram is that the intended outcome of the Planning Proposal is made clear, that is, the intended outcome is to achieve taller buildings over part of the site to facilitate an increase in GFA by some 38.5% over the current DA.

The Panel is supportive of the Planning Proposal provided that the increased permissible height limit would achieve a built form which demonstrates both design excellence and an appropriate relationship to the adjoining Mascot Oval and the public domain. Unfortunately the Planning Proposal does not demonstrate a built form which would necessarily possess these qualities.

For greater certainty in the built form outcome the Panel recommends the northern boundary of the Planning Proposal be setback 15 m to facilitate an appropriate setback and interface with the public domain and open space.

The Panel is also of the view that the Planning Proposal should proceed in conjunction with a site-specific development control plan, which contains provisions such as additional setbacks to O’Riordan Street and the Mascot Oval with additional deep soil planting zones and an appropriate relationship between the proposed buildings and the Oval. Alternatively the Panel notes: a Concept Development Application may be prepared instead of a DCP; and the subject site is identified as a significant site that requires the design excellence provisions to come into effect.

Recommendation to Council

- 1 The Bayside Local Planning Panel recommends to Council that pursuant to s3.33 of the *Environmental Planning and Assessment Act 1979* (EPAA) the draft Planning Proposal for land known as 146-154 O’Riordan Street, Mascot to increase the building height to 44m be amended to retain the 22m building height for 15m on the northern boundary and for this to be submitted to the Department of Planning, Industry and Environment for a Gateway Determination.
- 2 The Bayside Local Planning Panel recommends to Council that the Department of Planning, Industry and Environment be requested to include a condition in any Gateway Determination which requires the applicant to prepare a site specific development control plan/Concept Development Application, in consultation with Council staff, to provide greater certainty in the outcome including, but not limited to, additional setbacks to O’Riordan Street and the Mascot Oval, additional deep soil planting zones and to achieve an appropriate relationship with the public open space.
- 3 The Bayside Local Planning Panel recommends to Council that should a Gateway Determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway Determination, and to provide details of any submissions received throughout that process.

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

Reason for the Panel's Recommendation

The Panel considers the planning Proposal has merit, however the increase in height should be setback from the northern boundary to provide an appropriate setback and transition to the public domain and open space.

6 Reports – Development Applications

Nil

The Chairperson closed the meeting at 6:50 pm.

Certified as true and correct.

Jan Murrell
Chairperson

Bayside Local Planning Panel

13/08/2019

Item No	4.2
Subject	Minutes of the Bayside Local Planning Panel Meeting - 23 July 2019
Report by	Michael McCabe, Director City Futures
File	SF18/3003

Recommendation

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 23 July 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

Present

Jan Murrell, Chairperson
Robert Montgomery, Independent Expert Member
Helen Deegan, Independent Expert Member
Amber O'Connell, Community Representative

Also Present

Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Christopher Mackay, Coordinator Development Assessment
Pascal Van De Walle, Coordinator Development Assessment
Ben Latta, Coordinator Development Assessment
Clare Harley, Manager Strategic Planning
Charlotte Lowe, Senior Urban Planner
Angela Lazaridis, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Ana Trifunovska, Development Assessment Planner
Helen Lai, Development Assessment Planner
Suhradam Patel – IT Technical Support Officer
Anne Suann, Governance Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.10 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

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

Decision

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

5 Reports – Planning Proposals

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

The following person spoke:

- Michael Gheorghiu from Tudor Planning and Design, representing the adjoining landowner, spoke for the officer's recommendation and responded to the Panel's questions.

Recommendation to Council

- 1 The Bayside Local Planning Panel recommends that Council writes to the NSW Department of Planning, Industry and Environment to request notification of the Local Environmental Plan amendment, as exhibited, for Lot 3, DP 1247416, known as 9 Bidjigal Road, Arncliffe, in accordance with Section 3.36 of the Environmental Planning and Assessment Act 1979.
- 2 The Bayside Local Planning Panel recommends to Council to request the NSW Department of Planning, Industry and Environment recommend to the Governor of NSW that the public reserve status be discharged from the land, in accordance with Section 30 of the Local Government Act 1993.

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

Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Recommendation

- The reclassification to Operational Land is appropriate to allow a land exchange to achieve open space for the community.
- The Panel has considered the submission in support of the reclassification and is satisfied the proposal is in the public interest.

6 Reports – Development Applications

6.1 DA-2017/224/E - 152-200 & 206 Rocky Point Road, Kogarah

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

The following person spoke:

- Chris Ferreira from Ethos Urban, representing the applicant, spoke for the officer's recommendation and responded to the Panel's questions.

The applicant's representative indicated that the modification with respect to the staging of the subdivision be considered only and, as such, the modification application is formally amended to delete the proposed amendments to Conditions 3 and 96.

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to s4.55(1A) of the Environmental Planning and Assessment Act 1979, is satisfied that the proposed modification as amended above:
 - i is of minimal environmental impact;
 - ii is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii has not been notified as this is not required; and
 - iv has been assessed having regard to the relevant matters in s4.15(1A) of the Environmental Planning and Assessment Act 1979.
- 2 The Bayside Local Planning Panel has considered the reasons of the consent authority when consent was originally granted and is satisfied the conditions sought to be modified are appropriate in the circumstances..

- 3 The Modification Application No. DA-2017/224/E, being a Section 4.55(1A) application to amend Development Consent No. DA-2017/224, to permit subdivision into two (2) stages at 152-200 & 206 Rocky Point Road, Rockdale, is **APPROVED** pursuant to Section 4.55(1A) of the Environmental Planning and Assessment Act 1979 and subject to the modifications of conditions of consent attached to the Council officer's report.
- i By amending the Proposal description to include reference to twenty-one (21) townhouses;
 - ii By amending condition 2, 14, 52, 105, 106, 125, 126, 127 and 128; and
 - iii By deleting condition 124 and condition (d)(ii) under Development Consent Advice.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- The Panel is satisfied that the staging of the subdivision does not create any environmental impacts and the modification is consistent with the original approval.
- Note:** By way of comment, the Panel raised concerns about the process for amending conditions 3 and 96 and is of the opinion further consideration and information is required to allow an informed decision in accordance with the Environmental Planning and Assessment Act.

6.2 DA-2018/318 - 72 Banksia Street, Botany

The site was viewed by the Panel earlier in the day.

The following person spoke:

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

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, approves a variation to the floor space ratio prescribed by Clause 4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the

proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives of the zone.

- 2 The development application, DA-2018/318 for the Torrens Title subdivision lot into two (2) lots and construction of two (2) x two (2) storey semi-detached dwellings at 72 Banksia Street, is **APPROVED**, pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to the Council officer's report.
- 3 The submitter be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied that the amended plans address the concerns raised by the Panel on a previous occasion. Furthermore, it is noted that the streetscape presentation and the extent of deep soil landscaping and canopy trees is now well provided for to make a positive contribution to the streetscape.

6.3 SF19/3611 - 5 Highgate Street, Bexley

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

Determination

- 1 The proposed variation to the building height and floor space ratio prescribed by cl 4.3 Height of Buildings and cl 4.4 Floor Space Ratio of the Rockdale Local Environmental Plan 2011, NOT BE SUPPORTED as the applicant's written request has not adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would not be in the public interest because it is not consistent with the objectives of that particular standards and the objectives for development within the zone.
- 2 The development application DA-2019/141 for the demolition of existing structures and construction of a two storey dwelling with basement level, secondary dwelling and garage at 5 Highgate Street, Bexley is **REFUSED** pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 1. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided by the applicant to allow a proper and

thorough assessment of the impacts of the proposed development and the suitability of the site for the development.

2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with SEPP (Affordable Rental Housing) 2009 with respect to the maximum gross floor area and floor space ratio allowable.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 of the Rockdale Local Environmental Plan 2011 with respect to height of buildings.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.4 of the Rockdale Local Environmental Plan 2011 with respect to floor space ratio.
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 6.6 and Clause 6.7 of the Rockdale Local Environmental Plan 2011 with respect to stormwater management and flood planning.
6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the following sections of the Rockdale Development Control Plan 2011 with respect to the following:
 - a Part 4.1.3 - Water Management
 - b Part 4.2 - Streetscape and Site Context
 - c Part 4.4.2 - Solar Access
 - d Part 4.4.5 - Visual Privacy
 - e Part 4.6 - Car Park Location and Design
 - f Part 5.1 - Building Design
7. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
8. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk, scale, size, and height, and would adversely impact upon the amenity of the locality.
9. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land.
10. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts

and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

3 The submitters be notified of the Panel's decision.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- The Panel agrees with the officer's report and recommendations and considers the proposal is an overdevelopment of the site and out of character with the area.
- The Clause 4.6 written request to vary the development standards of height and floor space ratio as contained in the Rockdale LEP are not well founded and do not justify variation in the circumstances of this application.

6.4 DA-2016/47/B - 7-9 Gertrude Street, Wolli Creek

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

The following person spoke:

- Richard Darvill, Senior Associate, Marchese Partners Architects, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

The modification application DA-2016/47/B seeking to modify development consent DA-2016/47 to add three (3) car stacker units and relocate two (2) accessible car parking spaces within the basement at 7-9 Gertrude Street, Wolli Creek is **REFUSED consent**, pursuant to s4.16(1)(b) of the Environmental Planning and Assessment Act 1979, for the following reasons:

- 1 The proposal does not provide sufficient head height clearance in accordance with AS-2890.1
- 2 The proposal as modified is unsatisfactory in that the proposed car stackers will restrict the nature and type of vehicles which are capable of utilising these car spaces.
- 3 The width of the platform lift is insufficient and the proposal does not incorporate a wheel stop as required by AS-2890.1.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reasons for the Panel's Determination

- The car parking currently provided within the basement levels is in accordance with the development consent and no additional parking is required to satisfy the conditions of consent.
- The proposal will result in the conversion of three unrestricted car parking spaces to six stacked spaces which are limited in height and width, therefore restricting the type and size of vehicles.
- The Panel considers that having considered the reasons for the original approval, there is no justification for the proposed modification.

6.5 DA-2014/10214/D - 5 Myrtle Street, Botany

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

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 is satisfied that the proposed modification:
 - i is of minimal environmental impact;
 - ii is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii the application was not notified because not required; and
 - iv has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
- 2 The Bayside Local Planning Panel has considered submissions made concerning the proposed modification and taken into account the reasons of the consent authority that granted the consent that is sought to be modified.
- 3 The modification application DA-2014/214/D seeking to modify Development Consent No. 2014/214 to amend Condition Nos. 37 and 106 relating to the stormwater system on the site at 5 Myrtle Street, Botany, is **APPROVED**. The proposal is modified in the following manner:

- i By amending Condition No. 37 relating to stormwater system noting that the wording for this consent condition needs to be as per Condition No 37 within the Council officer's report on page 561 of the Agenda, as follows:

Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority (PCA) for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not be limited to the following:

- a) ~~The provisions made in the Stormwater Management Plans by ACOR, dated 18 July 2014 (DA-14/214/04)~~
- b) ~~**The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm.**~~
- c) Any stormwater discharge to Council's Kerb and Gutter is limited to 10L/s. If higher discharge is proposed, provision must be made to connect to Council's pit and pipe system. ~~**Maximum permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the State of Nature condition (i.e. the site is totally grassed/turfed), rather than pre-development condition.**~~
- d) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- e) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- f) ~~**The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,**~~
- g) The water originating from the pump put system in the basement car park shall NOT be directed to the Rainwater Re-use Tank and must not be used as grey water under any circumstance.
- h) ~~**All stormwater runoff from the site shall pass through a pollution control device capable of removing litter and sediment (e.g. Gross Pollutant Trap, (GPT)) prior to entering Council's drainage systems. As such, details of the pollution control device shall be shown on stormwater management plan and submitted to the PCA for approval prior to the issue of any construction certificate, and**~~

- i) Detail calculations including computer modelling (electronic and paper) shall be submitted demonstrating the adequacy of the stormwater management plan in fulfilling all requirements of Council's SMTG.
- ii) By amending Condition No. 106 relating to stormwater system as follows:

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

~~a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and~~

~~Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.~~

~~The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.~~

Prior to the issue of the Occupation Certificate, an appropriate instrument in accordance with Council Specification must be registered on the title of the property, concerning the presence and ongoing operation of the stormwater system. A Works-as Executed plan must be submitted to Council at the completion of the works. The plan must clearly illustrate dimensions and details of the site drainage and the stormwater system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided to verify, that the constructed stormwater system and associate works has been carried out in accordance with the approved plan(s), relevant codes and standards. The terms of the 88E instruments are to be submitted to Council for review and approval and proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation

- iii) By amending Condition No. 118 relating to the subject application as follows:

The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14(214) dated as 12 September 2014 and as further amended by Section 96(1A) Application No. 14(214).02 dated 2 October 2015 14(214).03 dated 22 January 2016 and as further amended by Section 4.55(2) Application No. 14/214/04 dated 20 April 2018 **and as further amended by Section 4.55(1A) Application No.**

2014/214/D dated 30 May 2019 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. (DA-14/214/02) (DA-14/214/03) (DA-14/214/04)(**DA-2014/214/D**)

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied that the modification does not give rise to adverse environmental impacts and is consistent with the original approval.

6.6 DA-18/1172 - 106 Wilson Street, Botany

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

The following people spoke:

- Simon Hanson, BureauSRH Architects, speaking on behalf of the applicant, spoke against the officer's recommendation and responded to the Panel's questions.
- Philip Bull from Dickson Rothschild, urban planner, spoke against the officer's recommendation and responded to the Panel's questions.

Determination

- 1 The development application DA-2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street Botany is **DEFERRED** to allow the applicant the opportunity to submit amended plans within four weeks for Council's assessment and the matter to be referred back to the Panel for determination. The amended plans are to reduce the number of residential units and the amount of floor space to provide car parking that does not dominate the site or the public domain. Public domain issues should also be addressed in the context of the adjacent approved development.
- 2 The submitters be notified of the Bayside Local Planning Panel's decision.

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

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Deegan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel considers that given the constraints of the site, in particular its narrow width, that the amount of floor space proposed cannot be suitably accommodated having regard to both the public domain and other requirements including car parking.
- The applicant is prepared to submit amended plans with a lower residential FSR and number of units.

The Chairperson closed the meeting at 7:45 pm.

Certified as true and correct.

Jan Murrell
Chairperson

Bayside Local Planning Panel

13/08/2019

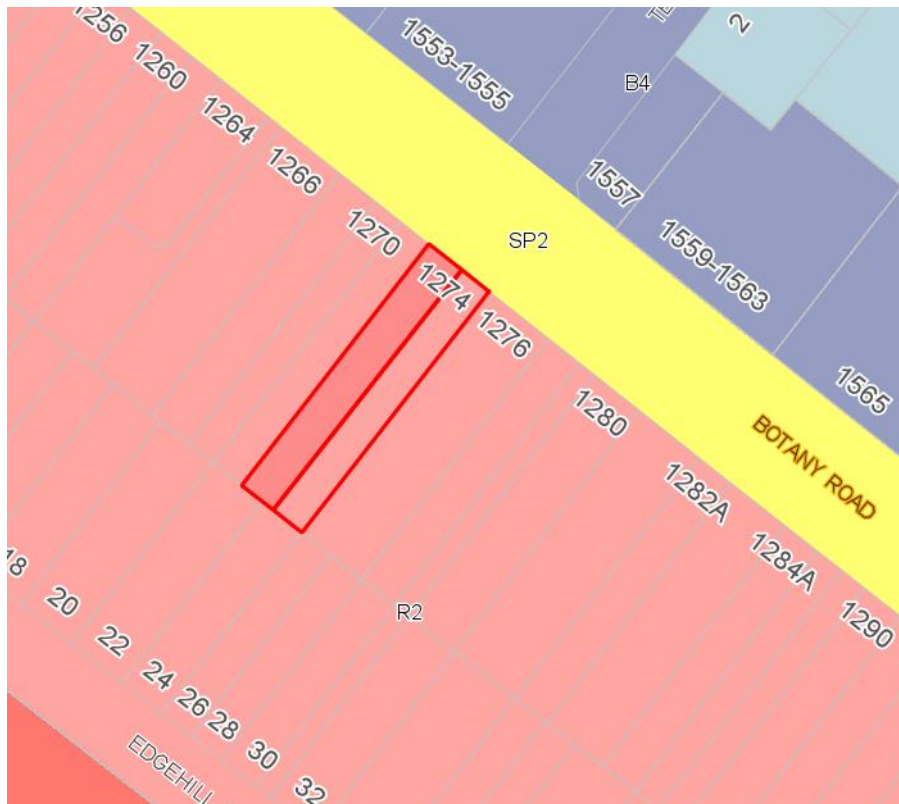
Item No	6.1
Application Type	Development Application
Application No	DA-2018/379
Lodgement Date	21/12/2018
Property	1274 Botany Road, Botany
Ward	Ward 1
Owner	David Musgrave
Applicant	CK Design
Proposal	Demolition of existing dwelling and construction of a two storey boarding house containing 13 double rooms, one managers room and 7 car spaces.
No. of Submissions	Ten (10)
Cost of Development	\$1,737,323
Report by	Michael McCabe, Director City Futures

Officer Recommendation

It is RECOMMENDED, pursuant to Section 4.16 of the EP&A Act 1979:

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2018/379 for the demolition of existing dwelling and construction of a two storey boarding house containing 13 double rooms, one managers room and 7 car spaces, pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 2. That the submitters be notified of the Bayside Local Planning Panel's decision.
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Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Site Plan [↓](#)
- 3 Elevations [↓](#)
- 4 Photomontage [↓](#)
- 5 Landscape Plan [↓](#)
- 6 Shadow diagrams [↓](#)
- 7 Plan of Management [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/379
Date of Receipt:	21 December 2018
Property:	1274 Botany Road, Botany
Lot & DP:	Lot 18 and Lot 19 DP 131906
Owner:	David Musgrave
Applicant:	CK Design
Proposal:	Demolition of existing dwelling and construction of a two (2) storey, 13 double room boarding house, one Managers room and seven (7) car parking spaces at the ground level
Property Location:	South-western of Botany Road, Botany
Value:	\$1,737,323.00
Zoning:	Botany Bay Local Environmental Plan 2013
Author:	Petra Blumkaitis, Development Assessment
Date of Report:	29 July 2019
Classification of Building:	Class 3 – Boarding House
Present Use:	Dwelling house
No. of submissions:	Nine (first notification) One (second notification)

Key Issues

The key issues for the proposed development are:

1. Proximity to heritage listed dwellings,
2. Location on classified road; Botany Road,
3. Proposed tree removal and retention,
4. The subject site is zoned R2 – Low density residential and the proposal is for more than 12 boarding rooms. However, State Environmental Planning Policy (Affordable Rental Housing) 2009, Clause 54C - savings and transitional provisions – 2019 amendment applies, and
5. Potential overlooking from rear balconies.

Recommendation

It is RECOMMENDED, pursuant to Section 4.16 of the EP&A Act 1979:

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2018/379 for the demolition of existing dwelling and construction of a two storey boarding house containing 13 double rooms, one managers room and 7 car spaces, pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
2. That the submitter(s) be notified of the Bayside Local Planning Panel's decision.

Background

No previous applications are recorded for the subject site. The site appears to have been in residential use for a number of years.

Proposal

The proposal seeks consent to demolish the existing dwelling and construct a two storey boarding house comprising two buildings containing 13 double rooms, one managers room and a communal room.

A total of seven (7) car parking spaces including one accessible space, three (3) motorcycle and three (3) bicycle parking spaces are provided at ground level between the two buildings. Vehicle access is via a driveway from Botany Road.

A total of 23 trees are proposed to be removed from the site. A further two trees are to be pruned with dead wood to be removed. 26 trees are to be retained and protected on site. Landscape areas are proposed at the front and rear of the site, and adjoining the communal and manager's room near the centre of the site.

A maximum of 26 lodgers could be accommodated in the 13 double rooms of the boarding house. Each boarding room comprises independent kitchenette and ensuite bathrooms. The ground floor rooms are provided with private outdoor garden space and the first floor rooms with private balconies.

A manager's room is proposed to be located on the ground floor in the rear building, which is central to all rooms, and the communal room, in the proposal.

A communal room is proposed to be located on the ground floor in the rear building, opposite the manager's room. The communal room is adjacent to communal outdoor space with a northerly aspect within which is located communal clothes drying racks.

Pedestrian entry is proposed via Botany Road to the front building, which can be walked through to access the rear building.

A waste storage area is proposed in the front building adjacent to the driveway to Botany Road.

A front fence of rendered brick columns and steel handrails of one metre height is proposed to the front boundary and side returns to the building line. Metal fences of 1.8 metres are proposed on the side and rear boundaries.

Site Location & Context

The subject comprises two allotments, being Lots 18 and 19 in DP 131906. (See Map 1 below) The site is generally rectangular in shape with a front and rear boundary of 15.2m and side boundaries of 60.9m, and an overall site area of 929m². The site is relatively flat and heavily vegetated. There are no street trees adjoining the site.

The site is located within the Botany Character Precinct and is zoned R2 – Low density residential. See discussion on page 8 of this report.

A single storey dwelling currently exists on site. It is setback from the front boundary in a consistent line with adjoining dwellings. The adjoining dwellings are detached and single storey. Development nearby along Botany Road is predominantly residential with a mix of single and double storeys. Adjoining development to the rear are double storey, detached dwellings.



Map 1: Site outlined in red, nearby heritage items in brown.

At Nos. 1268 and 1270 are a pair of single storey, heritage listed, semi-detached dwellings (marked in brown on the above map).

The subject site is constrained by;

- Aircraft noise (ANEF 25)
- Frontage to a classified road
- Heritage items in the vicinity
- Class 2 Acid Sulfate Soils

These matters are discussed later in this report.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 – Development with frontage to classified road.

The subject site fronts to the classified road, Botany Road. Clause 101 – Development with frontage to a classified road, of the SEPP must be considered before consent may be granted.

The proposed development provides vehicular access from Botany Road as no other road adjoins the site. The application was referred to the Roads and Maritime Service (RMS). The authority has responded granting approval for the development subject to several conditions of consent, which have been included as draft consent conditions.

The application is consistent with the provisions of the SEPP and is acceptable in this regard.

Clause 102 – Impact of road noise or vibration on non-road development.

The subject site is located on Botany Road which carries an annual average daily traffic volume of more than 20,000 vehicles. As a result, residential development proposed adjoining Botany Road is potentially adversely impacted by road noise and / or vibration. An Acoustic Report prepared by Kolkas Acoustics Pty Ltd, dated 14 December 2018, was submitted to support the application.

The report concluded that the building can be sufficiently insulated against external sources of noise in the area, such as road traffic, through the use of recommended glazing and insulation.

Appropriate consent conditions have been drafted which will require the Acoustic Report recommendations be incorporated into the construction.

The proposal is considered to satisfy the requirements of this clause.

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

The proposal was accompanied by Section J Report under the provisions of the Building Code of Australia (BCA), in lieu of a BASIX certificate. The Section J Report provides an indicative compliance assessment of the DA design documentation for the proposal, against the current requirements of Section J of the BCA.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of SEPP 55 – Remediation of Land requires the consent authority to be satisfied prior to determination that the site is or can be made suitable for the proposed development.

The property is not identified in Council's records as being potentially contaminated. As well as can be determined the site has historically been used only for residential purposes. Given the above and subject to consent conditions, the subject site is suitable for the proposed development.

The proposal satisfies the requirements of SEPP 55.

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

Council's Tree Management Officer considered the application including the Arborist Report prepared by Margot Blues Consulting Arborist, dated 29 April 2019. The Arborist Report identified 49 trees on the site which either require removal to accommodate the proposal (23 trees) or are to be retained. No significant canopy trees were identified on adjoining lots. Council's Tree Management Officer has assessed the Arborist Report and concurs with the recommendations, and has provided draft consent conditions requiring the protection and care of trees to be retained.

The proposal is considered to be satisfactory with regards to the SEPP and Botany Bay DCP 2013

State Environmental Planning Policy (SEPP) Affordable Rental Housing 2009

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

Standard	Control	Proposed	Compliance
Clause 26 (b)– Land to which division applies	R2 – Low density residential	The proposed development is located within the R2 Low density residential zone.	Yes
Clause 27 – Accessible Area	Development on land within zone R2 Low Density Residential within Sydney Region or equivalent to that zone must be within 400m walking distance from B2 or	The site is located within a R2 Low density residential zone with regular bus services from a bus stop located in front of 1270 Botany Road and on the opposite side of Botany Road, adjacent to number 1545 Botany Road.	Yes

	B4 zones and accessible areas.		
Clause 29(1)(a) – FSR	0.5:1	0.5:1	Yes
Clause 29(2)(a) – Building Height	8.5m	7.9m	Yes
Clause 29(2)(b) – Landscape treatment in the front setback	Landscape treatment to be compatible with streetscape.	The proposed landscape treatment in the front setback is consistent with the existing streetscape along this portion of the Botany Road, being planted soft landscape areas, adjacent to single driveways. Council's Landscape Officer has assessed the proposal as satisfactory.	Yes
Clause 29(2)(c) – Solar Access	One communal area receive 3 hours of direct sunlight between 9am and 3pm in mid-winter	The proposal provides for a communal room and adjacent outdoor area in the rear building with a north-west aspect. A 3D Solar Access analysis was submitted supporting the proposal. The analysis shows the communal area will receive a minimum of 3 hours of direct sunlight between 9am and 3pm in midwinter.	Yes
Clause 29(2)(d) – Private Open Space	<ul style="list-style-type: none"> One area of at least 20m² with a minimum 3m dimension for the use of lodgers One area of at least 8m² with a minimum dimensions of 2.5m for the use of a manager 	<p>The communal room is adjoined by an outdoor area of 25m², with a minimum dimension of 3.2m.</p> <p>The nominated manager's residence is adjoined by an outdoor area of 36m², with a minimum dimension of 2.7m.</p>	Yes
Clause 29(2)(e) – Car parking	<ul style="list-style-type: none"> 0.5 parking spaces per boarding room where not carried out by or on behalf of a social housing provider. 	<p>Thirteen (13) letting rooms plus one manager's room are proposed on the site.</p> <p>Seven (7) car parking spaces are proposed on site. Which complies</p>	Yes

	<ul style="list-style-type: none"> • Not more than 1 space per person employed. 	<p>Clause 29(2)(e)(ia) and (iii) of the ARH SEPP.</p> <p>One is to be an accessible space.</p> <p>Parking is available for three (3) motorcycles and three (3) bicycles on site.</p>	
Clause 29(2)(f)- Accommodation size (minimum)	<ul style="list-style-type: none"> • 12m² per single boarding room • 16m² in any other case 	All rooms are doubles and have a total area greater than 16m ² , varying between 20m ² and 28m ² , including the kitchen and bathroom.	Yes
Clause 30(1)(a) – Communal Living room	At least one communal living room for 5 or more rooms.	A communal room is located in the rear building on the ground floor, on the north-west side of the building, adjacent to an open space area and the car park.	Yes
Clause 30(1)(b) – Size of rooms	No rooms greater than 25m ² area excluding private kitchen and bathroom facilities.	Rooms when private kitchens and bathrooms are excluded do not exceed 25m ² .	Yes
Clause 30(1)(c) – Number of Lodgers	No more than 2 lodgers per room.	A maximum of two occupants per boarding room is proposed.	Yes
Clause 30(1)(d) – Bathroom & Kitchen Facilities	Access be provided to each lodger to use a bathroom and kitchen.	Each boarding room is provided with a kitchen and bathroom.	Yes
Clause 30(1)(e) – On site Manager	If 20 or more lodgers can be accommodated a boarding room or on site dwelling will be provided for a manager.	13 double rooms could accommodate a total of 26 lodgers. A managers boarding room is provided on site.	Yes
Clause 30(1)(h) – Bicycle & Motorcycle Parking	At least one per 5 boarding rooms	Three motorcycle and bicycle parking spaces are provided on site.	Yes
Clause 30AA	A boarding house within a R2 Low density residential or equivalent zone cannot have more	This development application was lodged prior to this Clause being added to the SEPP. As such the application utilises the savings Clause of the	N/A

	than 12 boarding rooms.	SEPP such that Clause 30AA does not apply.	
Clause 30(A) – Character of Local Area	Design of a boarding house is to be compatible with the character of the local area.	The proposed design has been assessed by Council's Heritage Advisor as being compatible with the local character and nearby heritage items. Additionally the design is considered compatible with the low density residential character of the locality.	Yes
Clause 52 – Subdivision	Subdivision not permitted.	Nil subdivision proposed	Yes

30(A) – Character of Local Area

The subject site is located within the R2 Low density residential zone. On the opposite side of Botany Road the zone is B4 Mixed use. Adjoining and nearby development on the subject site side of Botany Road is predominantly residential of one or two storeys. The opposite side of Botany Road supports two storey commercial developments.

The character of the area is determined by the immediate surrounding properties that are bound by Edgehill Avenue and Botany Road.

The proposed boarding house adopts similar built form elements to that of the planning controls outlined within DCP 2013 and the proposal is of an appropriate scale, mass and bulk so as to be sympathetic to the heritage items within the vicinity of the site.

Clause 30A of ARHSEPP states that Council cannot grant consent to a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area. In establishing the character test, consideration is given to the Planning principles of the Court. In *Project Venture Developments v Pittwater Council [2005] NSWLEC 191* the Court stated that in order to test whether a proposal is compatible with its context, two questions should be asked:

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

Comment: The applicant has provided the following comment in relation to the character of the area:

"The proposed height, bulk and scale and siting of the development is considered to be harmonious with the existing and likely future context that are established by the zoning and associated controls.

The proposed design and scale is compatible with the surrounding neighbourhood character as the built form is limited to 2 modest built forms which are substantially separate. The extent of separation and limited building footprints along with landscaped setbacks around the perimeter and in between the buildings ensure that the built form will sit comfortably in the low

density residential context. The proposed 6.2 metre wall height with pitched roof form for each building will be compatible with the local character, noting that the site is located on along the main road of Botany Rd, which includes numerous buildings of greater height and density.

The proposed orientation of openings to the street frontage, central courtyard and rear landscaped area avoids sideways overlooking impacts.

The high quality architectural response which complies with the applicable FSR and height controls confirms that the proposal will sit comfortably in the character of the area...

The high degree of compliance and amenity of the proposed boarding house further confirms that the site is appropriate for the proposed use and built form.

The proposal is thereby considered to be compatible with the character of the local area.

Council accepts the applicant's discussion in relation to Character and considers that the requirements of Clause 30(A) of the Affordable Rental Housing SEPP are satisfied.

Botany Bay Local Environmental Plan 2013 (BBLEP)

Clause	Requirement	Proposal	Compliance
2.3 – Zone	R2 – Low density residential objectives: <ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment To enable other land uses that provide facilities or services to meet the day to day needs of residents. To encourage development that promotes walking and cycling. 	The proposal provides for the housing needs of the community within a low density residential environment in an area which is close to services, shops, employment and recreation opportunities. The development encourages walking and cycling through the provision of bicycle parking, limited vehicle parking and being within close proximity to a well serviced bus route stop.	Yes
2.7 – Demolition	Requires consent	Demolition sought	Yes
4.3 – Height of Buildings	Maximum HoB permitted = 8.5m	7.9m	Yes
4.4 – FSR 4.4A - Exceptions to FSR	The site is located within an "N" FSR area and an Area 3 identified block. N = 1:1 Area 3 = 0.5:1 (all other residential accommodation). Permitted FSR for the site is therefore 0.5:1	The total GFA for the proposal is 465m ² . Over a site area of 929m ² the resulting FSR is 0.5:1.	Yes
5.10 – Heritage Conservation	Objectives:	The site is not heritage listed or in a conservation	Yes

Clause	Requirement	Proposal	Compliance
	<ul style="list-style-type: none"> To conserve the environmental heritage of Botany Bay To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, To conserve archaeological sites, To conserve Aboriginal objects and Aboriginal places of heritage significance. 	area. Heritage items are close by and as such the proposal has been referred to Council's Heritage Advisor, who is satisfied with the amended proposal.	
6.1 – Acid Sulfate Soils	Class 2 - ASS Works > 2m below natural ground surface. Works by which the watertable is likely to be lowered >2m below the natural ground surface.	A report prepared by Epoch Geotechnical Services, dated 15 July 2019, concludes the risk of the proposed works lowering the water table is low.	Yes
6.2 – Earthworks	Earthworks not to have detrimental impact	The proposal requires minimal site preparation and earthworks to install stormwater management system components. No detrimental impacts are anticipated.	Yes
6.3 – Stormwater Management	Minimise impacts of urban stormwater	Council's Development Engineer has approved the proposed stormwater management system subject to suitable conditions.	Yes – as conditioned
6.9 – Development in areas subject to aircraft noise	<p>Before determining a development application for development to which this clause applied, the consent authority;</p> <p>(a) Must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and</p> <p>(b) Must consider the location of the development in relation to the criteria set out in</p>	The site falls between the 20 and 25 ANEF contours. An Acoustic Report prepared by Koikas Acoustics Pty Ltd, dated December 2018 concludes that with appropriate acoustic treatments, which are recommended where required, the premises may operate in compliance with the nominated acoustic planning levels.	Yes

Clause	Requirement	Proposal	Compliance
	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		

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

No draft EPI's currently apply to the subject site or proposal.

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

Botany Bay Development Control Plan 2013

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

Part 3A- Parking and Access

Council requires boarding houses to comply with the parking rates that are provided under the Affordable Rental Housing SEPP. This has been discussed above in this report and the development complies.

Part 3B- Heritage

The site is not identified as an heritage item or within an heritage conservation area. Three heritage items are within close proximity to the site. The application was referred to Council's Heritage Advisor who originally commented as follows:

"The subject property is located two doors down from a pair of attached single storey Victorian houses as 1268 and 1270 Botany Road, Botany which are listed in Schedule 5 of Botany Bay LEP 2013 and a heritage item (149). On the other side of the subject site in an intact brick bungalow. The streetscape context on this side of the road consists of small single storey houses with pitched roofs. In a couple of instances a second storey has been added behind the single storey form at the front.

The two storey bulk of the proposed development is dominant in the streetscape of single storey houses and the heritage item which is located very close to the site. Although the bungalow has a roof that a ridge similar in height to the proposed height of the new development, the bungalow is not as dominant due to its steeply pitched gable roof and greater setback. The roof form of the new development is shallow pitched and will appear flat from street level. The building form and character are also dominant and are exaggerated by the strong vertical element forming the entry. The whole development has a very small setback

to Botany Road which will make the building push forward into the streetscape increasing its dominance in relation to the heritage item.

In summary the proposed development is not a good infill design in the context of the heritage item. The main issue with the design is the minimum setback from the street front. The impact upon the heritage streetscape context of the heritage item would be improved by substantially increasing the proposed building setback. A single storey element in front of the building, such as a portico or verandah, would help it work better with its single storey context along with a reduction in the size of the vertical element.

The development is not supported in its current form due to the adverse heritage impact upon the heritage item at 1268 and 1270 Botany Road. "

An amended design was submitted on 9 May 2019, to which Council's Heritage Advisor made the following comments:

"The revised design now has a pitched roof facing Botany Road, the tall element over the entrance has been reduced to a single storey and the second storey is contained within the roof. The driveway has been reduced in width and relocated. The overall effect is the building now has a more domestic scale with an appearance that makes reference to the character of the street such as the pitched roofs.

The revised design is supported."

Part 3C – Access and Mobility

The development has provided two accessible boarding rooms (Rooms U 03 and U 04) on the ground floor which have been fitted to comply with AS-1428. Both rooms have access to all communal areas within the development. The ground floor contains one accessible car parking space which complies with Council's requirement within the DCP.

An Access Report prepared by Building Innovation Australia has been submitted with the application. The report assessed the capability of the proposal to achieve the spatial requirements to provide access for people with a disability in accordance with AS-1428 and AS-2890.6 of the BCA. The Report states that compliance with the Access Codes appears to be achieved. Appropriate consent conditions are included requiring compliance.

Part 3G- Stormwater Management

The development will provide for an on-site detention system in the form of a dual 5,000kL underground rainwater tank and a below ground absorption system to comply with the BBDCP. All discharge will drain to this system. The application was referred to Council's Development Engineer who raised no issues with the proposed development.

Part 3I – Crime Prevention, Safety and Security

The proposed boarding house is a relatively small development which does not warrant referral to NSW Police for comment. Surveillance of the street will be possible from the private open space on the ground floor and the first floor balconies adjacent to the street. Suitable consent conditions have been imposed requiring compliance with the submitted Plan of Management detailing security arrangements for the premises, as well as details of ongoing maintenance of the boarding house. Therefore, the proposal is deemed to satisfy this Clause.

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 20-25 ANEF contour.

Residential development in these areas is considered conditionally acceptable under Table 2.1 of Australian Standard AS2021-2000.

An acoustic report prepared by Koikas Acoustics Pty Ltd, dated 14 December 2018 has been submitted with the development application. The report concludes that the premises may operate in compliance with the nominated acoustic planning levels with supplied in-principle acoustic treatments and noise control recommendations.

Part 3K – Contamination

The relevant requirements and objectives have been considered in the assessment of the development application. The subject site has long been used for residential purposes and it is unlikely that the site could be contaminated. The application is considered to satisfy this Clause.

Part 3L – Landscaping

Council's Landscape Officer advises the proposal is satisfactory subject to consent conditions.

Part 3N- Waste Minimisation and Management

The relevant requirements and objectives have been considered in the assessment of the development application. A Waste Minimisation and Management Plan (WMMP) was submitted with the application. The Plan provides details for waste disposal during demolition and construction. The WMMP does not provide details of waste management on site during the operation of the boarding house. Appropriate consent conditions will be included requiring compliance with the relevant Clause in the BBDCP2013.

The application was referred to Council's Waste and Cleansing unit who noted a bulk waste area was not shown on the plans. A consent condition will be included to require a suitably sized bulk waste storage area be provided on-site.

Part 4B - Multi Dwelling Housing

The proposed development has been assessed against the controls within Part 4A of the BBDCP2013 in the below table. Note, Part 4B – Multi Dwelling Housing, refers to townhouse and villa development but not boarding house development. Part 4A – Dwelling Houses is the default assessment controls.

Part	Control	Proposed	Complies
4A.2 Site Design			
4A.2.1 Design Excellence	C1 – achievement of design excellence requires development to consider (i) through to (xvii) in this Clause.	The proposal is assessed as meeting the objectives of this clause as the development is of a high quality and contributes positively to the streetscape.	Yes
4A.2.2 Site Analysis	C1 – Site analysis plan to be submitted with DA	A site analysis plan prepared by CK Design, dated Oct 18, was submitted with the application.	Yes
4A.2.3 Local Character	C1 – development must be designed to respond to the opportunities and constraints identified in the Site Analysis.	The proposal has been designed to respond to the opportunities and manage the constraints identified in the site analysis plan. This includes a north orientation, addressing prevailing winds and minimising impact from Botany Road.	Yes
	C2 – Development must comply with the relevant Desired Future Character Statements in Part 8 – Character Precincts	See page 8 of this report.	Yes
4A.2.4 Streetscape Presentation	C2 – Development must be designed to reinforce and maintain the existing character of the streetscape.	The proposal presents a two storey development with the first floor street elevation recessed within the roof. The street is a mix of single and double storey dwellings, and on the opposite side of Botany Road some two storey commercial buildings.	Yes
	C3 – Development must reflect dominant roof lines and patterns of the existing streetscape.	The roof of the proposal is a similar height to other two storey developments in the locality. The rear building has a pitched roof and the front building has a sloped roof which reflects the roof pattern in the street.	Yes
	C4 – Buildings must appropriately address the street.	The front building addresses the street and vehicular and pedestrian access to the rear building is gained from the street.	Yes

	C6 – The entrance to a dwelling must be readily apparent from the street.	The entrance to the buildings is readily apparent from Botany Road.	Yes
	C10 – Development must retain characteristic design features prevalent in houses in the street.	The proposal is a two storey design which is consistent with design features of existing residential development in the street, including pedestrian and vehicular access from Botany Road, a landscaped front set back and passive surveillance afforded from habitable room windows facing the street.	Yes
	C16 – Where is it proposed to build a two storey dwelling in a predominantly single storey landscape, it is essential the perceived scale and character of streetscape is maintained.	The first floor front façade of the proposal is sympathetically designed to be contained within the roof which reduces the scale and character of the proposal such that it reflects the scale and character of the streetscape.	Yes
4A.2.5 Height	C1 – Maximum height as stipulated by Height of Buildings Map.	The proposal does not exceed the maximum permitted height of 8.5m, being 7.9m in height.	Yes
	C3 – New buildings are to consider and respond to the predominant and characteristic height and storeys of building within the neighbourhood.	The neighbourhood is characterised by a mix of one and two storey developments generally below the maximum permitted height of 8.5m. The proposed development is two storeys and 7.9m in height at the highest point.	Yes
4A.2.6 Floor Space Ratio	C1 – FSR to comply with FSR Map	The permitted FSR in 0.5:1, the proposed development has an FSR of 0.5:1.	Yes
	C3 – Appropriate FSR must demonstrate acceptable bulk and scale which will not result in adverse impacts within the development or on adjoining dwellings or the streetscape.	The proposed FSR demonstrates an acceptable bulk and scale for the site and the locality which will not result in adverse impacts.	Yes
4A.2.7 Site Coverage	C2 – Maximum site coverage is 50% of the lot.	Site coverage is 25% of the site area.	Yes
4A.2.8 Building Setbacks	C1 – Setbacks as in Table 1. Lot width 12.5m and above:		Yes

	Front = prevailing or 6m Side = 900mm Rear = 6m Eaves = 450mm	Front = 5.8m Side = 1.5m Rear = 7m Eaves = 500mm	
	C5 – To avoid the appearance of bulky or long walls side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements, or a variation in materials.	The development consists of two buildings separated by a landscaping and car parking area. The longer side walls are articulated and a mix of materials are proposed.	Yes
4A.2.9 Landscaped Area	C1 – Designed in accordance with Part 3L	Council's Landscape Officer has assessed the proposal and supports the landscape plan subject to conditions.	Yes
	C2 – Minimum landscape area >450m ² = 40% of site area	Landscape area = 35% of the site area. While the landscape area of the proposal is deficient from that required for dwellings on a lot with a size greater than 450m ² , the proposal is considered to meet the objectives of this Clause as well as meeting the landscape requirements of the ARH SEPP.	No, but supported as the requirements of the ARHSEPP is achieved.
	C4 – Retain and protect existing trees, including street trees and trees on adjoining properties.	Council's Tree Management Officer has assessed the proposal and supports the proposed retention or removal of identified trees, subject to conditions.	Yes
	C8 – Front setback to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveway and entry paths. Paving is restricted to 50% of the front setback area.	Approximately 60% of the front setback area is to be landscape area.	Yes
	C9 – The front setback area must contain at least one tree for frontages up to 11.5 metres in width and 2 trees for frontages greater than this.	The proposed landscape plan has been assessed and is supported by Council's Landscape Officer, subject to conditions.	Yes
4A.3.1 Materials and Finishes	C3 – Materials, colours, architectural details and finishes must be sympathetic to the surrounding locality.	The proposed finishes (painted render, powder coated windows and doors, and cladding) are considered	Yes

		sympathetic to those in the surrounding locality.	
	C4 – The use of materials with different textures are to be used to break up uniform buildings.	Different textures are to be used on the proposal which will break up any uniformity.	Yes
	C5 – All materials and finishes must have low reflectivity.	The proposed material and finishes are of low reflectivity.	Yes
	C11 – New development must incorporate colour schemes that are consistent with the predominant colours schemes in the street.	There is no predominant colour scheme in the street. A mix of brick types and colours, roof tiles, cladding and rendering are all present in the locality.	Yes
4A.3.2 Roof and Attics/ Dormers	C3 – A variety of roof forms will be considered, provided they relate appropriately to the architectural style of the proposed development and respect the scale and character of adjoining dwellings.	The proposed roof form relates appropriately to the building and respects the scale and character of adjoining dwellings being similar in size, material, pitch and design.	Yes
4A.3.3 Fences	C5 – Landscape documentation with any development application shall include details of all fencing to be used in a proposal – privacy, boundary, frontage, pool, dividing and retaining walls and so on.	The landscape details submitted are sufficient to permit assessment.	Yes
	C7 – Fences (or returns) that are higher than 1 metres are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres the top 600mm of the fence is 50% transport or open style for passive surveillance.	The proposed front fence and side returns to the building line is to be 1m in height. The side returns are rendered and painted brick. The front fence galvanised steel rails.	Yes
	C8 – Fences fronting a classified road are permitted to be 1.5m in height.	The proposed front fence is to be 1m in height.	Yes
	C19 – The maximum height of side or rear fences is not to exceed 1.8 metres.	Side fences are to be 1.8m high.	Yes
4A.4.1 Visual Privacy	C2 - Visual privacy for adjoining properties must be maximised.	Extensive landscaping and appropriate design (including high sill windows and increased setbacks)	Yes

		maximise privacy for adjoining properties. The proposed first floor rear balconies on the rear building, which potentially permit an unacceptable overlooking and loss of privacy to the adjoining properties, are required to be removed via a draft consent condition.	
	C3 – First floor balconies are only permitted when adjacent to a bedroom.	First floor balconies are all accessed from bedrooms.	Yes
4A.4.2 Acoustic Privacy	C1 – Dwellings close to high noise sources such as busy road, railway lines and airports should be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.	The majority of the private open spaces for the boarding rooms and the communal areas are located away from Botany Road, shielding by the building from noise impacts.	Yes
4A.4.3 Solar Access	C1 – Buildings are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 30pm on 21 June to windows in living areas and to 50% of the primary private open space area of both the subject site and adjoining properties.	The proposal will maintain 2 hours of solar access during mid-winter to the windows of living area and 50% of the private open space areas of both the subject site and adjoining properties.	Yes
4A.4.7 Vehicle Access	C3 – Driveways must be designed to comply with AS2890.1	Council's Development Engineer has assessed the proposal as compliant.	Yes
4A.4.8 Car Parking	C1 – Development must comply with Part 3A – Car Parking.	Council's Development Engineer has assessed the proposed car parking as compliant. Car parking has been discussed previously in this report and is compliant with the requirements in SEPPARH	Yes

Part 7A – Boarding Houses

The proposed development has been assessed against the controls within Part 7A of the BBDCP as follows:

Part	Control	Proposed	Complies
7A.4.1 General Require- ments	C1 - Boarding houses shall comply with the relevant parts of Part 4 – Residential Development.	The relevant clauses from Part 4 – Residential Development, as discussed in the previous section of this report.	Yes
	C2 – Development must reflect the built form and design of the surrounding area.	The proposal has been discussed in context with the relevant character area previously in this report.	Yes
	C3 – Outdoor recreation areas should be located, if possible, away from bedrooms and habitable rooms of adjoining residences.	The private and communal outdoor areas are located adjacent to boarding rooms, and the communal room, at the front, rear and middle of the site. It is not possible to locate the outdoor areas further away from bedrooms and habitable rooms of adjoining residences due to the subdivision pattern and type of development on adjoining lots.	Yes
	C4 – Landscaping should be used to soften and minimise noise impacts from courtyards, gardens and driveways on the surrounding area.	Council's Landscape Officer is satisfied with the proposed landscape plan. Appropriate consent conditions will require screening between the subject site and adjoining properties.	Yes
	C5 - Boarding houses are to be located in close proximity to public transport i.e. within 400 metres.	There is a bus stop with a regular bus service within 18 metres of the site.	Yes
	C6 – The strata subdivision or community title subdivision of boarding houses is not permitted.	Subdivision is not proposed.	Yes
	C8 - A Plan of Management (POM) is required to be submitted.	A Plan of Management was provided with the application.	Yes
	C9 – Boarding houses are to maintain a high level of resident amenity, safety and privacy. (i) to (iv)	The communal spaces are located away from the street and in an accessible location.	Yes
	C10 – Building entry points and internal entries to living areas are to be clearly visible from common spaces.	The design allows easy identification of entries to the buildings and are clearly visible from common spaces.	Yes

	C11 – Habitable living areas are to be located to allow general observation of the street and communal open space.	Three of the boarding rooms address the street with windows, balconies and a garden. The communal open space will be observable from five boarding rooms.	Yes
	C12 – Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings. (i) through (iv).	The proposal has used sensitive design including a central entry, setbacks, and comprehensive landscaping to mitigate impacts on neighbouring buildings.	Yes
	C13 - An acoustic report prepared by a suitably qualified acoustical consultant is required.	An acoustic assessment prepared by Koikas Acoustics Pty Ltd has been submitted as part of this application.	Yes
	C15 – Sources of noise, such as kitchen, communal rooms and parking areas, must be site and designed to minimise the noise impact on adjoining properties.	The communal room and parking area is located centrally on the site. The proposed buildings will contain noise from these sources, as will the landscape areas along each boundary of the site.	Yes
	C18 - The gross floor area of a bedroom is to be at least: (i) 12m ² (including 1.5m ² required for wardrobe space); (ii) 4m ² when a second adult occupant is intended (which must be clearly shown on plans); plus (iii) 2.1m ² for any ensuite (which must comprise a hand basin and toilet); (iv) 0.8m ² for any shower in the ensuite; (v) 1.1m ² for any laundry (which must comprise a wash tub and washing machine); and (vi) 2m ² for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave).	Thirteen (13) double occupancy rooms are proposed ranging between 24.5m ² and 28m ² ; All rooms are provided with an ensuite bathroom and kitchen with clothes washing machine.	Yes

	C20 - At least one of the boarding rooms provided must incorporate disabled access, meeting the requirements under the BCA.	There are two (2) accessible rooms (Rooms 3 and 4) which meet the disabled access requirements under the BCA.	Yes
	C21 – Each bedroom must have access to natural light, from a window or door, not a skylight.	Each boarding room is provided with at least one large window or sliding door which provides access to natural light.	Yes
	C23 - 30% of all bedrooms are to have access to private open space with a minimum area of 4m ² in the form of a balcony or terrace area.	Each room has access to either a garden space or balcony for private open space. Eleven of the rooms have balconies with are larger than 4m ² , while two have balconies of approximately 3m ² . Approximately 80% of the rooms have access to a private open space of minimum area 4m ² . The common outdoor area of 21m ² is available to all residents.	Yes
	C24 – All boarding houses are to include the following communal facilities – laundry, kitchen and dining, bathroom and living areas.	The proposal provides a communal room with kitchen, dining and living space. A toilet and washbasin is also available. A communal full bathroom and laundry is not provided. This is supported as clothes washing machines are provided within each boarding room and a full bathroom in the communal room makes its use as a private boarding room easily achieved.	Yes
	C26 The communal kitchen is to contain: (i) One (1) sink for every 6 people , or part thereof, with running hot and cold water; and (ii) One (1) stove top cooker for every 6 people, or part thereof, with appropriate exhaust ventilation.	Communal kitchen provides a single sink and stove top. At full capacity the boarding house could accommodate 26 people. As such, six sinks and stove tops are required. Each boarding room is equipped with a kitchenette and is fully self-contained. As such the provision of six sinks and stove tops in the communal room is considered excessive and unnecessary.	Yes

	C28 - An indoor communal living area with a minimum area of 20m ² or 1.25m ² per resident with a minimum width of 3 metres is to be provided.	The proposal includes a communal room with an area of 24.5m ² .	Yes
	C29 – Communal rooms are to be designed and located to minimise noise impacts on boarding rooms and adjoining properties.	The proposed communal room is located on the ground floor adjacent to the entrance, in the rear building, on the north side. It has one shared wall with a boarding room. The adjoining rooms are the entrance way and toilet in the communal room, and the bathroom and bed area in the boarding room. The communal room is set back from the side boundary by 1.9 metres. The communal room has been located and designed to minimise noise impacts.	Yes
	C30 – Indoor communal living area are to be located (to achieve): (i) through (v).	The proposed common room is appropriately located near an entrance and lobby, the manager's residence, adjacent to the communal open space and will receive a minimum of two hours of solar access between 9am and 3pm in midwinter.	Yes
	C32 Communal open space is to be provided with a minimum area of 20m ² and a minimum dimension of 3 metres.	Communal open space is provided at 21m ² (with a minimum dimension of 3 metres).	Yes
	C33 – Outdoor communal areas may not be included at the front of the property.	The proposed communal outdoor area is located midway along the site, between the two proposed buildings.	Yes
	C34 – Communal outdoor open space is to be located and designed to (achieve): (i) through (vii)	The proposed communal open space is generally north facing and will receive 2 hours of solar access between 9am and 3pm during midwinter.	Yes
	C35 - Communal bathroom facilities accessible to all residents 24 hours per day are provided with at least:	Each boarding room includes an ensuite. There is a communal accessible toilet and washbasin adjoining the communal living area.	Yes

	<p>(i) One (1) wash basin, with hot and cold water, and one toilet for every seven (7) residents, or part thereof, for each occupant of a room that does not contain an ensuite; and</p> <p>(ii) One shower or bath for every seven (7) residents, or part thereof, for each occupant of a room that does not contain a shower.</p>		
	<p>C36 - Laundry facilities are to be provided and are to include:</p> <p>(i) One (1) 5kg capacity automatic washing machine and one domestic dryer for every twelve (12) residents or part thereof; and</p> <p>(ii) At least one large laundry tub with hot and cold running water.</p>	A clothes washing machine is provided within the kitchenette in each boarding room. A communal laundry for a boarding house of thirteen rooms, when each room is equipped with clothes washing facilities, is not considered necessary.	Yes
	<p>C37 – Drying facilities are to be located to maximise solar access and ensure that the useability of the space is not compromised.</p>	External clothes drying lines are provided along the northern boundary of the site, adjacent to the communal room.	Yes

Part 8- Botany Character Precinct

The character of the local area has been addressed previously in this report [see page 8, SEPP Clause 30(a)]

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

The proposed development is consistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

The submitted Plan of Management (PoM) provides details on the operation of the proposed boarding house which will ensure potential impacts arising during the use of the boarding house will be identified, recorded, acted on, and mitigated in a timely manner.

The submitted Waste Management Plan will direct demolition and construction waste appropriately, while the PoM directs the disposal of waste generated during the operation and occupation of the boarding house.

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

The site currently contains a single storey, detached dwelling and has a history of residential use. No reason exists to require further investigation into possible site contamination.

The site is identified as containing Class 2 acid sulfate soils. A desk-top review was conducted by Epoch Geotechnical Services which concluded the risk of lowering the water table as a result of the proposed development is low.

The site is within the 20-25 ANEF Contour. The development application was accompanied by an acoustic report which recommends appropriate acoustic treatment for the development.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are considered to be not significant given the scale of the development and the number of car parking spaces provided onsite as well as the proximity to public transport and local employment opportunities.

The site is assessed as suitable for the proposed development.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition and advertised in the local newspaper between 8 - 30 January 2019. Following a substantial change in the proposal, the application was re-notified between 12 June and 4 July 2019.

Nine submissions were received during the initial notification period and a further one during the re-notification period.

The following matters were raised:

1. Overdevelopment

Comment: The proposal is a permitted use in the zone and has been assessed as complying with all relevant legislation as well as being an appropriate development for the site given the size and location of the site.

2. Parking

Comment: The proposed development provides the required amount of car, bicycle and motorbike parking on site, as stipulated in State Environmental Planning Policy (Affordable Rental Housing) 2009. Additionally the site is located in close proximity to a well-served bus route stop, and within walking and cycling distance to shopping, employment and recreation opportunities thereby reducing the demand for car use.

3. Infrastructure deficiency

Comment: Botany is well served with local infrastructure for transport, recreation and services. The area is undergoing change which will provide further services and improve existing

infrastructure. The proposed boarding house is not considered to unfairly or unduly burden local infrastructure.

4. Screening/ maintenance of privacy

Comment: The proposed development has been assessed as not resulting in an unacceptable loss of privacy to adjoining properties. This has been achieved by the use of high sill windows on the first floor east and west elevations, privacy screens to balconies and comprehensive landscaping. The rear, first floor balconies to the rear building are required by draft consent condition to be deleted.

5. Noise

Comment: The proposed development is not anticipated to result in unacceptable noise impacts to adjoining properties. This has been achieved through increased setbacks and landscape planting. A Plan of Management has been submitted which limits likely generation of noise in the following ways; no visitors before 9am or after 9pm, no music to be played in the outdoor communal area, no use of the communal area before 7am and after 9pm, no live or amplified music to be audible beyond individual rooms, no congregating or use of common walkways and access ways as communal areas, and signs stating "please respect our neighbours" erected within the outdoor communal area and at the exit points of the building.

6. Smoking

Comment: The Plan of Management confirms the premises are non-smoking, including each room, communal areas and communal open spaces. (PoM dated December 2018, "House Rules", clause 41.)

7. Confirm the type of development

Comment: The proposal is for a boarding house containing thirteen self-contained letting rooms, one self-contained manager's room and a common room with adjoining common outdoor space.

8. Type of resident ("ex-convicts")

Comment: Council cannot comment on the characteristics of persons who may lease a boarding room.

9. Does it comply with the DCP?

Comment: State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) is the prevailing legislation against which all boarding houses must be assessed. The proposed development has been assessed against the ARHSEPP and the Botany Bay Local Environmental Plan 2013 and Development Control Plan 2013, and found to comply with all relevant clauses.

10. Bulk and scale

Comment: The proposed boarding house is consistent with the mixed one and two storey scale of development along Botany Road and Edgehill Avenue. The proposal is compliant with the bulk and scale limiting controls of height, setback, and floor space ratio.

11. Setbacks

Comment: The proposed development exceeds the minimum setback requirements at the rear and sides, and is consistent with the prevailing front setback along Botany Road.

12. Overshadowing

Comment: The proposal will maintain the minimum required sunlight access to adjoining properties. The overshadowing of neighbouring properties is assessed as acceptable.

13. Open space/green areas

Comment: The proposed development complies with the required landscape area and private open space areas for the development type and lot size.

14. Boarding house out of character with locality

Comment: The proposal is for a low density residential development type, located in close proximity to public transport and other opportunities and services, on a large site, adjacent to a classified road. There are other examples of low density residential developments, including boarding houses and flat buildings, in the locality. The proposed development is considered to be in keeping with the character of the area.

15. Height

Comment: The proposed development is below the permitted maximum height for the site. Potential impacts from overshadowing and loss of privacy have been mitigated through careful design and landscaping. There is a mix of one and two storey developments in the vicinity along Botany Road and Edgehill Avenue and as such the height of the proposal is considered appropriate.

16. Traffic

Comment: The subject site is located adjacent to a well serviced bus route stop, and in proximity to employment, retail and recreation opportunities which are within walking or cycling distance. Boarding houses are characterised as generating less traffic than other residential developments of similar size. The proposal includes parking for seven vehicles as well as for three bicycles and three motorbikes. The road and transport network in the vicinity of the site is anticipated to absorb the small increase in traffic generated by the proposal with minimal impact to network efficiency and intersection level of service.

17. Proximity to another existing boarding house

Comment: There is no legislation which restricts the proximity of boarding houses to other development types or limits the number of boarding houses in a locality. The existence of another boarding house nearby is not a reason to refuse consent.

18. Adjoining development is one storey

Comment: A two storey building is permitted by the relevant controls. There are two storey developments in the locality and it is considered likely as aging housing stock is replaced more two storey buildings will be constructed. Potential adverse impacts to the adjoining properties have been mitigated through design and landscaping. That the neighbouring buildings are presently one storey is not a sufficient reason to modify or refuse the proposed development.

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

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

Section 7.11 Contributions

The Section 7.11 Contributions, as calculated within the Section 7.11 Contributions Plan 2016 (Amendment 1), for the proposed development are calculated as follows:

Community facilities:	\$ 21,283.09
Recreation and open space:	\$ 219,580.84
Transport facilities:	\$ 17,242.96

Administration: \$ 1,893.11
Total: \$260,000.00

An appropriate condition has been included in the consent requiring payment of the Contributions.

Conclusion

Development Application No. 2018/379 was received on 21 December 2018 for the demolition of the existing dwelling and construction of a two storey boarding house comprising two buildings containing 13 double rooms, one Manager's room and 7 car spaces.

Key issues relating to nearby heritage items, the location on a classified road and tree removal have been addressed in the report above and have been found to be acceptable.

The development is suitable for the site as a boarding house, the area is serviced by ample public transport and a plan of management has been provided to regulate the operation of the boarding house. The proposed development generally complies with the future character of the locality and provides a built form that is desirable in the street and is considered to not contribute to excess bulk and scale. For these reasons, the development application is recommended for approval subject to consent conditions.

Attachment

Schedule 1 – Conditions of Consent

Premises: 1274 Botany Road, Botany

DA No. DA-2018/379

GENERAL CONDITIONS

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

Drawing N°	Author	Dated Received
Site analysis Sheet no. A1 – 03 Project Number 18044-06 No. D dated 4/04/19	CK Design	6/06/2019
Site / Demolition Plan Sheet no. A1 – 04 Project Number 18044-06 No. F dated 16/04/19		
Ground floor plan Sheet no. A1 – 05 Project Number 18055-06 No. F dated 16/04/19		

First floor plan Sheet no. A1 – 06 Project Number 18044-06 No. F dated 16/04/19		
Roof Plan Sheet no. A1 – 07 Project Number 18044-06 No. E dated 12/04/19		
Elevations Sheet no. A1 – 08 Project Number 18044-06 No. D dated 4/04/19		
Elevations and Section Sheet no. A1 – 09 Project Number 18044-06 No. D dated 4/04/19		
Schedule of Finishes Sheet no. A1 – 15 Project Number 18044-06 No. D dated 4/04/19		
Fence Plan Sheet no. A1 – 16 Project Number 18044-06 No. D dated 4/04/19		
Services Plan Sheet no. A1 – 17 Project Number 18044-06 No. F dated 16/04/19		

Reference Document(s)	Author	Date Received
Site/ Ground Floor Stormwater drainage concept plan Job No: 1294.18, Drg No. D1 Rev C date Nov 2018	LMW Design Group P/L	3/06/2019
First floor and Roof Stormwater drainage concept plan Job No: 1294.18, Drg No. D2 Rev C date Nov 2018		3/06/2019
Absorption Calculation and Section Details Job No: 1294.18, Drg No. D3 Rev C date Nov 2018		3/06/2019
Waste Management Plan	CK Design	21/12/2019
Traffic and Parking Impact Assessment	Hemanote Consultants	21/12/2019
Desktop review assessment of lowering of groundwater table	Epoch Geotechnical Services Pty Ltd	22/07/2019
Plan of Management	ABC Planning Pty Ltd	21/12/2019
BCA & Access Indicative Compliance Report	Building Innovations Australia	21/12/2019
Acoustic Report	Koikas Acoustics Pty Ltd	21/12/2019
Arboricultural Impact Assessment Report	Margot Blues Consulting Arborist	9/05/2019

Statement of Environmental Effects	ABC Planning	21/12/2019
Building Code of Australia- Section J Assessment Report	BCA Innovations	21/12/2019

2. This Consent relates to land in Lots 18 and 19 in DP 131906 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
4. 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.

CONDITIONS IMPOSED BY EXTERNAL AUTHORITY

5. The following conditions are imposed by Roads and Maritime Services (RMS) and must be complied with:
 - a) All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the Botany Road boundary.
 - b) The design and construction of the kerb and gutter crossing on Botany Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained by email to DeveloperWorks.Sydney@rms.nsw.gov.au

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to Development.sydney@rms.nsw.gov.au

A plan checking fee and lodgement of a performance bond is required from the application prior to the release of the approved road design plans by Roads and Maritime.

- c) All vehicles are to enter and exit the site in a forward direction.
- d) All vehicles are to be wholly contained on site before being required to stop.
- e) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Please send all documentation to development.sydney@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

- f) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS 2890.6-2009 and AS 2890.2-2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
- g) All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Botany Road.
- h) 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 for approval prior to the issue of a Construction Certificate.
- i) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Botany Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

NOTE: Roads and Maritime is currently undertaking a program to implement "Clearways" on State roads within Sydney. If not already in place, "Clearway" restrictions will be implemented along the full Botany Road frontage of the development site.

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

- 6. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
- 7. A Section 7.11 contribution of \$260,000 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having

regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained in the Contributions Plan. The contribution is to be paid prior to the issue of any construction certificate. The contributions are only used towards the provision or improvement of the amenities and services identified below.

Community Facilities	\$21,283.09
Recreation and Open Space	\$219,580.84
Transport Facilities	\$17,242.96
Administration	\$1,893.11
Total	\$260,000.00

8. Prior to the issue of the Construction Certificate, amended plans are to be submitted to the Principal Certifying Authority (and a copy to Council if Council is not the PCA) showing the first floor, rear balconies on the rear building (Units 11 and 12) deleted. The sliding doors are to be replaced with windows.
9. Prior to the issue of the Construction Certificate, an application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application)/ Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveway and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fess and charges.
10. Prior to the issue of any Construction Certificate detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. A copy of the detailed design plans shall be provided to Council where Council is not the Principal Certifying Authority. The Stormwater system must have provision of Onsite Absorption and 10,000L rainwater tank. The development application stormwater plans prepared by LMW Design Group dated Nov 2018 Job number 1294.8 shall be amended to the approved Architectural layout.
11. Prior to the issue of any Construction Certificate the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water Tap in™ online service is available at:
<https://www.sydneywater.com.au/SW/plumbing-building-development/building/sydney-water-tap-in/index.htm>
12. Prior to the issue of any Construction Certificate the design of the off-street car and bicycle parking facilities shall comply with Australian Standard AS 2890 parking series and shall be certified accordingly by a suitably qualified engineer.
 - (a) Parking spaces must not be enclosed without further approval of the Council. The enclosure of car spaces is not permitted unless the enclosure complied with the design requirements of AS2890.1.2004

- (b) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZ2890.1-2004.
13. Prior to the issue of the Construction Certificate a Construction Traffic Management Plan (CTMP) must be submitted to and approved by Bayside Council / Principal Certifier. Approval of the CTMP may require endorsement from the Bayside Traffic Committee. The CTMP shall include, but is not limited to the following: vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, construction vehicles turning templates and parking management for workers. The CTMP shall be certified by an appropriately accredited person and/or Roads and Traffic Authority Traffic Controller. The CTMP shall be supported by a traffic control plan prepared by a suitably qualified and RMS accredited Work Site Traffic Controller, designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites current version, and the current Australian Standards, Manual of Uniform Traffic Control Devices part 3, "Traffic Control Devices for Works on Roads".
 14. 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.
 15. 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 Koikas Acoustics Pty Ltd, dated 14 December 2018. The measures as detailed in the acoustic assessment report prepared by Koikas Acoustics Pty Ltd, 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.
 16. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
 17. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in the road reserve area.
 18. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational. Where the existing system is determined deficient, damaged and/or not operational, a new system shall be designed and constructed by a suitably qualified Civil Engineer and in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.

19. 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.
20. Each sleeping room in a Class 3 building must be considered as a sole occupancy unit for the purposes of Section C and Part D1, D2 and F5 of the Building Code of Australia so as to ensure there is adequate fire safety in the building, and adequate should insulation to provide reasonable amenity between sleeping rooms. Details to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.
21. In a Class 3 building, public corridor and egress routes from sleeping room, must be fire separated from adjoining areas (including sleeping rooms, reception areas, linen and baggage stores, garage room, recreation/living room and kitchen) to comply with Performance Requirement CP2 of the Building Code of Australia. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
22. Floor covering and materials in sleeping rooms and corridors must be of materials that resists the spread of fire, and limit the generation of smoke and heat in accordance with Section C of the Building Code of Australia. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
23. A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior to the issue of the Construction Certificate.

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

24. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. The insurance cover shall be a minimum of \$10 million.
25. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This persons full name and address.

- c) Details of Public Liability Insurance.
26. The Principal Certifying Authority must be satisfied that: -
- a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
27. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
28. 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.
- 29. Building plans must be lodged at a Sydney Water Quick Agent for approval prior to commencement of works.
- 30. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 31. The following trees, identified in the Arborist Impact Statement prepared by Margot Blues, dated 29 April 2019, are to be protected with a Tree Protection Zone:

T6, T7, T8, T9, T16, T18, T19, T20, T21, T22, T23, T24, T25, T26, T27, T28 and T34.

The following trees are to be retained:

T4, T13, T31, T34, T38, T44, T47 and T48.
- 32. The Tree Protection Zone shall be established as follows:
 - a) Prior to commencing demolition/any work the trees noted above area to be physically protected in accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height of 1.8m shall be erected outside the drip line. The fence panels must be securely mounted and braced to prevent movement. The area within the fenced area is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken.
 - b) The protective fence shall consist of para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.
 - c) If there is insufficient room to erect a TPZ, the tree's trunk is to be protected by wrapping the trunk with hessian or carpet underlay to a height of 2.5 meters or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails.)
 - d) Tree protection signage is to be attached to each TPZ and displayed from within the development site in accordance with AS 4970- 2009 *Protection of trees on development sites*.
- 33. The TPZ is "No-Go" zone. There shall be no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching within the TPZ. Any unavoidable work within the fenced zone shall be under the direction of the application Arborist or Council's Tree Officer.
- 34. Consent is granted for the removal of Trees 1-3, 10-15, 17, 31-33, 35-37, 39-43, 45-46 and 49 as identified the Arboricultural Impact Assessment Report prepared by Margot blues Consulting Arborist, dated 29 April 2019.
- 35. Consent is granted for the minor pruning and dead wooding of T21 and T24 to accommodate the construction. Any pruning is to be completed to *the Australian Standard @ AS4373 Pruning of amenity trees*, and conducted in accordance with the NSW Work Cover Authority Code of Practice, Tree Work, 2007.

36. All pruning or removal works are to be in accordance with the appropriate Tree Management Policy where applicable, or Tree Management Order (TMO) or Tree Preservation Order (TPO).
37. Tree maintenance work is specialised and in order to be undertaken safely and to ensure the works carried out are not detrimental to the survival of a tree being retained, and to assist in the safe removal of any tree, should be undertaken by a qualified arboriculturist with appropriate competencies recognised within the Australian Qualification Framework, with a minimum of 5 years of continual experience within the industry of operational amenity arboriculture, and covered by appropriate and current types of insurance to undertake such works.
38. Dewatering is not permitted on this site without NSW-EPA approval.
39. Any water from site dewatering disposed of to the stormwater system must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

40. 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 one (1) month period after the completion of the development, where necessary.

41. 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
42. All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 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.
43. Prior to the commencement of any works, the vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

44. The proposed development shall comply with the following:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after-hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
45. Prior to the commencement of works separate permits are required to be obtained and approved by Council for all works including but not limited to road opening, road and footpath closure, stand operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land.
46. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times.

Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specifications and AUS-SPEC at no cost to Council.

47. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
48. 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.
49. 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).
50. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
 - a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
 - e) No demolition materials shall be burnt or buried on the site.
51. 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
- 52. No demolition materials shall be burnt or buried on the site.
- 53. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
- 54. 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.
- 55. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 56. 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.
- 57. 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.
- 58. 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.
- 59. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Construction Traffic Management Plan at all times.
- 60. The following shall be complied with during construction and demolition:
 - a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

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

c) Time Restrictions

- i) Monday to Friday 07:00am to 05:00pm
- ii) Saturday 08:00am to 01:00pm
- iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

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

61. The following shall be adhered to at all times:

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
- c) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil, cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
- d) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- e) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- f) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

62. 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.

63. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) Office of Environment and Heritage (OEH) approved guidelines; and
 - b) Protection of the Environment Operations Act 1997; and
 - c) Protection of the Environment Operations (Waste) Regulation 2005.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

64. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Office of Environment and Heritage (OEH) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
65. 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.
66. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

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

67. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
68. Prior to releasing an Occupation Certificate for the building, an Emergency Management and Evacuation Plan must be prepared for the building and approved by the Principal Certifying Authority. The staff shall be trained in relation to the operation of the approved Emergency Management and Evacuation Plan.
69. Prior to the issue of the Occupation Certificate, the Plan of Management is to be amended, and submitted to Council for approval, to include:
- a) Maximum number of boarder to twenty-six (26);
 - b) Include details of the owners and operators of the boarding house;
 - c) No more than seven (7) cars and three (3) motorbikes are to be parked on site at any one time.

- d) Incoming tenants to be made aware of the Plan of Management and House Rules together with a requirement that the tenants abide by the terms of these procedures.
 - e) An operational house rules register is to be submitted to Council prior to the issue of the Occupation Certificate and should provide a guideline for the occupants of the boarding house as to what is considered to be acceptable behaviour, e.g. controlling of loud amplified music, noise, visiting times, and the general cleanliness of rooms and common areas.
 - f) An operational Plan of Management, Emergency Management and Evacuation Plan is to be submitted to Council prior to the issue of the Occupation Certificate to ensure that the proposed premises operates in a manner that maintains a high level of amenity.
 - g) Prior to releasing an occupation certificate for the building, an Emergency Management and Evacuation Plan must be prepared for the building and approved by the Principal Certifying Authority. The staff shall be trained in relation to the operation of the approved Emergency Management and Evacuation Plan.
70. 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 No. 1 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).
71. 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.
72. Prior to the issue of any Occupation Certificate(s) the applicant shall carry out the following works:
- a) The redundant driveways and layback shall be removed and replaced with kerb and gutter, footpath/grass verge to suit existing adjacent footpath reserve, and
 - b) Reconstruction of footpath along the street frontage.
73. Prior to the issue of any Occupation Certificate(s) 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 and landscape design.

74. Prior to the issue of the Occupation Certificate, the constructed stormwater drainage system shall be inspected and certified by a suitably qualified engineer. The certification shall demonstrate compliance with the approved plan, relevant Australian Standards and Council Specifications.
75. Prior to the issue of any Occupation Certificate an appropriate instrument in accordance with Council Specifications must be registered on the title of the property, concerning the presence and ongoing operation of the On Site Retention system. A Works-as-Executed plans must be submitted to Council at the completion of the works. The plan must clearly illustrate dimensions and details of the site drainage and the On-Site Retention system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certificate must be provided to verify that the constructed stormwater system and associate works have been carried out in accordance with the approved plan(s), relevant codes and standards.
76. Prior to the issue of any Occupation Certificate the following shall be implemented:
 - a) as part of an overall Water Sensitive Urban Design (WSUD) approach for the re-use of surface stormwater and runoff on the development, seven (7) on site car parking spaces and one (1) waiting bay pavement treatment will be with permeable pavement, interlocking permeable pavers for vehicles or equivalent.
 - b) all car parking spaces adjoining planter beds or trees will contain wheel stops to reduce damage to and vehicle overhang of planter beds.
 - c) the minimum pot size at installation for trees adjacent to parking areas in frontage setback is 100 litres. All other new trees shall be supplied and installed at minimum 45 litres pot size.
 - d) front setback shall include a minimum of two (2) canopy trees to reach minimum mature height of eight (8) metres in local conditions.
 - e) in areas where visual and or acoustic privacy may be an issue, screen shrubs shall be supplied and planted at a minimum 25 litre pot size, around the outdoor area adjacent to the community room.
 - f) all areas labelled as landscape area in the approved landscape plan prepared by Ray Fuggle Associates Landscape Architects, issue B, dated 2 May 2019 shall be treated as deep soil planting, and no hard surfaces shall be included in these areas.
 - g) in narrow areas where turf will be difficult to grow an alternative treatment shall be applied, for example ground covers and/or shrubs within a mulch bed, or pebbles.
 - h) any irrigation system or outdoor tap shall be connect to a rainwater tank.
77. Prior to the issue of any Occupation Certificate, the following must be complied with:
 - a) all landscape works are to be carried out in accordance with the approved Landscape Plan by Ray Fuggle Associates Landscape Architects, issue B, dated 2 May 2019 for the approved development. The landscaping is to be maintained to the approved standard at all times.

- b) a Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved plans and documentation (refer to Condition 1.)
- 78. Prior to the issue of any Occupation Certificate a new street tree is to be installed at the applicant's expense. One (1) *Corymbia ficifolia* grafted gum (Summer Red) of minimum root ball/pot size of 45 litres is to be supplied and planted by the applicant in the Public Domain on the opposite side of the proposed crossover.

The tree shall be sourced from a reputable supplier and grown to NATSPEC requirements. The tree is to be planted in a suitable location in the Public Domain, and is to be backfilled with imported soil/compost, with a water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm. The tree shall be installed with two (2) hardwood stakes and a tree guard as per Council specifications.

A Dial-Before-You-Dig enquiry shall be undertaken prior to the removal and replacement planting. Council takes no responsibility for any damage incurred to persons, property or services during the tree planting works.
- 79. Any damage not shown in the dilapidation 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 the issue of any Occupation Certificate and release of damage deposit.
- 80. Prior to the issue of any Occupation Certificate, an application shall be made to Council for registration of the boarding house.
- 81. All bedrooms within the boarding house must be numbered and have sufficient natural light and ventilation. The premise must be maintained in accordance with the NSW *Boarding House Act 2012*.
- 82. The Council footpath along Botany Road for the extent of the site shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

- 83. 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.
- 84. All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for storage of goods or machinery.
- 85. An appropriate form of on-site management with responsibility for:-

The operation, administration, cleanliness and fire safety of the premises, including compliance with the Plan of Management and Emergency

Management and Evacuation Plan, must be provided to the premises. The name and 24 hour contact phone number of the accommodation manager or resident caretaker must be prominently displayed in the reception area of the premises.

The premises is to operate in accordance the approved Plan of Management, at all times.

The lodgers are obligated to comply with the House Rules, at all times.

86. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2- 1978 Intruder alarm systems*.
87. A copy of the annual fire safety statement and current fire safety schedule for the premises must be prominently displayed in the reception area of the boarding house; and
88. A floor plan must be permanently fixed to the inside of the door of each sleeping room to indicate the available emergency egress routes from the respective sleeping room.
89. The use of the external communal open space or common areas shall be restricted between 7.00am to 9.00pm, seven days a week.
90. That a maximum of thirteen (13) dual occupancy rooms are to be provided and that a maximum of 26 people are to be accommodated in the boarding house letting rooms at any one time.
91. The building is approved as a boarding house for use and occupation by lodgers only. It shall not be used for other residential occupation.
92. All vehicles shall enter and exit the premises in a forward direction.
93. The ongoing maintenance of the nature strip shall be undertaken by the occupier/owner. Maintenance shall include mowing, the removal of weeds and rubbish and maintaining a good, 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.
94. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
95. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
96. The premises shall be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times.

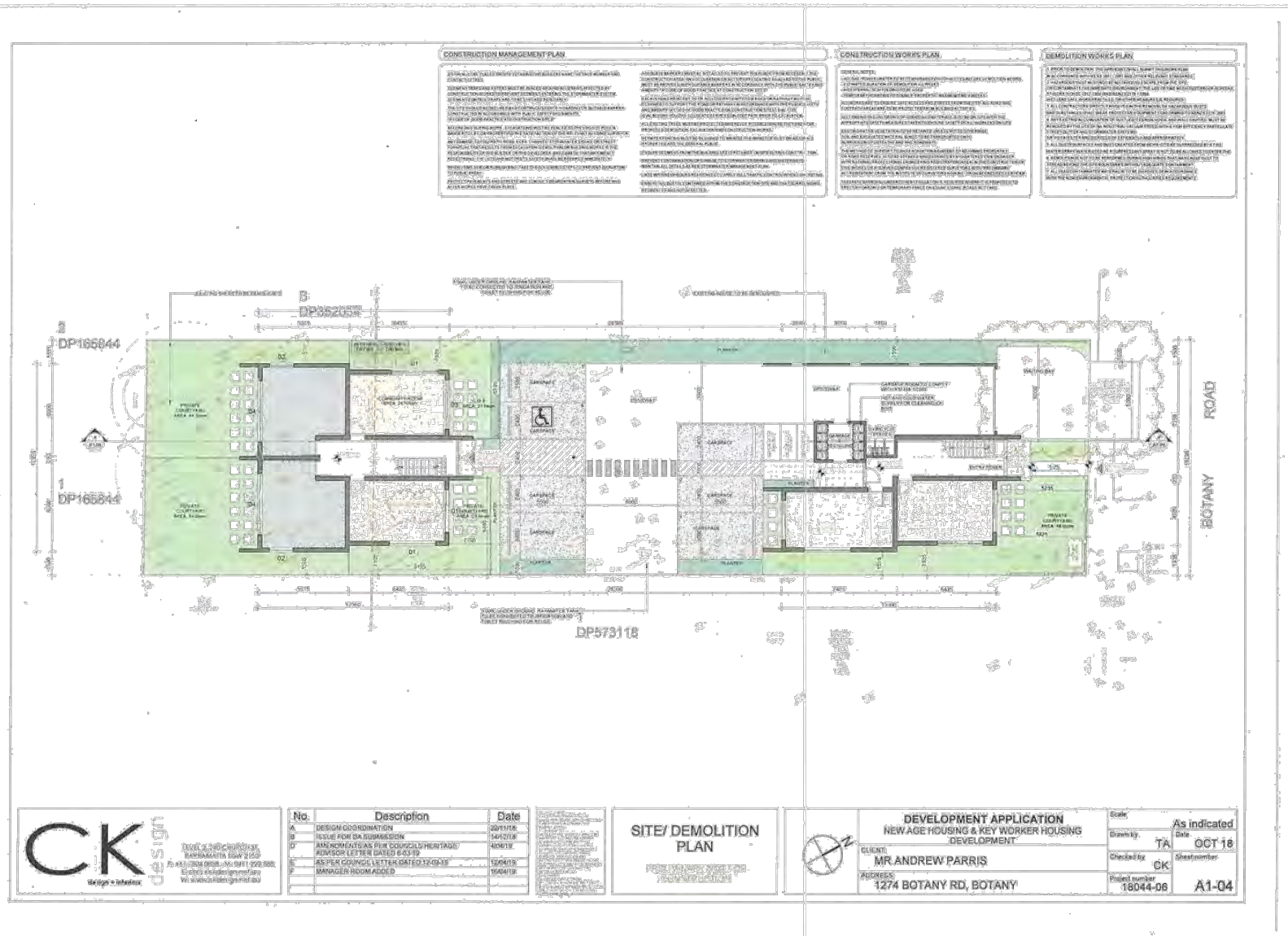
97. An automatic smoke detection and alarm system is to be provided throughout the common areas of the building in accordance with the BCA and AS 1670.1.
98. Smoke alarms connected to the consumer mains power are to be installed in each bedroom in accordance with the BCA and AS3786.
99. All waste and 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 waste storage area,
 - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected,
 - d) Refuse containers are not to be left on the street for longer than 24 hours.
 - e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers.
 - f) Providing and maintaining signage and information to uses to encourage recycling.

DEVELOPMENT CONSENT ADVICE

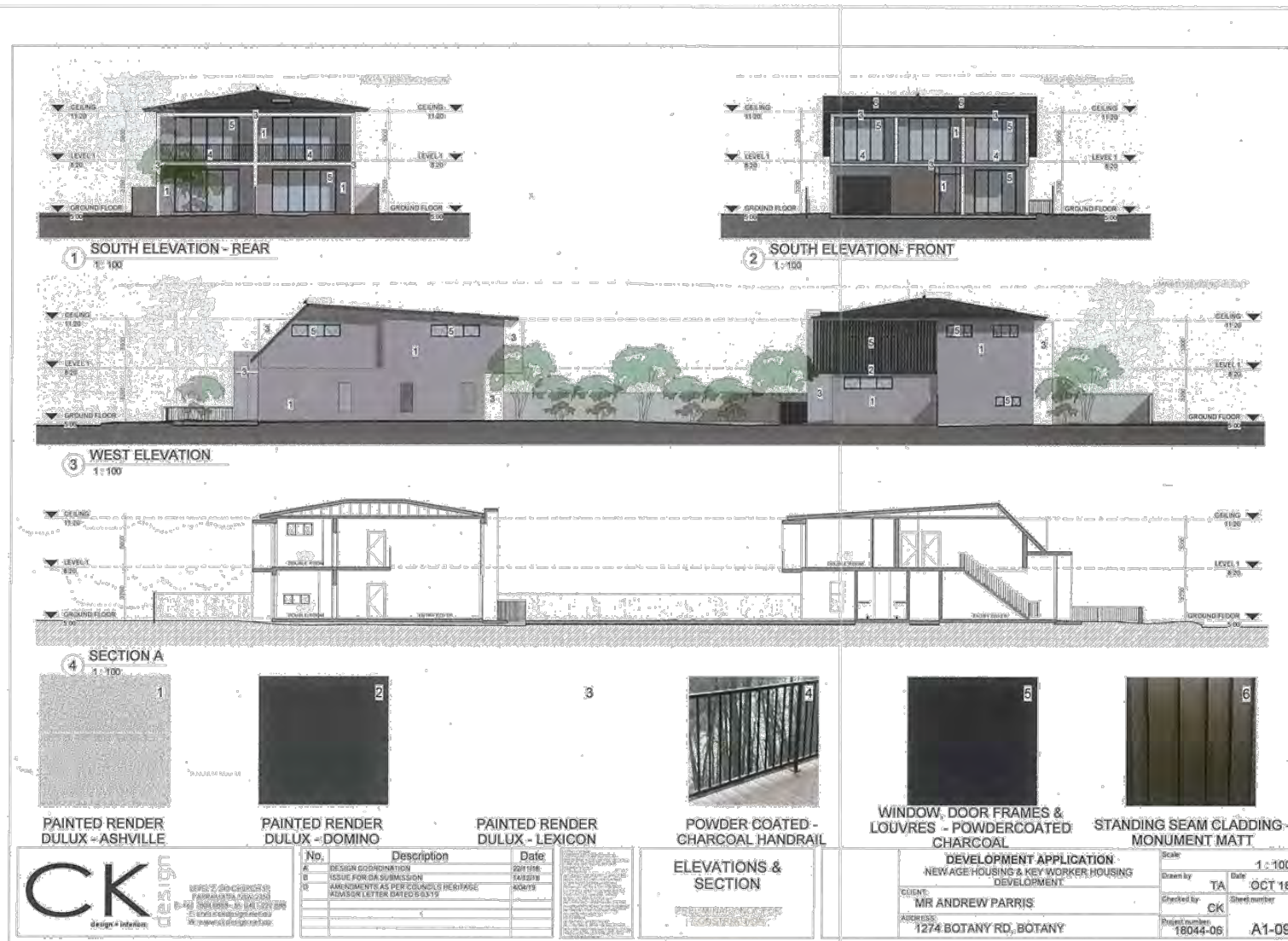
- a) You are advised to consult with your utility providers (i.e. Energy Australia, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b) *Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au 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) The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- d) All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- e) In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 1, the conditions of this approval prevail.



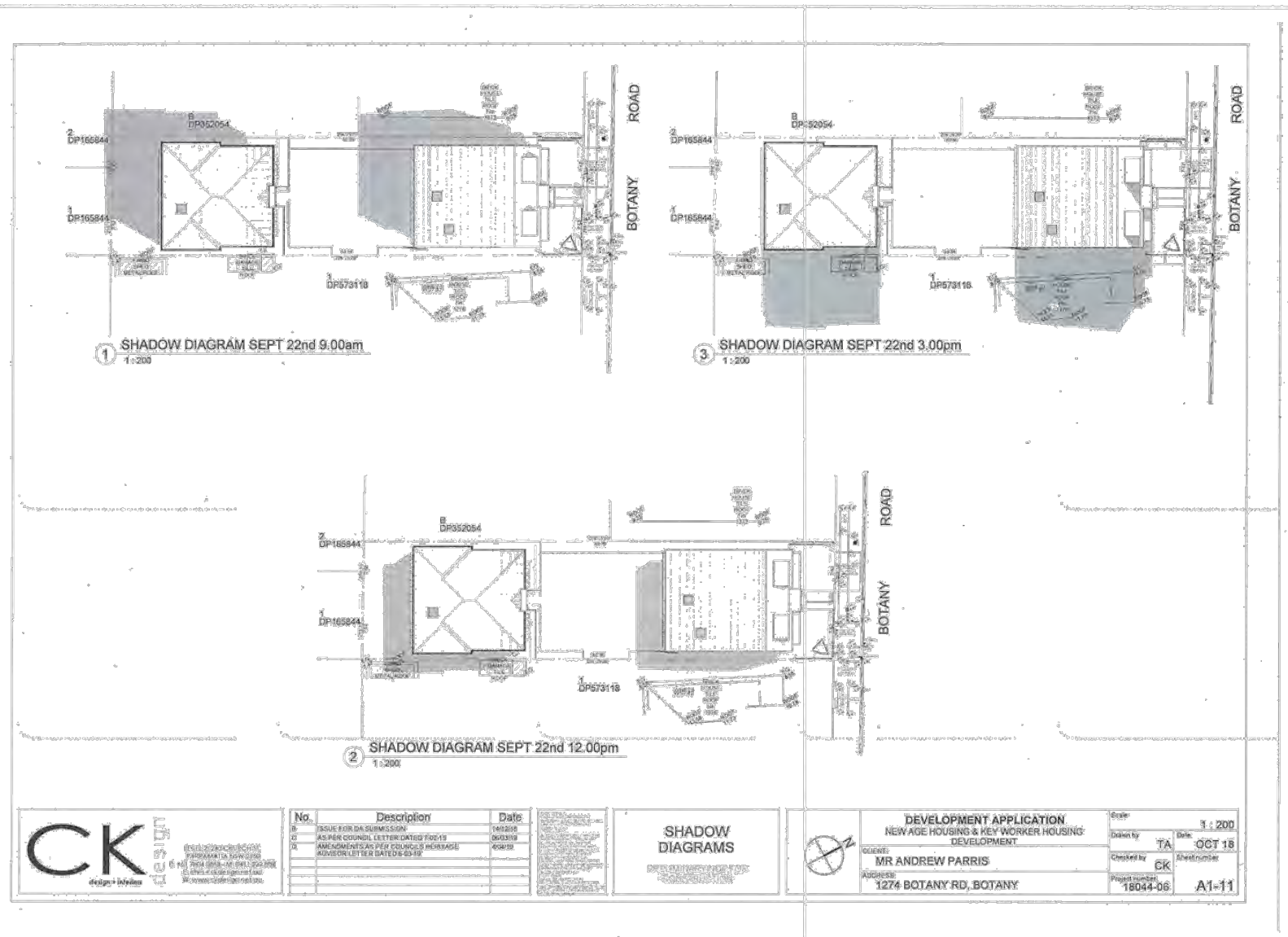












PLAN OF MANAGEMENT

Demolition of the existing dwelling on the site and erection of a Boarding House containing 14 ((13 boarding rooms and 1 manager's room) rooms and 7 car spaces

1274 BOTANY RD, BOTANY

SUBMITTED TO
BAYSIDE CITY COUNCIL

PREPARED BY
ABC PLANNING PTY LTD
FOR
Achaen Enterprises

DECEMBER 2018

PLAN OF MANAGEMENT

PLAN OF MANAGEMENT

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

SITE MANAGEMENT

1. The boarding house shall operate in accordance with the terms of this Plan as well as all conditions of development consent DA No/2018.
2. A copy of this plan is to be retained on Council's Development Application, Construction Certificate and Property File.
3. The boarding house shall be restricted to 14 boarding rooms, including 1 onsite manager's room, and an additional communal room.
4. The boarding rooms shall comprise 13 double lodger boarding rooms.
5. Maximum permanent resident occupancy shall be 28 persons. A schedule showing the numerical designation of each bedroom and the number of persons permitted to be accommodated in each room must be conspicuously displayed on the premises.
6. Each room must be numbered in accordance with the schedule and there must be displayed clearly on the door, or in each bedroom, the maximum number of persons allowed to be accommodated in the bedroom.
7. At no time is any room to be advertised or made available for short stay accommodation such as that associated with backpacker hostels, motels, hotels or the like.

ACCOMMODATION REGISTRATION

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

INFORMATION FOR LODGERS

13. Upon arrival lodgers are issued with an information sheet. This document will provide general information about the premises as well as a note that there is residential

development in the vicinity and that lodgers need to take the neighbours' interests into account when leaving and entering.

Upon signing the Occupancy Agreement, each lodger will be provided with a printed copy of the publication Guide to NSW Services for International Students and Factsheet 14: Boarders and Lodgers. A duplicate copy of the relevant publications will be signed by the lodger as acknowledgment that they have received the publications and is to be kept with the Occupancy Agreement held by the boarding house operator to verify that the materials has been issued.

The publications and factsheets will be updated at least every 12 months and where not available similar information will be provided.

LODGER IDENTIFICATION

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

ONSITE MANAGERS/MANAGERS RESPONSIBILITIES

15. The onsite manager shall be familiar with and aware of his or her responsibilities under such legislation as the OHS Act 2000, OHS Regulation 2001 and the Innkeepers Act.

16. The onsite manager must be a permanent resident and shall be present on the site during typical business hours on weekdays (9am-5pm) and on Saturday morning (9am-midday). When not present on site, the mobile phone number of the onsite manager must be readily available. A sign (including the name and phone number of the onsite managers/manager) which is clearly visible must be displayed adjacent to the entrance of the premises.

17. The on-site manager must be over 18 years of age.

18. The onsite manager shall be responsible for keeping all common areas in an excellent state of cleanliness.

19. The onsite manager shall ensure that no lodgers are using the communal area between 9pm and 7am daily.

OCCUPANCY/VISITORS

20. No more than 1 adult lodger and 1 visitor shall be permitted in the single rooms and 2 adult lodgers and 1 visitor shall be permitted in the double rooms.

21. Visitors to the premises are only permitted between 9am and 9pm. Greater occupancy than those registered shall result in cessation of occupancy. Any lodger inviting visitors to the premises must accept full responsibility for them and their behaviour. Visitors are not permitted to utilise the communal open space area.

COMPLAINTS

22. The onsite manager is responsible for recording any complaints in a complaints register which is to be available to surrounding neighbours and Council upon request. The register shall detail how and when any complaints are dealt with.

23. The onsite manager will be available during business hours, being 9am to 6pm, Monday to Saturday. The onsite manager is to deal with any complaints as to the operation and management of the premises. An after-hours number is to be provided, with such phone number being publicly available. There will be a register of all complaints. The register will contain –

- a. Complaint date and time
- b. Name of person/police/council making the complaint
- c. Contact details
- d. Nature of the complaint
- e. Action taken (by whom and when)
- f. Outcome and/or further action required

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

SIGNAGE

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

ONGOING MAINTENANCE

29. A contracted gardener shall be engaged once every 3 months to maintain the health and appearance of all landscaped areas.
30. An accessible path of travel shall be maintained between the street entry and the accessible boarding rooms as well as to the common room and external courtyard.
31. Pest control by a professional contractor shall be carried out at least once a year.
32. The external presentation of the premises to maintained to a high standard with all rendered surfaces to be cleaned and painted as necessary.

WASTE MANAGEMENT

33. All lodgers shall be responsible for disposing their waste to the communal bin storage area and are to utilise the general waste, paper/cardboard and bottle/can recycling provisions. Separate sorting bins are to be provided within each boarding room.

Statement of Environmental Effects 1274 Botany Road, Botany
52 ABC Planning Pty Ltd December 2018

34. The onsite manager shall be responsible for taking the bins to and from the street on collection day.

35. A floor waste and hose cock is to be provided adjacent to the garbage store area to ensure that the room is kept in a high state of cleanliness.

HOUSE CLEANING

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

HOUSE RULES

37. No alcohol is permitted to be consumed in the communal room or in the communal open space. No unauthorised drugs are permitted on the premises.

38. No live or amplified music is permitted in the communal open space area nor is music to be audible beyond individual rooms.

39. The common area is not to be used between 9pm and 7am the following day.

40. No glassware is permitted in the common area.

41. The premises are non-smoking. This includes within each room, within communal areas and communal open space areas.

42. The common walkways and access ways are not to be used for congregating or as communal areas

ROOM FURNISHING

43. All rooms are to be fully furnished and no lodger may bring their own furniture to the premises. Each room shall be provided with: a. Single/Double bed including base, mattress and mattress protector

b. Wardrobe

c. Mirror

d. Table and chair

e. Suitable lighting including night light

f. Waste receptacles including recyclables

g. Curtains/blinds or other privacy device

h. Kitchenette to include sink, bench, storage, bar fridge and microwave

44. No furniture or storage of any bulky household items are permitted to be stored onsite.

45. The lodgers shall advise the onsite manager of any broken furniture or faulty services within each room or laundry. The onsite managers/manager shall be responsible for replacement of furniture as required.

46. Each lodger shall permit the onsite manager access as required to check cleanliness, condition of furniture and maintenance of services (fridge, microwave oven). The onsite manager must give each lodger at least 1 days' notice of an inspection.

PUBLIC LIABILITY INSURANCE

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

ENERGY EFFICIENCY

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

FIRE SAFETY/CERTIFICATION

49. A copy of the annual fire safety compliance statement shall be displayed in a prominent location. Essential fire safety measures to comply with the *Environmental Planning and Assessment Regulation 2000*

50. Mattresses, curtains and furniture will be of materials that resist the spread of fire, and limit the generation of smoke and heat.

51. An evacuation plan must be clearly displayed in each room and common room. A floor plan must be permanently fixed to the inside of the door of each sleeping room to indicate the available emergency egress routes from the respective sleeping room

52. The onsite manager's contact phone number must be clearly displayed at the entrance of the premises whilst also being available in each room. Other emergency contact details (police, fire ambulance) as well as utility information (gas, electricity, plumbing) are to also be clearly visible in each room.

53. Annual certification of Fire Safety Equipment and preparation of the Form 15a is carried out by a fire safety consultant. Annual certification required of any of the equipment is overseen by the owners.

SAFETY AND SECURITY

54. Check in time for new lodger will be between 9am and 6pm daily with lodgers to be registered by the lodger on site managers/manager.

55. A swipe card will be issued to all lodgers with no additional cards to be issued to visitors.

56. Any lodger failing to observe the rules and any cases of serious misconduct will be dealt with by the onsite manager who may require a lodger to leave the premises. Examples of serious misconduct include, but are not limited to, drug or alcohol abuse, sexual, racial or religious harassment, theft or violence. Lodgers are to advise the onsite manager if another lodger is performing illegal acts on the property. The onsite manager shall call the Police in such instance.

57. Additional safety and security measures for all residents may include but are not limited to such things as internal signage indicating the property onsite managers or manager and contact number, emergency contact numbers for essential services such as fire, ambulance, police, and utilities such as gas, electricity, plumbing, installation of perimeter lighting, appropriate fencing and secure gates, and all residents to have own keys.

OCCUPATION HEALTH AND SAFETY REQUIRMENTS

58. The onsite manager and staff must be aware of their responsibilities under such legislation as the OHS Act 2000, OHS Regulation 2001, and the Innkeepers Act.

Bayside Local Planning Panel

13/08/2019

Item No	6.2
Application Type	Section 8.2 Review of Determination
Application No	S82-2019/5
Lodgement Date	15/05/2019
Property	11 Aylesbury Street, Botany
Ward	Ward 1
Owner	Muddle Superannuation Fund Pty Ltd
Applicant	DRE Design (Architects)
Proposal	Review of Determination of DA-2018/316 for a mixed use building containing a first floor dwelling and a warehouse at ground level with associated office at first floor level.
No. of Submissions	NIL
Cost of Development	\$893,678
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 Division 8.2 relating to development application S82-2019/5 for a review of determination, resolve to confirm previous decision for refusal of the development application DA-2018/316 for alterations and additions including construction of a two storey residential unit above the existing warehouse, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979, with the following modified reasons:

The proposal is unsatisfactory with regards to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act for the following reasons:
 - The application fails to provide sufficient information to determine whether the application complies with State Environmental Planning Policy No 55 Remediation of Land.
 - The proposed development is not consistent with State Environmental Planning Policy No 55 Remediation of Land.
- 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 proposed development does not satisfy the objectives of the B4 Mixed Use zone as contained in Part 2.3 of the zone under Botany Bay Local Environmental Plan 2013, including:
 - *To provide a mixture of compatible land uses.*
- 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 4.4 – Floor Space Ratio in the Botany Bay Local Environmental Plan.

- The 4.6 variation statement justifying non-compliance with this standard is not supported.
- 4 The proposal is unsatisfactory with regards to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, as the layout and design of the proposal is not compliant with or fails to provide sufficient information to determine whether the proposal is compliant with the controls contained within the Development Control Plan 2013 including but not limited the following:
 - (a) Part 3A – Parking and Access.
 - (b) Part 3I – Crime Prevention, Safety and Security
 - (c) Part 3K - Contamination
 - (d) Part 4C - Residential Flat Buildings.
 - 5 The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the area available for the loading and unloading of goods and manoeuvring of vehicles.
 - 6 Having regard to the previous reasons noted above pursuant to the provision of Section 4.15(1)(e) of the Environmental Planning and Assessment act 1979, approval of the development application is not in the public interest and is likely to set an undesirable precedent.
 - 7 The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of compatibility of mixed land uses and is likely to adversely impact on the functionality of the existing commercial premises and the amenity and safety of future residents.
-

Location Plan



BAYSIDE COUNCIL

Bayside Local Planning Panel Assessment Report

Application Details

Application Number:	S82-2019/5
Date of Receipt:	15 May 2019
Property:	11 Aylesbury Street, Botany
Lot & DP/SP No:	Lot 4 DP 514437
Owner:	Muddle Superannuation Fund P/L
Applicant:	DRE Design
Applicant Address:	38 Rawson Ave, Queens Park, NSW 2022
Proposal:	Alterations and additions including construction of a two storey residential unit above the existing warehouse building
Value:	\$ 893,678.00
Zoning:	B4 Mixed Use - Botany Bay Local Environmental Plan 2013
Author:	Gary Choice – Development Assessment Planner
Date of Report:	30.07.2019
Classification of Building:	7b
Present Use:	Warehouse & Bulky Goods Premises
No. of submissions:	NIL

Key Issues

The key issues with this application are as follows:

- The proposal contains insufficient information to determine whether the application complies with State Environmental Planning Policy 55.
- The proposed shop top housing does not satisfy the objectives of the B4 – Mixed Use zone as a compatible mixed use development
- The proposal exceeds the allowable FSR as per Clause 4.4 of the BBLEP 2013, however, the Clause 4.6 statement provided cannot be supported
- The proposal exhibits numerous non-compliances with the BBDCP 2013

Recommendations

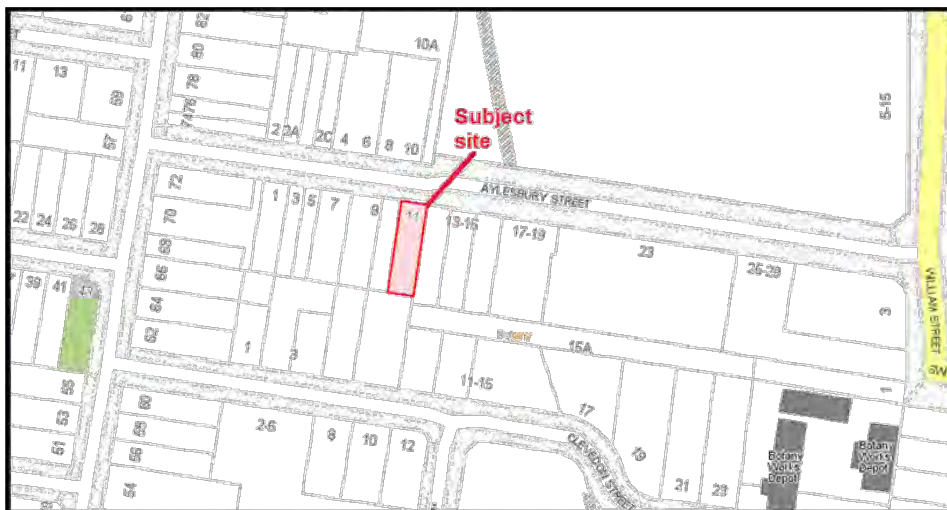
That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Division 8.2 relating to development application S82-2019/5 for a review of determination, resolve to confirm previous decision for refusal of the development application DA-2018/316 for alterations and additions including construction of a two storey residential unit above the existing warehouse, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979, with the following modified reasons:

1. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act for the following reasons:
 - (a) The application fails to provide sufficient information to determine whether the application complies with State Environmental Planning Policy No 55 Remediation of Land.
 - (b) The proposed development is not consistent with State Environmental Planning Policy No 55 Remediation of Land.
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 proposed development does not satisfy the objectives of the B4 Mixed Use zone as contained in Part 2.3 of the zone under Botany Bay Local Environmental Plan 2013, including:
 - *To provide a mixture of compatible land uses.*
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 4.4 – Floor Space Ratio in the Botany Bay Local Environmental Plan. The 4.6 variation statement justifying non-compliance with this standard is not supported.
4. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, as the layout and design of the proposal is not compliant with or fails to provide sufficient information to determine whether the proposal is compliant with the controls contained within the Development Control Plan 2013 including but not limited the following:
 - (a) Part 3A – Parking and Access.
 - (b) Part 3I – Crime Prevention, Safety and Security
 - (c) Part 3K - Contamination
 - (d) Part 4C - Residential Flat Buildings.
5. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the area available for the loading and unloading of goods and manoeuvring of vehicles.
6. Having regard to the previous reasons noted above pursuant to the provision of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest and is likely to set an undesirable precedent.

7. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of compatibility of mixed land uses and is likely to adversely impact on the functionality of the existing commercial premises and the amenity and safety of future residents.

Site Description

The subject site is located on the south side of Aylesbury Street between William Street (east); Clevedon Street (south); and Tenterden Road (west). The subject site is rectangular in shape with an area of 371.8 m² and a 10.19 metre frontage to Aylesbury Street. The site is relatively level with the existing concrete pavements and foundation works for the existing warehouse covering the whole allotment. The site is located within the B4 Mixed Use zone. A location map is shown in **Figure 1** below.



This property was formerly owned by Raines Carpets (or entities owning Raines Carpets). Based on anecdotal information, Raines Carpets owned the property and operated a carpet business from this property for some decades, and operations during this time comprised all stages of carpet manufacturing including treatment of wool and other textiles, such as washing, combing, dying etc.. The use of hazardous chemicals or other contaminants associated with any stage of business operations is not confirmed, however, it raises concerns over the potential for site contamination.

The following previous applications have been considered on the site:

Application No.	Description	Date of Determination	Determination
DA-2015/30	Use for building business and retail outlet Use for a commercial rectification/maintenance building business and retail waterproofing sales outlet. Internal fitout and erection of new signage. Hours of operation 6.30am - 5pm Monday to Friday	18 June 2019	Refused
*DA-2018/1032	Change of use to bulky goods premises	24 May 2018	Approved
**DA-2018/316	Alterations and additions including construction of a two storey residential unit above the existing warehouse building	5 April 2019	Refused

*The site is currently used for the sale, storage, repair and maintenance of poker machines as per the consent of the current approval.

On 5 April 2019, DA-2018/316 was refused for the following reasons:

1. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act for the following reasons:
 - (a) The application fails to provide sufficient information to determine whether the application complies with State Environmental Planning Policy No 55 Remediation of Land.
 - (b) The proposal fails to comply with part 4.4 - Floor Space Ratio in the Botany Bay Local Environmental Plan. The 4.6 variation statement justifying non-compliance with this standard is not supported.
2. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, as the proposal is not compliant with or fails to provide sufficient information to determine whether the proposal is compliant with the controls contained within the Development Control Plan 2013 including but not limited to the following:

- (a) Part 3A — Parking and Access.
- (b) Part 10 - Stormwater Management Technical Guidelines.
- (c) Part 4C.1 Residential Flat Buildings.

3. Having regard to the previous reasons noted above pursuant to the provision of Section 4.15(1)(e) of the Environmental Planning and Assessment act 1979, approval of the development application is not in the public interest.

Description of Development

The proposal is for alterations and additions to the existing industrial building and the construction of a single dwelling on the additional first and second level. A breakdown of the components of the proposal are as follows:

Ground Floor:

- Removal of stock and storage area and replacement with vehicle car park to accommodate three (3) parking space and one (1) loading/drop of space for the existing warehouse.
- Removal of enclosure of storage area.
- New entrance lobby.
- Replacement of existing awning with new extended metal awning over the entrance door.
- Construction of bin enclosure for residential bins.

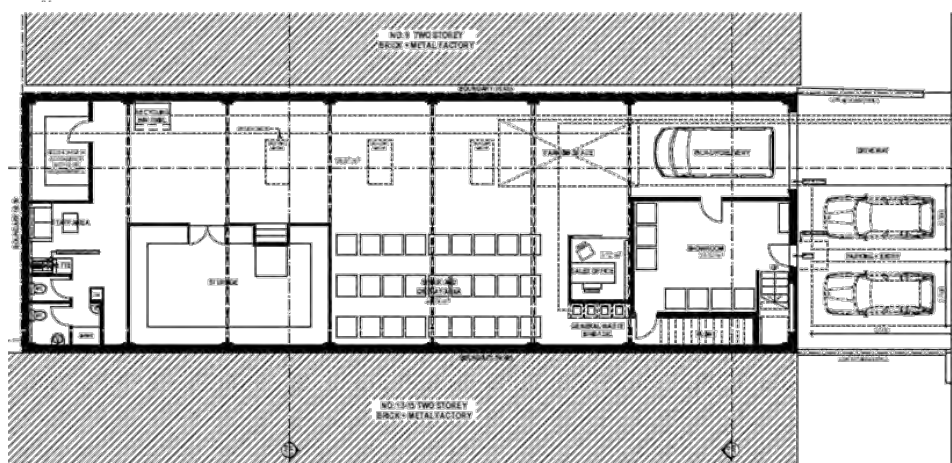


Figure 2: Approved Ground Floor Plan under DA-2018/1032

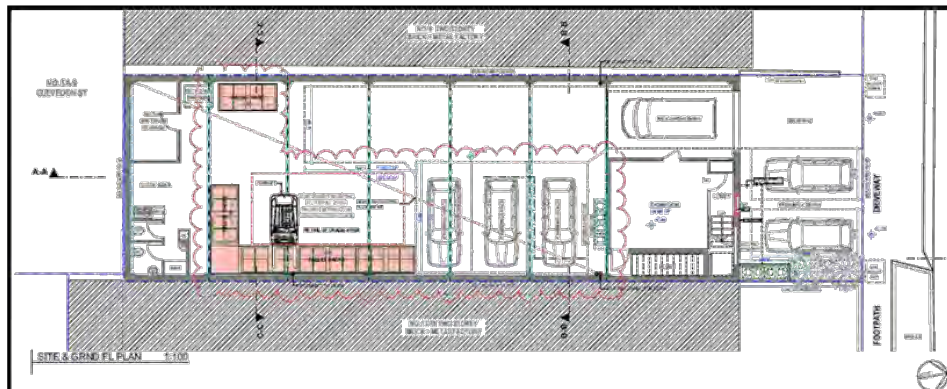


Figure 3: Proposed Ground Floor Plan

First and Second Floor

- Modification of the layout of the existing office including addition of a water closet.
- Demolition of existing warehouse roof and construct of new residential section. The floor plans show the following components:
 - o Three (3) bedrooms.
 - o Two open courtyards.
 - o Combined kitchen and dining room.
 - o Laundry
 - o Three (3) bathrooms.
 - o Office / Study room.
 - o Installation of a 2000 litre rainwater tank

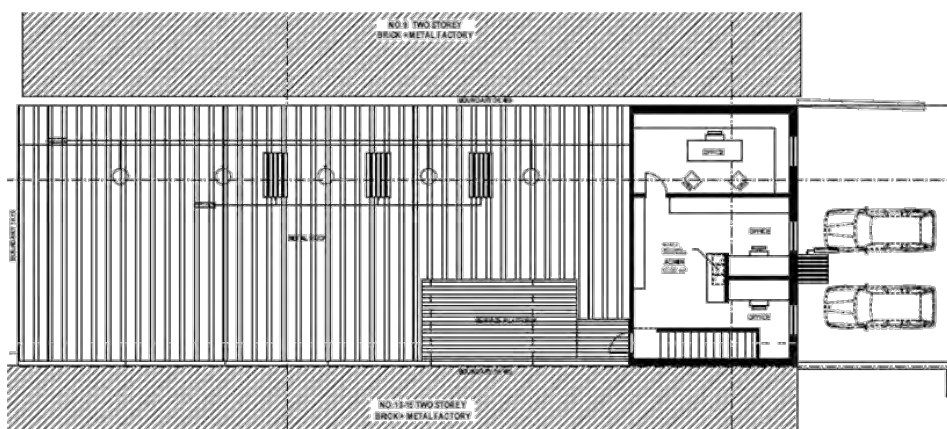


Figure 3: Approved First Floor Plan under DA-2018/1032

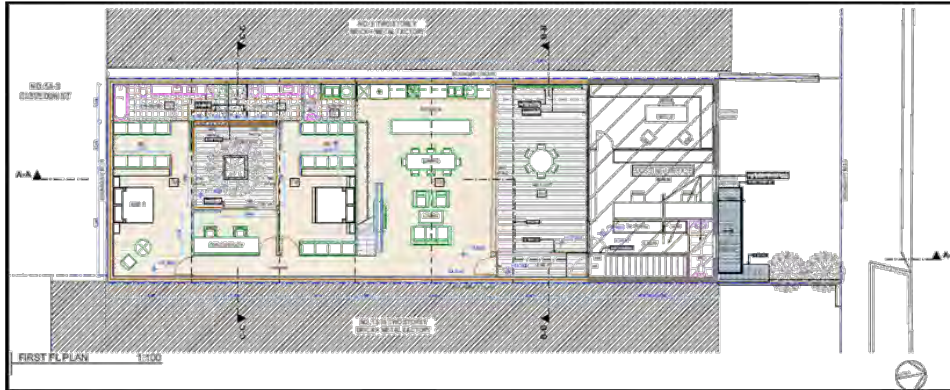


Figure 4. Proposed First Floor Plan

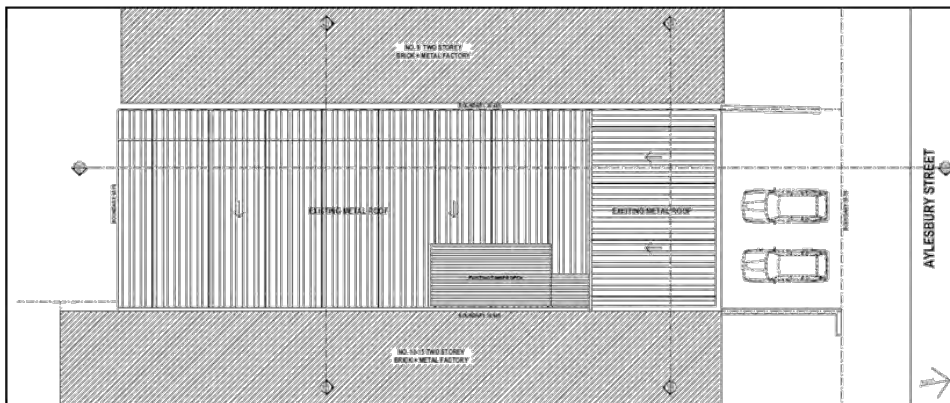


Figure 5. Existing Roof Plan

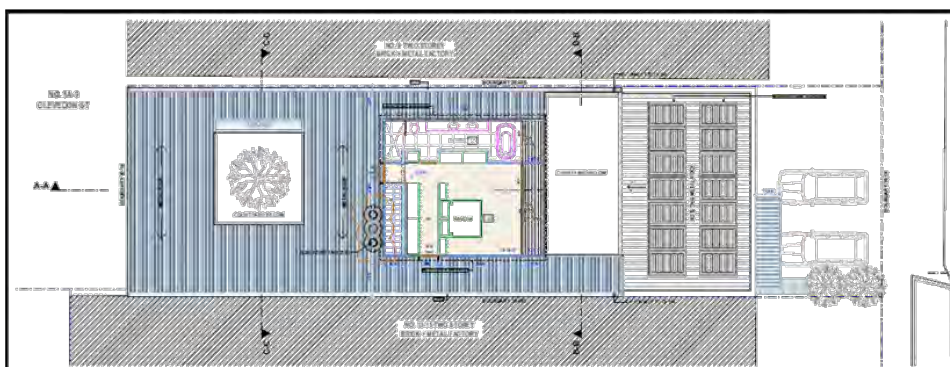


Figure 6. Proposed Second Floor Plan

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 971553M committing to environmental sustainable measures.

The proposed development achieves the following:

Water - 40%

Energy - 90%

Thermal Comfort - Pass.

The proposal therefore satisfies the provisions of the 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. As the proposal involves a change of use to residential accommodation, part 7 of State Environmental Planning Policy No 55 is relevant to the application. In accordance with the SEPP consent cannot be granted unless Council has considered the following:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In the assessment of DA-2018/316, Council's Environmental Scientist asserts that the proposed development and subsequent change of use from commercial to incorporate a residential component triggered the need for a Stage 1 Preliminary and Stage 2 Detailed Site Assessment to be submitted with the application pursuant to SEPP 55. Specifically, the Applicant was asked to provide the following:

(The) Completion of a Stage 1 Preliminary Assessment and a Stage 2 Detailed Site Assessment for the proposed development to assess site contamination and site suitability for the proposed residential development. The report must address potential contamination issues from any previous historical or existing uses on the site and site suitability for residential use. This report must be completed by an appropriately qualified and experienced environmental consultant and be completed in accordance with the State Environmental Planning Policy 55 (SEPP55), appropriate NSW EPA Guidelines, and the National Environment Protection Measure (Assessment of Site Contamination) 1999 (revised 2013). This shall clearly state that the site is suitable for the proposed development or can be made suitable.

This information was not forthcoming, which in turn, provided grounds for refusal on the basis of insufficient information.

With regard to the subject Section 8.2 Review of Determination (S82-2019/5), the Applicant has declined to provide a Stage 1 Preliminary Assessment and Stage 2 Detailed Site Assessment a2018/316 assessment. Instead, a Letter to Council prepared by City Plan (dated 10 May 2019) was submitted on behalf of the Applicant providing the following comments:

"The first reason for refusal states that the application fails to provide sufficient information to determine whether the application complies with SEPP 55.

As noted in our previous correspondence dated 18 March 2019, the Managing Land Contamination Guidelines (Guidelines) state (p.25) that "The relevance of contamination to a decision on a development application (DA) will vary depending on the uses specified in the application and the risk associated with those uses."

The additional use for which development approval is sought is a residential use. Specifically, a single three-bedroom apartment above the existing warehouse premises with a private open space in the first-floor level. No contact with the ground is proposed. The ground level is entirely occupied by the warehouse premises which sits over a concrete slab.

We also note that the site was rezoned relatively recently to permit residential development. The B4 Mixed Use zone applying to the site was created when the Botany Bay Local Environmental Plan 2013 was made on 23 June 2013. Before then, the site was zoned 4(b) Mixed Industrial and residential uses were prohibited.

In accordance with Clause 6 of SEPP 55, before the Botany Bay Local Environmental Plan 2013 was made, Council was required consider "... whether the land is contaminated, and...if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used."

On this basis, therefore, we assume that Council was satisfied that the land was suitable for residential development when it rezoned the land to permit mixed use development on 23 June 2013.

Since 2013 the land has been used for a commercial carpet business and more recently for the sale of second hand gaming machines. Neither of these uses are contaminating activities. Based on the above, therefore, it is unlikely that the land is contaminated.

In addition, given the specific characteristics of the proposal including that the site will remain capped by the existing concrete slab and the residential activity occurs on the first floor and above, in our opinion the proposal is consistent with the Guidelines which require consideration to also be given to the risk associated with the proposal. Given the above, the risk associated with the proposal is considered negligible.

Finally, and for abundant caution, the Applicant would raise no objection to a condition being imposed on any consent granted requiring the site to remain capped by the concrete slab." (p.2)

A review of the comments provided by City Plan have been reviewed by Council's Consultant (Contaminated Land Specialist) provides the following comments:

Given the site was historically used for commercial/industrial activities, additional information is required to satisfy SEPP55. Therefore I do not concur with Applicant's letter. There is no change to the requirements in Judith Betts' memos dated 17 December 2018 and 2 April 2019, requesting the above Stage 1 and 2 Site Assessments.

Accordingly the application provides insufficient information to determine whether the application complies with State Environmental Planning Policy No. 55.

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:

Clause 2.1 Land use zones

The subject site is zoned B4 - Mixed Use. The proposal has been defined as shop top housing in the Statement of Environmental Effects, which is a permissible form of development with council's consent.

The objectives of the B4 Mixed Use zone are as follows:

- *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.*

The approved land use of DA-2018/1032 is primarily for the retail sale of poker machines, however, it is uncertain whether the current operation can be accurately defined as a ground floor retail premises or business premises. Furthermore, there are doubts as to whether the actual existing land use activity for the purpose of the sale, storage, service and repair of poker machines on the site actually qualifies the site as a 'shop' for the purpose of shop top housing.

In terms of the permissibility of the proposal consideration is given to relevant case law.

In *Hrsto v Canterbury City Council (No 2) (2014) NSWLEC*, Justice Sheehan confirmed that the residential components of a development must truly be physically "above" the retail and business elements in order for a proposal to be classified as "shop top housing".

Justice Sheehan accepted the Council's arguments that:

"...dwellings must be in the same building as the ground floor retail premises or business premises for the purposes of the term "shop top housing"... (however) dwellings need only be at a floor level that is higher than the top of the ground floor retail or business premises and do not need to be contained in an envelope on the higher floor level that would be intersected by a line drawn vertically from within the envelope of the ground floor retail or business premises."

The case of *Hrsto v Canterbury City Council (No 2) (2014) NSWLEC* is referenced in the assessment of S82-2019/5 to provide clarity on the permissibility of the proposed shop top housing development as Council considers the proposed residential component of the development to be located above the existing commercial space (as per Justice Sheehan's determination), but also predominantly *level with* and *behind* the space designated for commercial and retail activities on the first floor. In this regard, the basic design of the proposal is sufficient to satisfy the definition of shop top housing under the BBLEP 2013.

Land Use Definitions

In assessing the permissibility of the proposal against the Botany Bay Local Environmental Plan, the following definitions are considered:

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes (la) specialised retail premises.

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis,

and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, **but does not include** an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, **restricted premises**, sex services premises or veterinary hospital.

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

In regard to the nature of the business at the subject property, the letter from City Plan (dated 10 May 2019) accompanying this application states:

"the sale of second hand gaming machines is a niche business with strict security requirements and unique operating characteristic". (p.1)

Council concurs with the above statement and offers additional comments to support this claim as follows:

Section 84, 85 and 86 of the *Gaming Machines Act* (2001) relates to a variety of gaming-related licences required to work with approved gaming machines (also known as poker machines or slot machine) and include the following:

- dealer's licence: authorises a person to manufacture, assemble, sell and repair approved gaming machines;
- seller's licence: authorises a person to sell approved gaming machines;
- technician's licence: authorises a person to service, repair and maintain approved gaming machines; and
- test facility licence: authorises a person to test and analyse approved gaming machines.

Concurrently, Section 71 of the *Gaming Machines Act* (2001) relates to the supply and purchase of gaming machines specifically:

- (1) *A person who supplies or offers to supply an approved gaming machine otherwise than by way of sale is guilty of an offence unless the supply or offer has been approved by the Authority and any conditions imposed by the Authority when giving the approval are complied with.*
- (2) *A person who purchases or offers to purchase an approved gaming machine is guilty of an offence unless the gaming machine is purchased from, or the offer is made to, a person who is authorised by or under this Act to sell the gaming machine.*
- (3) *A person who supplies an approved gaming machine to a hotelier or club is guilty of an offence unless the keeping of the gaming machine by the hotelier or club would be lawful.*
- (4) *A person who supplies, or offers to supply, an approved gaming machine is guilty of an offence if possession of the gaming machine by the person to whom the gaming machine is supplied or offered is or would be unlawful.*

A person must be 18 years of age or over to be eligible to obtain one of the above mentioned licences.

Due to the restrictions placed on staff and customers to be 18 years of age or over, the existing use is considered to be a *restricted premises* (in addition to the existing use as a *specialised retail premises* or *bulky goods premises*). Restricted premises are permitted with consent within the B4 Mixed Use Zone, however, restricted premises do not qualify as a business premises under the definitions of the BBLEP 2013. This raises the issue of whether the proposal qualifies as mixed use shop top housing or mixed use residential accommodation (commercial and residential) which is prohibited in the B4 Mixed Use zone. Irrespective of this dilemma, a full assessment of the development against all relevant EPIs and controls is provided in this report

Council notes that the above-stated analysis of the existing land use does not serve as a re-examination of the permissibility of the existing development. As a stand-alone development, the existing poker

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machine business satisfies the objectives of the B4 - Mixed Use zone. Several compatibility issues are identified, however, with the proposal to introduce a residential dwelling to the site and whether the development satisfy the objectives of the zone.

Council considers that the overall integration of the two uses (commercial and residential) results in numerous non-compliances with both BBLEP and BBDCP 2013. A re-design of the mixed use development, which is sympathetic to the two uses as a restricted premises and residential dwelling respectively would achieve a more compliant development, however, the proposal in its current form will result in a development which:

- a) Does not successfully provide a mixture of compatible land uses for the site.

Table of compliance - Botany Bay Local Environmental Plan 2013

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<i>Clause 4.3 – Height of Buildings</i> Maximum height limit: 10m	Yes	No changes to the elevation plans are proposed as part of the review. Plans show that the height of the building from the ground floor to the roof is 10 metres. The elevation plans show that the proposed solar panels on the roof breach the height by 0.4 metres. Despite breaching this height the solar panels could potentially be installed as exempt development.
<i>Clause 4.4 – Floor Space Ratio</i> Maximum Permissible FSR: 1:1 (371.8m ²)	No	Proposed FSR: 1.08:1 m (400.1m ² /371.8m ²) The clause 4.6 variation statement is not supported as discussed after this table.
Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)	N/A	The land is not affected.
<i>Clause 5.10 – Heritage Conservation</i> Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	No heritage item is located on the site or adjoining sites.
The following provisions in Part 6 of the LEP apply to the development– 6.1 – Acid sulfate soils	Yes Yes	6.1 The site is Class 4 ASS. No earthworks are proposed as part of this application.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
6.3 – Stormwater management		6.3 A stormwater drainage plan was received and is supported by Council's Development Engineers.
6.9 – Development in areas subject to aircraft noise	Yes	6.9 The land is within the ANEF 20 – 25 contour. An aircraft noise assessment has been accompanied with the application. See Part 3J BBDCP for further details.
6.10 – Airspace Operations	Yes	6.10 The OLS is 51 AHD but the maximum height of the building is 17.850 AHD.

Clause 4.6 Variation to Floor Space Ratio

The proposed development will result in a gross floor area of 400.1m² and an overall FSR of 1.08:1 (7.6% variation) and does not, therefore, comply with the numerical standard of Clause 4.4(2) of the BBLEP 2013. Accordingly, a Clause 4.6 variation statement was submitted with DA-2018/316.

Clause 4.6 allows a variation to a development standard subject to a written request by the Applicant justifying the variation by demonstrating:

(3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient environmental planning grounds to justify the variation.

In considering the Applicant's submission, the consent authority must be satisfied that:

(i) the Applicant's written request is satisfactory in regards to addressing subclause (3) above, and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.

5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and

5(b) the public benefit of maintaining the development standard.

The objectives of Clause 4.4 are:

(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.*

Summary of 4.6(3)(a) justification by Applicant

The submitted Clause 4.6 request for variation fails to identify clearly by which method set out in *Wehbe* decision by NSW LEC. However, the Applicant provides six (6) points, which appear to be environmental planning reasons in the form of a response to the question of unreasonable or unnecessary in the circumstances of the case. These are as follows:

- 1. The proposed development is consistent with surrounding development with regard to height and density.*
- 2. The proposal complies with the maximum height limit.*
- 3. The proposed development will have minimal impact on surrounding properties.*
- 4. The additional floor area on the upper level is substantially set back from the street and will be barely visible.*
- 5. The height of the building to the north is more than 3m higher than the subject development.*
- 6. The development is surrounded on all sides by commercial and industrial uses.*

The 4.6 statement goes on to state that:

The proposal complies with the FSR objectives in the LEP as follows;

- *The proposal is compatible with the bulk and scale of existing and desired future development in the locality;*
- *The development maintains an appropriate visual relationship with existing surrounding development;*
- *The proposal will not adversely affect the streetscape or skyline when viewed from the adjoining road;*

- *The proposal will have minimal impact on surrounding industrial properties and will contribute favourably to the public domain;*
- *The proposed footprint of the first and second floor is smaller the footprint of the existing building;*
- *The development will contribute to the mix and vitality of the existing mixed use precinct in Botany.*

Officer Comment: The six environmental planning reasons offered by the Applicant are objectively sound, however they do provide adequate justification as to how the Clause 4.4 FSR standard is unreasonable or unnecessary in the circumstances of the development. Furthermore, Council considers a number of objectives of the standard are not achieved due to the non-compliance with the Clause 4.4 standard. By way of example, the existing poker machine business benefits from a significant parking concession. Even with the approved parking shortfall, the additional parking requirements generated by the addition of a 3 bedroom residential dwelling can only be achieved by allowing internal commercial parking and external residential parking that presents multiple non-compliances with the BBDCP 2013. In this regard, the exceedance of the FSR standard is intrinsically linked to the overdevelopment of the site, and therefore fails to satisfy a number of Clause 4.4 objectives, specifically:

- (a) *to establish standards for the maximum development density and intensity of land use;*
and
- (f) *to provide an appropriate correlation between the size of a site and the extent of any development on that site.*

The Applicants justification to satisfy Cl.4.6(3)(a) is unsubstantiated.

Summary of 4.6(3)(b) justification by Applicant

With regard to Clause 4.6(3)(b), the statement must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard. The Applicant provides the following seven (7) reasons:

- *The proposed use will add to the character of the neighbourhood;*
- *The bulk and scale of the development is in-keeping with surrounding development ;*
- *The proposed non-compliance is minor (less than 10% of the allowable FSR) with the maximum FSR;*
- *The SEE demonstrates that the proposal is consistent with the heads of consideration under Section 79C of the Act including BLEP 2013 and BDCP 2013;*
- *The proposed 3 bedroom apartment will contribute to the existing housing stock within the Bayside Council LGA and the variety of dwelling types;*
- *The proposal will not impact upon Councils public amenity, service resources or assets;*
and;
- *The proposal will not place any undue increased demand on public infrastructure, amenities or services.’ (p.7 of SEE)*

Officer comments: The statement promotes a number of presumptive benefits (generally speaking) that the development offers, rather than detailing the environmental planning grounds upon which the argument for variation is based. The Applicant has not successfully rationalised how the proposed development will be in the public interest or how the proposed shop top housing satisfies the objectives of the B4 Mixed Use zone.

Council considers the proposed variation to the FSR standard to be neither essential nor unavoidable. A reduction of GFA to comply with the FSR standard is achievable and is not likely to significantly impact on the viability of the development. Furthermore, the proposal presents numerous unrelated non-compliances with the BBDCP which collectively result in a development that does not meet the objectives of the B4 Mixed Use zone and is not, therefore in the public interest.

Council considers the proposed mixed use building design to be an overdevelopment of the site which will impact negatively on the safety and amenity of future on-site residents due to various short-comings in the overall dwelling design and layout, as well as a lack of spatial separation of residential and commercial uses. Such a development is not considered to be in the public interest.

In summary, Clause 4.6 statement cannot be supported as the Applicant's written request is unsatisfactory in regards to addressing 4.6(3) and the proposed development is not considered to be in the public interest, as it is inconsistent with the objectives of the Clause 4.4 and the objectives of the B4 zone.

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

Council notes that letter from City Plan (dated 10 May 2019) submitted S82-2019/5 challenges the legitimacy of the original assessment of DA-2018/316 against the BBDCP 2013 controls.

Specifically the letter states:

"The assessment report states that "Part 4B.6 of the Development Control Plan requires shop top housing to be assessed against part 4C-Residential Apartment Buildings."

We note that Part 4B.6 states: "This Part applies to multi dwelling housing development proposed in association with neighbourhood shops."

The proposal is for shop top housing, being a single dwelling above a bulky goods retail premises. The proposal is not for a multi dwelling housing development proposed in association with neighbourhood shops.

The assessment report has incorrectly concluded that Part 4B.6 and therefore Part 4C of the Botany Bay Development Control Plan 2013 do not apply to the proposal." (pp.3-4)

To avoid confusion, the two sentence introduction of BBDCP 2013 4B.6 *Multi Dwelling Housing in Association with Neighbourhood Shops in Residential Zones* is precisely worded with additional spacing below:

First sentence - *This Part applies to multi dwelling housing development proposed in association with neighbourhood shops.*

Second sentence - *Shop top housing and mixed use development are to be prepared in accordance with Part 4C, SEPP 65 and the Apartment Design Guide.*

It is apparent that the above is to be interpreted as two mutually exclusive instructional sentences.

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

Table of compliance - Botany Bay Development Control Plan 2013

Control	Proposed	Complies
3A Parking & Access		
Bulky good premises minimum 1space/50m ² = 250m ² (5 spaces)	4 internal parking spaces (commercial use) + 2 external spaces (residential)	No See discussion below
Office space 1 space/40m ² =52.9m ² (2 spaces)		
Shop top housing two (2) or more bedrooms = 2 spaces		
Total = 9 spaces		
3A.3.1 Car Park Design		
C1 All off-street parking facilities shall be designed in accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities). The design of off-street commercial vehicles facilities (including parking) shall be in accordance with AS2890.2.		No See discussion below
C2 Vehicle access points, loading/unloading area and the internal circulation of an off-street parking facility shall be designed in a manner that entry to and exit from the site is made in a forward direction (except for dwelling houses).		
C3 Parking spaces for small cars shall comply with AS2890.1 and to only be permitted to the off-street parking facilities that are open to the general public.		

<p>C4 For mixed use development, residential off-street parking facilities shall be separated from the other uses and security roller doors shall be installed to provide security to residents.</p> <p>C5 A swept path analysis shall be provided for manoeuvring of commercial vehicles. The diagrams shall include a scale, dimension and legend and be prepared by standard software (e.g. Auto Track, Auto Turn or equivalent) or based upon the turning templates in AS2890.2.</p>		
3G Stormwater Management		
<p>C1 Development shall not be carried out on or for any lands unless satisfactory arrangements have been made with and approved by Council to carry out stormwater drainage works.</p> <p>C2 Stormwater runoff generated from the development site shall be collected and discharged in accordance with Council's Part 10 - Stormwater Management Technical Guidelines.</p> <p>C3 All requirements contained in the Council's Part 10 - Stormwater Management Technical Guidelines (including submission requirements, design and construction, etc.) shall be fully complied with.</p>	<p>A stormwater drainage plan was received and is supported by Council's Development Engineers.</p> <p>The plan includes the installation of a 2000 litre rooftop rainwater tank.</p>	Yes
3H Sustainable Design		
<p>C1 For all proposed residential development where BASIX applies, the development application or Complying Development Certificate is to be accompanied by a BASIX (Building Sustainability Index) Certificate. To obtain a certificate, Applicants must complete an online assessment using the BASIX tool. Details are at www.basix.nsw.gov.au.</p>	<p>A valid BASIX Certificate was submitted with DA-2018/316.</p>	Yes
3I Crime Prevention, Safety and Security		
3I.2 Site Layout, Design and Uses		
<p>C1 Developments are to provide connections to existing activity centres, neighbourhoods and street networks. Isolated residential developments or gated communities are discouraged.</p>	<p>The site is located within close proximity to established residential development.</p>	<p>Yes</p> <p>No</p>

C2 Developments shall facilitate a diverse range of activities that attract people, encourage interaction and provide a community focus.	The existing commercial component of the shop top housing proposal is a poker machine dealer and maintenance supplier	See discussion below
C3 New streets must be legible and navigable and provide direct connection to key facilities and infrastructure. Dead-end streets and cul-de-sac are to be avoided.	No new street proposed.	N/A
C4 Mixed use and higher-density developments are to be located in close proximity to activity centres or public transport networks.	The site is located close to bus stops and Botany Local Centre.	Yes
3l.3 Building Design		
C1 Habitable rooms shall be positioned at the front of dwellings.	First floor habitable rooms are separated from the existing office premises by the proposed courtyard.	No
C2 Windows of a habitable room (i.e. living room, bedroom and kitchen) shall be orientated toward public and communal areas.	There are no windows proposed on the ground floor, eliminating opportunities for casual surveillance.	No
C3 Buildings and open space areas will be designed to: (i) Enable casual surveillance of streets, open space and entrances to buildings; (ii) Minimise access between roofs, balconies and windows of adjoining developments; and (iii) Ensure adequate lighting to access routes, car park areas and open space.	The second floor balcony is setback 10m from the building line with limited opportunities for casual surveillance to Aylesbury Street. The overall dwelling design does not enable casual surveillance of Aylesbury Street. The proposed dwelling location in the context of the two adjoining buildings with open courtyard presents an opportunity for invasion from the neighbouring rooftop of 9 Aylesbury Street.	No
C5 Established setback patterns of the street are to be maintained.	Setback maintained	Yes
C8 Entrances to new development shall front the street to maximise surveillance to the public environment and provide clear sightlines with direct access from the street to the building entrance.		Yes

C10 For a mixed-use building, separate entrances shall be provided for residential and commercial/retail components.		No See discussion below
3I.6 Car Parking Areas		
C2 If underground car parking is not possible, car parking areas are to be located to side and rear of residential and commercial development.		No See discussion below
C12 For mixed-use development, residential car parking areas are to be separated from any other building uses.		
3J Development Affecting Operations at Sydney Airport		
3J.2 Aircraft Noise Exposure Forecast		
C2 Where the building site is classified as "conditional" under Table 2.1 of AS2021-2000, development may take place, subject to Council consent and compliance with the requirements of AS2021-2000.	An acoustics report was submitted.	Yes See discussion below.
3K Contamination		
3K.2 Contamination Assessments		
C1 A site audit is necessary when Council: (i) Believes on reasonable grounds that the information provided by the Applicant is incorrect or incomplete; (ii) Wishes to verify that the information provided adheres to appropriate standards, procedures and guidelines; or (iii) Does not have the internal resources to conduct a technical review.	Additional research of the subject property confirms the site was used for purposes other than a retail carpet business including the manufacture of carpet. The use of chemicals or other contaminants that may have affected the site has not been ruled out by Council. The Applicant has provided insufficient information, by way of a site audit statement to prove otherwise.	No
3N Waste Minimisation And Management		
3N.2 Demolition and Construction		
C1 A Site Waste Minimisation and Management Plan in accordance with Part 1 – Model Site Waste Minimisation and Management Plan (refer to Part 3N.4 - Appendices) must be submitted for Development Application involving:	A Site Waste Minimisation and Management Plan was submitted with DA-2018/316 and satisfies the provisions of this control	Yes

(i) Demolition (ii) New development; and (iii) Alterations and additions affecting more than 20m ² of floor area.		
3N.3 On-going Operation of Development		
<p>C1 A Site Waste Minimisation and Management Plan (SWMMP) in accordance with Part 2 - Model Site Waste Minimisation and Management Plan (refer to Part 3N.4 - Appendices) must be submitted for Development Application involving:</p> <p>(i) New development; (ii) Change of use of an existing premises; and (iii) Alterations and addition that would affect waste management facilities or practices.</p> <p>Note: Does not apply to attached dwellings, dwelling houses, semi-detached dwellings or secondary dwellings.</p>	SWMMP submitted with DA-2018/316. Commercial and residential waste storage areas are separated and clearly shown on plans.	Yes
4C Residential Apartment Buildings		
4C.2.4 Landscaped Area and Deep Soil Planting		
<p>C1 A residential flat development must have a minimum landscaped area of 35% and a maximum hard landscaped area of 20%.</p> <p>C2 Development Applications must include a plan clearly identifying how hard and landscaped areas have been calculated (refer to the Part 3L - Landscaping and Tree Management and Council's Development Application Guide and above definitions</p> <p>C3 Landscaped areas must be effectively distributed on the site to minimise the dominance of buildings, structures and paving when viewed from the street, public places and surrounding properties.</p> <p>C4 Green roofs and walls are not counted in the landscaped area calculations for the site. Refer to Part 3L – Landscaping and Tree Management.</p>	The proposed landscaping equates to less than 5% of the total site area. Regardless of how the proposed development may be categorised, it will not, in any case, comply with the relevant landscaping controls of the BBDGP 2013, Apartment Design Guide or otherwise.	No
4C.4.1 Dwelling Mix and Layout		
C1 Dwellings with 3 or more bedrooms are to have two (2) separate and appropriately sized living spaces. A study alcove may be located within the second living space. Should a freestanding study alcove be provided the height of the walls	A single open plan kitchen/living space is proposed	No

<p>enclosing the study are to be a maximum of 1500mm.</p> <p>C2 To avoid a secondary living space, study, or the like being used as a bedroom, it will only be regarded as such if it has no door or enclosure.</p> <p>C3 Any enclosable secondary living space, study, or the like with a window (i.e. a habitable room), which is 9sqm or greater will be regarded as a bedroom for the purpose of consideration of the unit size, unit mix, car parking and for the calculation of Section 94 Contributions.</p>	<p>The proposed office/study is enclosed.</p> <p>Applicable</p>	<p>No</p>
4C.4.2 Family Friendly Apartment Buildings		
<p>C1 Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.</p> <p>C2 Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child.</p> <p>C3 Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan.</p> <p>C5 Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision.</p> <p>C6 The private outdoor space is to be clearly visible from the kitchen.</p> <p>C7 The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing.</p> <p>C8 The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household</p>	<p>The shared parking area and loading bay does not comply with this control in a general sense of resident safety.</p> <p>Such bathrooms as described here are accessible via bedrooms only.</p> <p>The proposed 3 bedroom dwelling requires an additional 10m².</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p>

<p>items including strollers, wheeled toys, suitcases, and sporting equipment.</p> <p>Objective 4G-1 Adequate, well designed storage is provided in each apartment.</p> <p>Design criteria</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table><thead><tr><th>Dwelling type</th><th>Storage volume</th></tr></thead><tbody><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></tbody></table> <p>At least 50% of the required storage is to be located within the apartment.</p> <p>Design guidance</p> <p>Storage is accessible from either circulation or living areas.</p> <p>Storage provided on balconies (in addition to the minimum balcony size) is integrated into the balcony design, weather proof and screened from view from the street.</p> <p>Left over space such as under stairs is used for storage.</p>	Dwelling type	Storage volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	<p>Council notes that the proposal is for a single dwelling and is not subject to the full scope of ADG guidelines. This control is applied in isolation as directed by the BBDCP 2013.</p>	
Dwelling type	Storage volume											
Studio apartments	4m ³											
1 bedroom apartments	6m ³											
2 bedroom apartments	8m ³											
3+ bedroom apartments	10m ³											
4C.7 Mixed Use												
<p>C1 Any retail or commercial component must be located at ground level.</p> <p>C2 Adequate storage space is to be provided for the use of the commercial or retail premises.</p> <p>C4 The building is to be designed to encourage uses that will enhance and promote active street front activities.</p> <p>C6 The design of parking areas and loading facilities is to take into account the use of these areas by a range of activities and will minimise any conflicts that may arise as a result of the multiple use of these facilities.</p> <p>C7 Visitor parking for the shop component is to be conveniently located, identified as such, and accessible to the general public. Visitor parking is not to be located behind any security grill or gate.</p>	<p>The office associated with the existing business is located on the first floor.</p> <p>The existing service area will be compromised to accommodate the turning area for internal parking.</p> <p>The existing commercial component of the shop top housing proposal is a poker machine dealer and maintenance supplier</p> <p>The proposed residential parking spaces and commercial loading bay is a shared space creating issues for commercial use and residential safety.</p> <p>All proposed commercial parking spaces are located internal on the ground floor and permitted only with organised consent from the business.</p>	<p>No See discussion below</p> <p>No See discussion below</p> <p>No See discussion below</p> <p>No</p> <p>No</p>										

<p>C8 Site facilities, storage, mailboxes, and garbage collection points must be designed to adequately service the needs of the occupants of the building and are to be conveniently located within the development.</p>	<p>Residential garbage collection point is located next to the residential parking spaces and within site boundaries.</p>	<p>Yes</p>
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Part 3A – Parking & Access

An assessment was made against Part 3A – Parking and Access of the Botany Bay Development Control Plan and parking space calculations are provided in the BBDCP table above.

To accommodate the additional parking spaces required for the residential component of the shop top housing development, it is proposed to remove the approved stock and storage area and the enclosed of storage area and replacement with three (3) parking spaces. Following a site inspection it is apparent that the existing service benches along the western wall will have to be removed in order to provide vehicle access to the internal spaces. Such a spatial reconfiguration poses a significant compromise to the functionality of the existing business.

As the proposed residential parking spaces and the business driveway and loading bay entrance is a shared space, the development does not comply with BBDCP parking controls for mixed use development, which requires residential off-street parking facilities to be separated from the other uses. Furthermore, no additional measures are taken to provide safety or security to residents.

The swept path analysis provided with DA-2018/316 was not supported due to a failure to provide movements for a B99 vehicle as per the Australian Standard (AS/NZS2890.1:2004).

In the City Plan letter (dated 10 May 2019) accompanying this application states:

“...the swept path diagrams submitted in support of the application demonstrate that the internal parking spaces will accommodate a B85 vehicle which is the appropriate design vehicle. B99 vehicles, which attend the premises infrequently, would be accommodated in the already approved loading area.”

Council's Development Engineer has reviewed the parking design, with consideration given to the comments above and identifies the following issues:

1. The design of the parking facility does not comply with the Australian Standard (AS/NZS2890.1:2004), in particular the 90 degree parking spaces and 3.8m aisle width located internally within the structure presents a significant departure from the minimum 5.8m aisle width provided by the standard;
2. The standard does not recognise oversized parking space widths allowing a departure from the required aisle width.
3. The proposed B85 vehicle templates have attempted to indicate that entry and exit is acceptable. The design dimensions of the B99 (for swept paths) were requested because a failure of this vehicle to fit within this area will result in intolerable congestions within the facility and deems these spaces as being inaccessible to many vehicles.

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Whilst the Australian Standard states that the B85 vehicle is to be used to check access to parking spaces that is in regard to spaces/aisles that are designed to this standard (e.g. a B99 vehicle simply requires more manoeuvres to enter a parking space designed to this standard. The current design that deviates from the Australian Standard has not indicated that it can accommodate all vehicles (B99) that the Standard deems necessary to be able to park within parking spaces. Ultimately, B99 swept paths must be provided to support this design. The Applicant has provided insufficient information for a thorough assessment of the parking design, and is therefore not supported.

DA-2018/1036 was approved with a deficit of three (3) parking spaces based on the following justification:

- *The proposed use is for the sale of gaming machines and ancillary products exclusively to NSW Registered Clubs and Licenced Hotels. This is a relatively niche market and the Applicant will have a restricted and limited customer base, therefore the proposed use is of low intensity and it is envisaged there will be less customer visits as compared to other higher intensity uses such as a warehouse or other types of retail premises.*
- *Due to the limited customer base, majority of customer visits will be arranged by way of appointment — which will minimise the chances of requiring the usage of off-site parking.*
- *The building was originally approved on 15 April 1987 via DA No. 35/87 for a warehouse and ancillary offices. Based on anecdotal information, the building was historically occupied for the purposes of a carpet retailing business. Based on this information, the building has an existing non-compliance with the minimum car spaces requirement. The proposed use is of lower intensity as compared to the previous uses of the building.*
- *The building is an existing building and there is limited opportunity to provide additional on-site parking.*

The existing development benefits from a significant parking concession. This is justified, firstly by an historic credit, and secondly by the acknowledged sensitivities of the industry in which the existing business operates. Even with the approved parking shortfall, the additional parking requirements generated by the residential dwelling can only be achieved by allowing a severely non-compliant parking layout. The parking design is unacceptable, and therefore, does not satisfy the controls of Part 3A of the BBDCP 2013.

3I Crime Prevention, Safety and Security

The existing land use operates within an industry that is heavily regulated. As discussed earlier in this report, a restricted premises such as a poker machine dealership is mandated to operate in a manner which discourages walk-ins and general foot traffic one would associate with other retail businesses. The restrictions placed on the existing poker machine business do not, therefore, facilitate a diverse range of activities that attract people, encourage interaction and provide a community focus. In fact, there is clear evidence to the contrary.

The proposed dwelling has all habitable rooms positioned at the rear of the dwelling with a significant setback from the building line. As such, the design does not enable casual surveillance of streets, open space and entrances to buildings.

The application is without a Plan of Management and the plans do not depict a point of sale area on the ground floor. Hence, it is unclear where the retail transactions take place, how transactions are

tendered and whether cash will be kept on the premises. Residential parking is located at the front of the building as a shared space with the commercial driveway. Additionally, the proposed building design does not provide separate entrances for the residential and commercial components of the development. This raises concerns over the security of residents, should the commercial premises be targeted for robbery or burglary.

With regard to the Part 3I controls of the BBDCP, insufficient information has been provided to enable a thorough assessment.

Part 3J – Development Affecting Operations at Sydney Airport

The development is on land located near the Sydney (Kingsford-Smith) Airport, between the 20 and 25 ANEF (2033) contour. Further, the development will result in an increase in the number of dwellings and people affected by aircraft and in accordance with this clause, the proposed development requires noise mitigation measures.

The proposal was accompanied by an Aircraft Noise Assessment prepared by Noise and Sound Services (Report No. nss22934-Final, November 2018), which addresses the matter of aircraft noise and details noise amelioration measures to be incorporated into the construction of the development in order to minimise aircraft noise impacts to future occupants, in compliance with the Australian Standards for indoor design sound levels. The proposed development complies with the requirements and objectives of this clause.

4C Residential Apartment Buildings

An assessment of the proposed shop top housing development against the relevant Part 4C BBDCP controls identifies several issues relating to dwelling layout, suitability of the dwelling as a family friendly dwelling, and as an appropriate mixed use development.

A first floor courtyard is proposed to increase solar access to the first floor bedrooms and office study. Although this design component is a preferable alternative to the utilisation of light corridors and saddle back bedrooms (generally speaking), each room will have direct line of sight to each of the other respective rooms.

The design of the parking areas and loading facilities does not take into account the use of the residential and commercial areas, and no measure have been taken to minimise conflicts that may arise as a result of the mixed use development, specifically loading and unloading of commercial vehicles and resident safety.

It is apparent the proposed shop top housing development presents numerous non-compliances when assessed against the BBLEP 2013 and DCP 2013 and is considered unacceptable.

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

All relevant matters of the regulations have been considered.

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

The likely impact of the development has been considered and is outlined in this report.

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

The application provides insufficient information to determine whether the proposal is suitable for the site as discussed in the report. An assessment of the information provided with this application against the relevant EPIs and BBDCP determines the subject site to be unsuitable for the proposed mixed use shop top housing development.

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

The application was placed on notification between the 21st February 2019 and the 8th March 2019 in accordance with Part 2 of the Botany Bay Development Control Plan. No submissions were received.

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

The proposed development is considered to be unsatisfactory having regard to the objectives and requirements of SEPP 55, and the Botany Bay Local Environmental Plan 2013 and Development Control Plan 2013. Potential impacts on future residents and adjoining properties have been considered and addressed. As such it is considered that, if approved, the proposed development would set an unwanted precedent for unauthorised development and overdevelopment in the Botany area.

REFERENCES

- Allsopp, M.; Santillo, D. and Johnston P. (2001) 'Hazardous Chemicals in Carpets: A report compiled for the Healthy Flooring Network, *Greenpeace Research Laboratories*, Technical Note 01/2001, January 2001, University of Exeter: UK
- Mulholland, J. A., Pitrolo, M.C., Bissram, R. and Patury, S. (2000) 'Air Emissions from Carpet Manufacturing Processes', *Georgia Tech Research Institute*, Atlanta

STATEMENT OF ENVIRONMENTAL EFFECT

ALTERATIONS AND ADDITIONS INCLUDING NEW RESIDENTIAL UNIT

Lot 4 DP 514437
11 AYLESBURY STREET, BOTANY, 2019

BAYSIDE COUNCIL

For:
MUDDLE SUPERANUATION FUND PTY LTD

JOB REF: 0492

15 OCTOBER 2018



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Statement of Environmental Effects – Alteration & Additions 11 Aylesbury St, Botany. 15/10/2018

1.0 INTRODUCTION

This Statement of Environmental Effect is in support of a **Development Application** for alterations and additions to Lot 4 of DP 455768, also known as 11 Aylesbury Street, Botany.

The Statement should be read in conjunction with the following documents;

- Architectural plans DA01-DA07 Rev B by DRE Design dated 16 October 2018
- Survey report prepared by ID Surveys Pty Ltd
- Basix Certificate by House Energy Rating Company
- Shadow Diagrams by CAD Draft P/L
- Noise Report by Noise and Sound Services
- Fire Safety Schedule by

1.1 Background

DA-1032/2018 was approved by Bayside Council on 24 May 2018 for Bulky Goods Retail on the ground floor and first floor office of the subject premises. The property is currently occupied by Liberty Gaming Pty Ltd in accordance with the approved DA and Occupation Certificate issued 12 June 2018.

Liberty Gaming Pty Ltd employs 3 full time staff members and 1 part-time staff member and is a licensed seller of Poker machines to hotels and clubs in NSW under Liquor and Gaming NSW, Gaming Machines Act 2001.

1.2 Site and Context

The site is legally described as Lot 4 in DP 514437 and is located on the southern side of Aylesbury Street.

The property is surrounded by two storey commercial and light industrial buildings. The neighbouring buildings are similar in style to the subject property.

As shown in the attached survey plan plans, the property is 10.19m wide and 36.485m deep.

The site area is approximately 372m².

The building is primarily single storey with a small first floor office component at the front also occupied by Liberty Gaming P/L.

The building is setback approximately 6.5m from the front boundary in line with adjacent buildings. The front setback area is used as a hardstand area for off-street parking and driveway.

The building occupies the full width of the property.

The ground floor extends to the rear boundary whereas the first floor is only approximately 6m deep.

Refer to the attached plans and survey report for further details.

2.0 PROPOSAL

It is proposed to carry out alterations and additions to the building as follows;

Ground Floor

- Modify the parking layout to include 3 parking spaces + 1 loading/drop-off space internally for Liberty Gaming
- Retain 2 external parking spaces for the proposed new residence
- Provide new entrance lobby

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- Replace existing awning with new extended metal awning over the entrance door
- Construct a bin enclosure for the residential bins only

First and Second Floor

- Retain the existing offices and modify the layout to include new entrance door, WC and staff area.
- Demolish the existing warehouse roof and construct new 2 level apartment comprising;
 - 3 Bedrooms with W/I and en-suites
 - Open plan living, dining and kitchen area
 - Laundry and guest WC
 - Study
 - Two (2) landscaped courtyards

Roof

- Install photovoltaic solar panels on the roof of the office and 2nd floor apartment.

3.0 PLANNING REQUIREMENTS

3.1 State Environmental Planning Policies

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

A Basix Certificate has been prepared for the subject development application. Certificate No.: 971553M is attached to this Development Application. The certificate was issued on 31 October 2018.

3.1.2 State Environmental Planning Policy No 55-Remediation of Land Contamination and remediation to be considered in determining development application

- (1) A consent authority must not consent to the carrying out of any development on land unless:*
- (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Previous known uses for the property include warehousing and offices for a Commercial Carpet Business ("Raines Carpets") at least since 1987 based on approval No. 35/87 granted 15 April 1987. The carpet business operated until around 2012. It was then leased out to a building company until 2018 when it was taken over by Liberty Gaming P/L.

The entire property is covered by a concrete slab.

No excavation is proposed as part of the subject development.

The proposed residential unit will be constructed on the first and second floor. The ground floor will be retained as bulky goods retail in accordance with DA1032/2018.

The proposed open space is on the first floor level.

Having regard to the above, it is unlikely that the land is contaminated. It is therefore considered that in relation to SEPP 55, the land is suitable for the proposed development.

3.2 Section 4.15 (S 79C) – Environmental Planning and Assessment Act 1979

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The following assessment relates to those parts of the Environmental Planning and Assessment Act, 1979 considered relevant to this application.
Matters for consideration — general. In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
- (i) *any environmental planning instrument, and*

The relevant environmental planning instrument is;

- Botany Bay LEP 2013. The relevant clauses in the LEP are discussed below in section 3.3;

- (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
- (iii) *any development control plan,*

The relevant DCP's are;

- Botany Bay DCP 2013 (as amended 25/10/2016)

The relevant clauses in the DCP's are addressed below in section 3.4.

- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

The subject proposal including first and second floor addition to the building comprises a new residential unit and minor alterations the existing bulky goods retail shop. The proposed development will have minimal impacts on the natural and built environments. The development will contribute favourably to the social and economic vitality of the neighbourhood. Further details with regard to the impacts of the development can be found in Sections 3.3 and 3.4 below.

- (c) *the suitability of the site for the development,*

The site is suitable for the proposed development. The existing building structure and use is suitable for the proposed addition of a residential unit. The zoning is mixed use. The proposal includes separate access for the retail and residential components. Sufficient car parking and services is available for both uses.

- (e) *the public interest.*

The public interest will not be compromised as a result of the proposal. The local community will benefit from having a dwelling above a retail use thereby ensuring greater safety, security in the neighbourhood with out of hours use of the commercial property.

3.3 BOTANY BAY LOCAL ENVIRONMENTAL PLAN (BBLEP 2013)

The relevant clauses in BLEP 2013 are:

Clause 2.1 - Land Use Zones

The subject property is in Zone B4 – Mixed Use.

The objectives of the zone are:

- *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.*

Development that is permitted with consent is;

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Dwelling houses; Educational establishments; Entertainment facilities; Function

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centres; Hotel or motel accommodation; Information and education facilities; Light industries; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4

Residential development, dwelling houses, Residential Flat Buildings and Shop Top Housing are all permissible with development consent under the BLEP 2013 in the B4 Mixed Use Zone.

The proposal to construct a residential unit satisfies the above and complies with the objectives of the zone. If approved, the property will provide a mix of retail and residential uses on site. The proposal promotes integrated development and encourages work living environment whereby the potential exists for an occupant or occupants of the dwelling to be employed on site.

Clause 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.*

The maximum height shown on the Height of Buildings Map is 10m. The proposed development complies with the height limit and with the objectives of Clause 4.3 in the DCP.

Surrounding development varies in height. To the north, No.9 Aylesbury is approximately 3.16m higher than the subject proposal. To the south, No.13-15 is approximately 300mm lower than the front elevation of the subject building and a similar height to the roof of the proposed first floor.

The existing first floor office, to be retained, is less than 8m in height and the majority of the new development behind the office is less than 7m high. The second floor also complies with the height limit. It comprises a relatively small area of the building footprint. The second floor is substantially set back from the boundaries as follows;

Front Boundary (North) –	16.3m
Rear Boundary (South) –	12.35m
Side Boundary (East) –	1.95m
Side Boundary (West) –	1.55m

The shadow diagrams show minimal impact on the adjoining properties as a result of the proposed development.

The proposed height is compatible with surrounding development and as a result of the 2nd floor setbacks will barely be visible from the street.

Clause 4.4 – Floor Space Ratio

The maximum allowable FSR under BBLEP 2013 is: 1:1.

The site area is:	371.8m ²
The existing GFA is:	320.8m ²
The existing FSR is:	0.86:1

The proposed GFA is:	407.2m ²
The proposed FSR is:	1.09:1

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The proposal exceeds the FSR by 0.9:1 (35.3m²). A clause 4.6 request to vary the maximum FSR standard is included below.

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of Botany LEP 2013 allows Council to grant consent for development even though the development contravenes a development standard imposed by the LEP.

The objectives of the clause are;

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

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

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

Development consent must not be granted for development that contravenes a development standard unless:

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

In deciding whether to grant concurrence, the Secretary must consider:

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

Development Standard to be Varied

- The development standard to be varied as part of this application is Clause 4.4 of the LEP relating to the **floor space ratio**.
- Clause 4.4 states;
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.

The maximum floor space ratio shown on the floor space ratio map for a building on the subject land is: 1:1.

The proposed FSR is 1.09:1. The proposal exceeds the maximum FSR by 0.09:1. This equates to an area of 35.3m² less than 10% of the maximum allowed.

Justification for Contravention of the Development Standard

Further to clause 4.6 (3)(a), compliance with the development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons;

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1. The proposed development is consistent with surrounding development with regard to height and density.
2. The proposal complies with the maximum height limit.
3. The proposed development will have minimal impact on surrounding properties.
4. The additional floor area on the upper level is substantially set back from the street and will be barely visible.
5. The height of the building to the north is more than 3m higher than the subject development.
6. The development is surrounded on all sides by commercial and industrial uses.

The objectives of the FSR standard as set out under clause 4.4 of the LEP include:

1. *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
2. *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,*
3. *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,*
4. *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
5. *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
6. *to facilitate development that contributes to the economic growth of Botany Bay.*

The proposal is for alterations and additions and new apartment to an existing bulky goods retail building. The building is zoned B4 mixed use. The proposal is permissible with development consent.

The proposal complies with the FSR objectives in the LEP as follows;

- The proposal is compatible with the bulk and scale of existing and desired future development in the locality;
- The development maintains an appropriate visual relationship with existing surrounding development;
- The proposal will not adversely affect the streetscape or skyline when viewed from the adjoining road;
- The proposal will have minimal impact on surrounding industrial properties and will contribute favourably to the public domain;
- The proposed footprint of the first and second floor is smaller the footprint of the existing building;
- The development will contribute to the mix and vitality of the existing mixed use precinct in Botany.

It is considered that there are sufficient environmental planning grounds to justify contravening the development standard in this instance, including;

- The proposed use will add to the character of the neighbourhood;
- The blk and scale of the development is in-keeping with surrounding development ;
- The proposed non-compliance is minor (less than 10% of the allowable FSR) with the maximum FSR;
- The SEE demonstrates that the proposal is consistent with the heads of consideration under Section 79C of the Act including BLEP 2013 and BDCP 2013;
- The proposed 3 bedroom apartment will contribute to the existing housing stock within the Bayside Council LGA and the variety of dwelling types;
- The proposal will not impact upon Councils public amenity, service resources or assets; and;
- The proposal will not place any undue increased demand on public infrastructure, amenities or services.

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Secretary's Concurrence

It is understood that the Secretary's concurrence under clause 4.6(5) of the LEP has been delegated to Council. The following section provides a response to those matters set out in clause 4.6(5) which must be considered by Council under its delegated authority:

Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.

No matters of State or regional environmental planning significance are raised by the contravention of the development standard.

The public benefit of maintaining the development standard.

The above justification of the non-compliance with the maximum floor space ratio standard demonstrates that a variation to the development standard is acceptable in terms of the public benefit.

Any other matters required to be taken into consideration by the Secretary before granting concurrence.

No other matters require consideration by the Secretary.

The following sections demonstrate that the proposed variation to the maximum floor space ratio standard will still result in a development that achieves the relevant objectives of the clause and that it will still result in a development that achieves the objectives of the development standard.

Summary

As the above demonstrates, Council can be satisfied that:

- a. Compliance with the maximum floor space ratio standard under the Botany Bay LEP 2013 is unreasonable and unnecessary in the circumstances of the case;
- b. There are sufficient environmental planning grounds to justify contravening the development standard, including being in the public interest;
- c. All other requirements relating to zoning and height are consistent with the LEP and;
- d. The proposal consolidates the existing housing choice and diversity within the building for current and future residents of Bayside Municipality;

It is requested that Council recommend approval for the proposed development even though it contravenes the maximum floor space ratio development standard under Botany bay LEP 2013. The development, inclusive of the new apartment complies with the maximum building height in the LEP and does not result in any significant adverse impacts on the surrounding area.

Clause 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.*

The subject land is Class 4 under BLEP 2013. No excavation is proposed as part of the development application. As a result, the proposed development will not affect the watertable and will not result in any impacts on acid sulfate levels in the location.

3.4 BBDP PART 3 – GENERAL PROVISIONS

The relevant controls in the DCP are;

3A - Parking & Access

The proposed parking complies with the car parking objectives in the DCP

- Adequate parking is provided for the retail and proposed residential unit.

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- Deep soil planting is provided at the front of the building on the eastern side. No other changes are proposed to the footprint of the building that would enable deep soil planting to be provided.
- The proposed parking layout is safe and functional and complies with the relevant design standards.
- The proposed parking provisions are compatible with the proposed development.

Table 1 – Car Parking Provisions:

Commercial/Retail – Bulky good premises: 1 space / 50m²

Office space – 1 space / 40m²

Residential – 2 spaces / 2 or more bedrooms

Existing Car Parking

The existing car parking provision is;

- 1 internal space for customers and deliveries;
- 2 external spaces for staff;

Proposed Car Parking

It is proposed to modify the parking layout to provide 2 internal parking spaces for staff, 1 internal space for visitors and 1 loading/drop-off bay for the bulky goods retail use.

2 parking spaces will be provided at the front of the building for the residential unit.

The proposed parking layout complies with the Council DCP Car Parking Table and with AS2890.1.

Vehicles entering the property on the ground floor will be able to turn around and leave in a forward direction.

A local bus service is available within 200m of the property.

3C Access & Mobility

Whilst the subject property enjoys level access on the ground floor to all areas of the building, the first floor is only accessible via a set of stairs. The existing office was recently approved without the provision of disabled access and it would be unjustifiably difficult to provide disabled access to the first floor in this instance.

3D Signage

No changes are proposed to the signage.

3G Stormwater Management

No changes are proposed to the existing stormwater on site.

The building footprint remains the same. The stormwater will be connected up to the existing stormwater services.

3H Sustainable Design

A Basix Certificate and NATHERS is attached to the development application. With regard to Basix, the proposed development includes;

- Thermal appropriate glazing
- Insulation in new walls, floors and roofs
- Light toned wall and roof colours
- Energy efficient appliances

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- Water saving appliances

It is also proposed to install Solar Panels on the roof of the office and new residential unit.

3I Crime Prevention, Safety and Security

The proposal complies with the objectives of the crime prevention, safety and security in the DCP.

The proposal to construct a residential unit above retail shop is beneficial towards providing greater presence on site during out of hours when the shop is closed including night time and weekends. As a result, the proposed development will contribute favourably towards greater safety and security in the neighbourhood.

3J Development Affecting Operations at Sydney Airport

The subject property is within the 20 ANEF. An Aircraft Noise Impact Assessment report by Noise and Sound Services is attached to this development application.

An aircraft noise assessment for the proposed alterations and additions at 11 Aylesbury Street, Botany has been carried out. The assessment is in line with Australian Standard AS 2021 – 2015 *“Acoustics – Aircraft noise intrusion – building siting and construction”* as required by Bayside Council.

The report concluded that subject to the installation of the specified insulation the internal noise criteria as given in Australian Standard AS 2021 – 2015, will be fully met for the proposed development.

The plans by DRE Design submitted for the development application include specifications provided by Noise and Sound Services.

3K Contamination

As discussed above, the previous known uses for the property include warehousing and offices for a Commercial Carpet Business (“Raines Carpets”) at least since 1987 based on approval No. 35/87 granted 15 April 1987. The carpet business operated until around 2012. It was then leased to a building company until 2018 when it was taken over by Liberty Gaming P/L.

The entire property is covered by a concrete slab. No excavation is proposed as part of the subject development. The proposed residential unit will be constructed on the first and second floor levels with no requirement to occupy the ground floor. The proposed open space is on the first floor level.

Having regard to the above, it is unlikely that the land is contaminated. It is considered therefore that the land is suitable for the proposed development.

3L Landscaping and Tree Management

The existing site has no trees or landscaping. It is proposed to provide landscaping at the front of the site to screen the bin enclosure and to add shade to the parking area.

Two courtyards are included in the new apartment layout. The courtyards incorporate plants for the benefit of the occupants including a small tree and green wall plants.

3N Waste Minimisation and Management

A site waste minimisation and management plan is attached to this application including Part 1 Demolition / Construction and Part 2 Ongoing use of Premises.

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Statement of Environmental Effects – Alteration & Additions 11 Aylesbury St, Botany. 15/10/2018

On-going Operation of Development

A new bin enclosure is proposed to be constructed in front of the building for the residential unit. Waste management for the retail and office existing arrangement continues as previously approved by Council.

Waste bins for the dwelling unit will be provided in accordance with the requirements of Council and as per the DCP as follows;

- 1 x bin for general waste
- 1 x bin for recycled waste
- 1 x bin for green waste

Smaller bins for general and recycled waste will be provided in the apartment kitchen.

3.5 BBDCP PART 4 2013 – PART 4 RESIDENTIAL DEVELOPMENT

The subject proposal is unique in that it does not fall specifically into any one of the residential development types in the DCP. It comprises a single dwelling/apartment above an existing bulky goods retail development. Whilst the development does not fall under SEPP 65 as it is a single dwelling only, the following assessment relates to those parts of the residential development controls considered relevant to the proposal under section 4C of the DCP.

4C.2 – Site Design

- Streetscape -
 - The proposed development is compatible with the bulk and scale of surrounding development.
 - The new apartment will barely be visible from the street.
 - The first floor is setback behind the existing first floor office and will not be visible at all from the street.
 - The first floor has zero side setbacks in keeping with adjacent development.
 - The second floor is set back more than 16m from the front boundary and over 7m from the front façade. As a result it too will not be visible from the street.
 - The existing façade is retained. A small awning is proposed to be constructed above the entrance to the building to replace the existing awning. The new awning will provide shelter and enhance the entrance as viewed from the street.
- Height –
 - The proposed additions comply with the maximum height limit under the LEP. Surrounding development varies in height. To the west, No.9 Aylesbury is approximately 3.16m higher than the subject proposal. To the east, No.13-15 is approximately 300mm lower than the front elevation of the subject building and a similar height to the roof of the proposed first floor.
 - The proposal is in-keeping with surrounding development. Shadow diagrams are included in the application showing minimal impact on surrounding properties.
- Landscape Area
 - The first floor has zero side and rear setbacks in keeping with adjacent development. Instead there are 2 courtyards cut out of the envelope to provide private and sunny open space for the living and bedroom zones.
- Open Space
 - The open space has been designed to maximise privacy for the occupants and to ensure sun access to all living areas.
 - The proposal responds to the particular site constraints, surrounded by a range of industrial and commercial properties.
- Setbacks
 - The proposed setbacks respond to the particular characteristics of the site, surrounded by industrial and commercial buildings on three sides.

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Statement of Environmental Effects – Alteration & Additions 11 Aylesbury St, Botany. 15/10/2018

- The proposed setbacks also respond to the height and configuration of adjacent buildings with zero setbacks to the east and west up to first floor height and the building to the west more than 3m higher than the subject proposal.
- The front setback is behind the existing first floor office and more than 16m on the second floor.

4C.3 – Building Design

- Building Entry
 - The proposed entry includes a new awning and will be well lit.
 - The front door to the building is visible from the street.
 - The number and post box is adjacent to the front door.
 - An intercom with CCTV will be provided to maintain safety and security to the front of the building.
- Materials and Finishes
 - The proposal will not be visible from the street.
 - Lightweight materials are to be used including metal sheet roofs, FC wall cladding and timber flooring.
 - Light colours are used for energy efficiency.
 - A schedule of finish is provided in the attached plans.

4C.4 – Building Configuration

- Family Friendly Apartment Building
 - The proposed apartment comprises 3 bedrooms with en-suites, study and open plan living area. The apartment would suit a family with generous size internal spaces and 2 separate courtyards.
 - The apartment includes generous storage opportunities within the corridor and near the front door.
- Views
 - The second floor master bedroom will enjoy views over the roof of the first floor office towards the city.
- Acoustic Privacy
 - An acoustic report by Noise and Sound Services is attached to the application.
- Safety and Security
 - A CCTV camera and intercom will be provided at the street entrance to the building.
 - Appropriate lighting will be provided in front of the building for occupant and visitor safety.
- Car and Bicycle parking and Access
 - The proposal provides safe vehicle and pedestrian access to and from the site.
 - The retail and residential parking is separated.

4C.7 – Mixed Use

- The proposal comprises bulky goods retail at ground floor with associated office on the first floor as previously approved with residential on the first and second floor.
- The retail area has sufficient storage and parking on ground floor.
- The proposed apartment has separate and secure entrance.
- The mailboxes and garbage are separate and conveniently located for each use.

9.B BOTANY SOUTH PRECINCT

The subject property is within the Botany South Precinct.

The site is part of the perimeter of the precinct zoned B4 Mixed Use. The B4 zone is to act as a buffer between the B7 area and the low density residential area in the adjacent precinct.

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Statement of Environmental Effects – Alteration & Additions 11 Aylesbury St, Botany. 15/10/2018

The proposed development complies with the objectives of the precinct and contributes favourably to the precinct. The proposal complies with the relevant under Part 9.B. The proposal is in-keeping with surrounding development. The proposal includes both retail and residential on site providing an opportunity for future occupants to enjoy a live/work setup.

The application includes a noise impact report by Noise and Sound Services as required in the DCP. See above and report for further details.

9.B.4.1.3 AREA 3 – AYLESBURY STREET

Aylesbury Street is at the northern tip of the Botany South Precinct. **Area 3** will be encouraged to develop into a residential area which will include low scale live/work opportunities.

The Objectives and Controls for the Desired Future Character for Botany South Precinct: B4 Zone - **Area 3** are as follows:

- O1** To encourage residential development that co-exists and provides a transition from non-residential uses to low scale residential and provides a safe and liveable environment;
- O2** To encourage live/work opportunities which will emit low level of noise and minimises operating hours;
- O3** To encourage improvements to the Public Domain;
- O4** To ensure there is no land use conflicts on the interface between the non-residential and residential uses;
- O5** To ensure that future development contributes to the creation of a high quality landscape environment in the Precinct;
- O6** To retain existing trees both inside and outside the site and provide suitably proportioned areas of well designed landscaping on each development site;
- O7** To ensure proposed development is designed to minimise the impact of noise and vibration from uses with the B7 zone;
- O8** To promote and encourage a high design quality of buildings; and
- O9** To ensure the drainage of the Precinct is not detrimentally impacted and property is protected.

The proposed development complies with the objectives of Area 3 in the DCP. As noted above, the development encourages a live/work opportunity whereby commercial and residential uses co-exist on one site.

The development complies with the relevant clauses under part 4 – Residential development.

The proposed residential unit will not detrimentally impact on any adjoining B7 zones. The unit has been designed with privacy and protection from external sources in mind and with prevention of impacting surrounding properties. This is achieved by looking inwards with courtyards and no external walls allowing for conflicts to arise between the residential unit and surrounding properties.

The development incorporates noise attenuation strategies as recommended by the noise consultants. The measures are included in their report and on the architectural plans.

4.0 CONCLUSION

This development application seeks approval for alterations and additions to the existing bulky goods retail building including the construction of a 2 storey apartment.

The development is permissible within the zoning and is generally consistent with the relevant development standards and provisions in the Botany bay LEP and DCP.

Statement of Environmental Effects – Alteration & Additions 11 Aylesbury St, Botany. 15/10/2018

The above statement shows the proposal has satisfactorily addressed environmental planning impacts including to adjoining properties.

The clause 4.6 request to vary the FSR standard in the LEP is considered reasonable in this instance. The minor variation to the standard will not result in any impacts on the neighbours or local area.

The proposal is consistent with the existing and future character of the Botany South Precinct. The proposal reinforces the mixed use zone as a transition between the industrial and residential areas. The development will provide work/live opportunities combining a bulky goods retail business on the ground floor and residence above.

The proposal is of substantial merit and provides quality family accommodation in a unique setting adding further housing choice to the neighbourhood.

In view of the above, the development is acceptable with regard to the matters for consideration in section 79C(1) of the EP&A Act 1979.

Given the merits of the development we respectfully request Council's consent to carry out the development.

David Epstein | Barch, MCPUD
Reg Architect | ARB NSW Reg No. 9072
Planner | Urban Designer

Attachment

APPENDIX 1:
DEVELOPMENT COMPLIANCE TABLE

Statement of Environmental Effects – Alteration & Additions 11 Aylesbury St, Botany. 15/10/2018

APPENDIX 1: DEVELOPMENT COMPLIANCE TABLE

The compliance table below shows the level of compliance with the relevant development standards in the BOTANY BAY LEP 2013 and BOTANY BAY DCP 2013.

standards in the BOTANY BAY LEP 2013 and BOTANY BAY DCP 2013.

PLANNING COMPONENT	EXISTING	PROPOSED	PERMITTED OR REQUIRED		COMPLIES		NOTES
			(MAX)	(MIN)	TECH	PERF	
BOTANY BAY LEP 2013							
ZONING	Vacant	B4 – mixed use		B4 – Mixed Use	YES		The proposed use complies with the LEP
Height of Buildings	7.1m	10m	10m		YES		The proposal complies with the max height
FSR	0.86:1	1.09:1	1:1		NO	YES	Refer to the cl 4.6
BOTANY BAY DCP 2013 – Parts 3 & Part 4							
3A – Parking	3 spaces	6 spaces		6 spaces	YES	YES	Complies with DCP
3J – Noise	-	Insulation				YES	Refer to report by Noise & Sound
3N – Waste Minimisation	-	Waste / recycling for retail & residential		As per BBDCP	YES	YES	Complies
4C.2 – Site Design - Streetscape/ Height/ Landscape Area/ Setbacks/	7.1m Nil	10m 68.3sqm	10m		YES	YES YES YES	Proposed apartment will not be visible from the street Complies with height Proposed open space is appropriate for the unit with 2 courtyards Setbacks are appropriate given the context of the development
4C.3 – Building Design / Entry / Materials						YES	The building entry and materials are satisfactory.
4C.4 – Building Configuration/ Family friendly/Views/ Acoustic privacy/ safety & security/parking						YES	The proposal comprises a family friendly unit with generous spaces and storage Sound insulation is in accordance with the consultant's report. A CCTV/intercom to be installed at the entry for safety and security The parking complies with the DCP and AS2890.1
4C.7 – Mixed Use						YES	A mixed use development is proposed.
9B Botany South Precinct	The existing building is retail only	The proposal is mixed use with addition of residential				YES	The proposal is mixed use reinforcing the objectives of the precinct
9B.4.1.3 – Area 3 – Aylesbury Street						YES	The proposal complies with the objectives of Area 3.



City Plan Strategy & Development P/L
ABN 58 133 501 774

10 May 2019

Our Ref: [19-016]

General Manager

Bayside Council
444-446 Princes Highway
ROCKDALE NSW 2216
council@bayside.nsw.gov.au

Att: Luis Melim

Dear Luis

RE: DA 2018/316 AT 11 AYLESBURY STREET, BOTANY

We are writing on behalf of the applicant for the above development application in support of a request to review the determination of that application.

The application was refused by the consent authority on 5 April 2019 for the **attached** reasons.

We appreciate the opportunity to meet with yourself and Ms Marta Gonzales-Valdes on 17 April 2019 to further discuss the reasons for refusal. From that meeting we understand that Council also held concerns that the proposal would not enable the existing approved bulky goods retail business to continue operating from the premises.

The following information is provided in support of the request to review the determination dealing firstly with the ongoing operation of the bulky goods retail business and then with the grounds for refusing the application.

BULKY GOODS RETAIL BUSINESS

As Council is aware, development consent DA-2018/1032 was issued on 24 May 2018 to permit the use of the existing premises for the purpose of a bulky goods retail premises for the purpose of the sale of second hand gaming machines.

As discussed at our meeting of the 17 April 2019, the sale of second hand gaming machines is a niche business with strict security requirements and unique operating characteristics. As indicated in the plans submitted with DA-2018/1032, the arrangement of the existing ground floor premises made provision for the storage and display of 27 gaming machines in the main warehouse area and the display of a further seven gaming machines in a room at the front of the premises labelled as a 'showroom'.

DA-2018/316 proposes to rearrange the ground floor premises to accommodate three additional off-street car parking spaces while facilitating the ongoing use of the premises for the approved bulky goods retail

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City Plan Strategy & Development P/L
ABN 58 133 501 774

use. To illustrate how this will be achieved, the applicant has amended drawing number DA02 (Rev D – **attached**) to show how the gaming machines will be stored and displayed. In this regard it will be noted that the existing 'showroom' is retained and in the warehouse, machines are stored and handled using pallet racks and a forklift. The pallet racks have the capacity to hold 40 gaming machines, which exceeds the operating requirements of the business.

We trust the additional detail on drawing DA02 and our discussion demonstrates that the proposal will not prejudice the ongoing operation of the bulky goods retail business from the premises.

STATE ENVIRONMENTAL PLANNING POLICY 55 (SEPP 55)

The first reason for refusal states that the application fails to provide sufficient information to determine whether the application complies with SEPP 55.

As noted in our previous correspondence dated 18 March 2019, the Managing Land Contamination Guidelines (Guidelines) state (p.25) that *"The relevance of contamination to a decision on a development application (DA) will vary depending on the uses specified in the application and the risk associated with those uses."*

The additional use for which development approval is sought is a residential use. Specifically, a single three-bedroom apartment above the existing warehouse premises with a private open space in the first-floor level. No contact with the ground is proposed. The ground level is entirely occupied by the warehouse premises which sits over a concrete slab.

We also note that the site was rezoned relatively recently to permit residential development. The B4 Mixed Use zone applying to the site was created when the *Botany Bay Local Environmental Plan 2013* was made on 23 June 2013. Before then, the site was zoned 4(b) Mixed Industrial and residential uses were prohibited.

In accordance with Clause 6 of SEPP 55, before the *Botany Bay Local Environmental Plan 2013* was made, Council was required consider *"... whether the land is contaminated, and if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used."*

On this basis, therefore, we assume that Council was satisfied that the land was suitable for residential development when it rezoned the land to permit mixed use development on 23 June 2013.

Since 2013 the land has been used for a commercial carpet business and more recently for the sale of second hand gaming machines. Neither of these uses are contaminating activities. Based on the above, therefore, it is unlikely that the land is contaminated.

In addition, given the specific characteristics of the proposal including that the site will remain capped by the existing concrete slab and the residential activity occurs on the first floor and above, in our opinion the proposal is consistent with the Guidelines which require consideration to also be given to the risk associated with the proposal. Given the above, the risk associated with the proposal is considered negligible.

Finally, and for abundant caution, the applicant would raise no objection to a condition being imposed on any consent granted requiring the site to remain capped by the concrete slab.



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VARIATION OF FLOOR SPACE RATIO

The delegated planning assessment report explains that the request to vary the floor space ratio is not supported because the variation request failed to demonstrate two of the five potential ways of demonstrating that a development standard is unreasonable or unnecessary established in *Wehbe v Pittwater Council* [2007] NSWLEC 827 (Wehbe). It should be noted, however, that according to Wehbe, it is necessary to establish only one of those five ways and also that the five ways are not exhaustive and there may be other ways to also demonstrate that a development standard is unreasonable or unnecessary.

We note that the applicant has demonstrated in their variation request that the objectives of the standards are achieved notwithstanding non-compliance with the standard and therefore according to Wehbe this is sufficient to demonstrate that strict compliance with the development standard is unreasonable or unnecessary thus satisfying Clause 4.6(3)(a).

The delegated planning assessment report also states that there are no particular constraints on the land which mean that the standard is unreasonable or unnecessary and that the justification provided in the statement could be applied to all land of the same zoning within the vicinity. The delegated planning assessment report draws these conclusions from *Four2Five Pty Ltd v Ashfield Council* but does not explain whether this was the original matter heard by a Commissioner of the Court or the subsequent appeal heard by Justice Pain. In either event, the more recent decision by the Chief Judge in *Initial Action v Woollahra Council* [2018] NSWLEC 118 has confirmed that in order to establish that there are sufficient environmental planning grounds to justify contravening a development standard, it is necessary only to consider the impacts caused by the contravention and whether they are reasonable, rather than whether they will have a neutral or beneficial effect when compared to a complying development. Notwithstanding the above, we also submit that the bulk and scale of the existing development on the adjoining site is a circumstance that justifies the contravention. We note this was addressed in the written variation request.

PARKING AND ACCESS

We note from the assessment report that this ground of refusal was included because the application did not demonstrate that the internal car parking spaces could accommodate a B99 design vehicle. As discussed and agreed at our meeting, the swept path diagrams submitted in support of the application demonstrate that the internal parking spaces will accommodate a B85 vehicle which is the appropriate design vehicle. B99 vehicles, which attend the premises infrequently, would be accommodated in the already approved loading area.

STORMWATER MANAGEMENT TECHNICAL GUIDELINES

We understand this matter concerns the provision of a rainwater tank. As stated in our previous correspondence, a 2,000 litre rainwater tank is capable of being accommodated on the site. In the amended plans (**attached**) the required rainwater tank is shown on the first floor roof behind the second floor addition.

PART 4C.1 RESIDENTIAL FLAT BUILDINGS

The assessment report states that "Part 4B.6 of the Development Control Plan requires shop top housing to be assessed against part 4C-Residential Apartment Buildings."



City Plan Strategy & Development P/L
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We note that Part 4B.6 states: *"This Part applies to multi dwelling housing development proposed in association with neighbourhood shops."*

The proposal is for shop top housing, being a single dwelling above a bulky goods retail premises. The proposal is not for a multi dwelling housing development proposed in association with neighbourhood shops.

The assessment report has incorrectly concluded that Part 4B.6 and therefore Part 4C of the Botany Bay Development Control Plan 2013 do not apply to the proposal.

CONCLUSION

We trust that the above information as well as the information provided at our meeting will assist with the review of the determination of the development application. As we have stated previously, the business has unique operating characteristics and will be complemented by the creation of the apartment. We also consider that the proposal is an appropriate use of the land which is consistent with the objectives of the zone and provides an appropriate low-intensity buffer at the interface with the residentially zoned land.

We note as discussed that the development application was determined by the Manager of Development Services and therefore the review is to be undertaken by the Director.

If you require any further information to assist with the review, please do not hesitate to contact the applicant or myself directly. Otherwise, we look forward to a favourable response to this request.

Yours sincerely

A handwritten signature in black ink, appearing to read "S. Kerr", written over a horizontal line.

Stephen Kerr
Executive Director

Attachments:

1. Reasons for refusal
2. Revised plans showing the following amendments:
 - Pallet racks to accommodate over 40 machines. The actual number of machines will be less than 40 with the remaining space available for storage of parts and other items.
 - Removal of the temporary (non-required) sales office and relocation of proposed parking spaces further north towards the showroom to improve the storage and circulation space.
 - Updated swept path diagram.
 - A rainwater tank on the first-floor roof behind the 2nd floor addition.

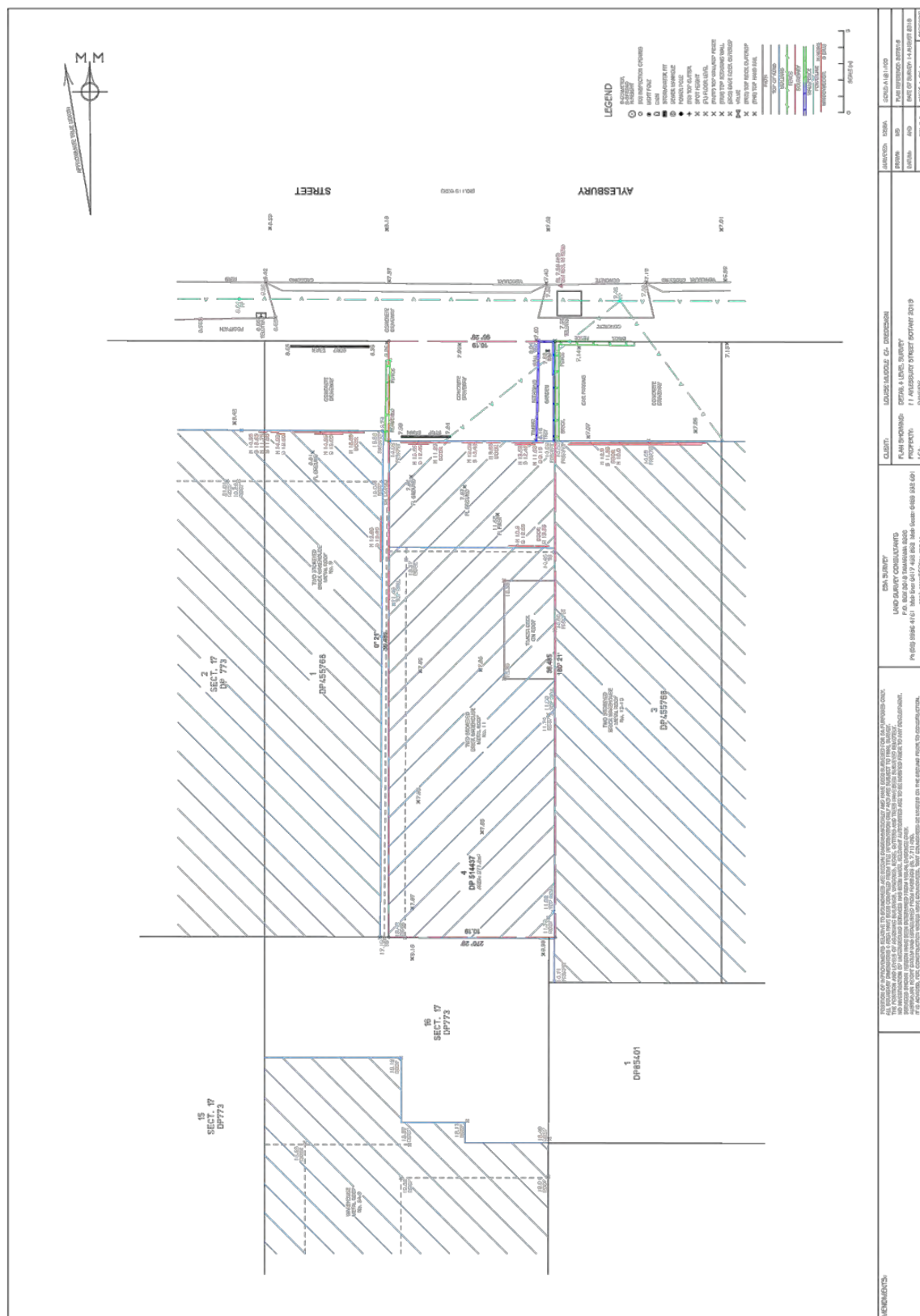
Premises: 11 Aylesbury Street, Botany

DA No: 2018/316

REASONS FOR REFUSAL

1. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act for the following reasons:
 - (a) The application fails to provide sufficient information to determine whether the application complies with State Environmental Planning Policy No 55 Remediation of Land.
 - (b) The proposal fails to comply with part 4.4 - Floor Space Ratio in the Botany Bay Local Environmental Plan. The 4.6 variation statement justifying non-compliance with this standard is not supported.
2. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, as the proposal is not compliant with or fails to provide sufficient information to determine whether the proposal is compliant with the controls contained within the Development Control Plan 2013 including but not limited the following.
 - (a) Part 3A – Parking and Access.
 - (b) Part 10 - Stormwater Management Technical Guidelines.
 - (c) Part 4C.1 Residential Flat Buildings.
3. Having regard to the previous reasons noted above pursuant to the provision of Section 4.15(1)(e) of the Environmental Planning and Assessment act 1979, approval of the development application is not in the public interest.

Certified by Luis Melim 
Manager, Development Services

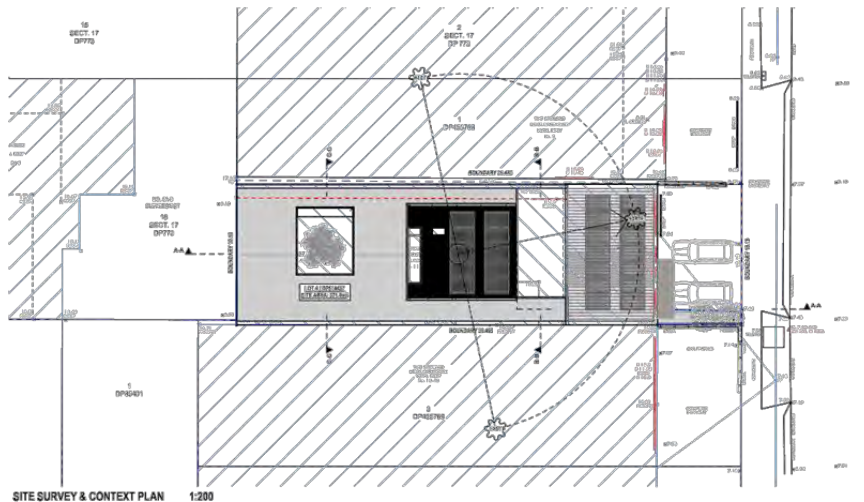




SITE CONTEXT - VIEW FROM AYLESBURY STREET



AERIAL VIEW (SOURCE: SIX MAPS)



SITE SURVEY & CONTEXT PLAN 1:200

WATER	REQUIREMENTS	BASIX - CERTIFICATE NUMBER : 975553M
Landscape vegetation	<ul style="list-style-type: none"> Gardens > 5m², with 5m² low-water use species. 	
Recreational facilities	<ul style="list-style-type: none"> Not required by BASIX. 	
Pool/Spa	<ul style="list-style-type: none"> N/A. 	
Toilets, Showerheads, Taps	<ul style="list-style-type: none"> Showerheads 3* (4.5 - 6.0 L/min), Toilets 3*, Kitchen Taps 3*, Bathroom Taps 3*. 	

THERMAL COMFORT (AccuRate)

Roof	<ul style="list-style-type: none"> Min 100mm R1.0 insulation blanket to underside of roof. 'Light' colour.
Cellarage	<ul style="list-style-type: none"> Minimum R4.0 insulation to all ceilings with roof above. Not rated with down-lights. Any down-lights proposed will have approved non-ventilated covers or shields to enable the installation of insulation with no gaps.
External Walls	<ul style="list-style-type: none"> Fibro-cement + R2.0 insulation to all external walls. 'Light' colour.
Internal Walls	<ul style="list-style-type: none"> Plasterboard on stud throughout.
Windows	<ul style="list-style-type: none"> NFRC: U_w = 3.16, SHGC = 0.27 to all glazing except 'Living/Kitchen' sliding glazing, eg 'Thermally-improved aluminium-framed double-glazed' 'Low-e' glass. NFRC: U_w = 5.63, SHGC = 0.41 to 'Living/Kitchen' sliding glazing, eg 'Aluminium-framed single-paneled' 'Low-e' glass. NFRC: U_w = 4.23, SHGC = 0.72 to all skylight glazing, 100% shading (eg louvers), eg 'Aluminium-framed double-paneled clear glass'.
Floors	<ul style="list-style-type: none"> Timber framed floors + R1.0 insulation throughout. Timber & tile coverings to floors (as per plans).

ENERGY

Cooling	<ul style="list-style-type: none"> Air-conditioning, single-phase, 1.0 'star' to Living & Bed areas.
Heating	<ul style="list-style-type: none"> Air-conditioning, single-phase, 1.0 'star' to Living & Bed areas.
Water Heating	<ul style="list-style-type: none"> Gas instantaneous, 3.0 'Star'.
Energy Efficient Lighting	<ul style="list-style-type: none"> Compact Fluorescent or LED to: All rooms.
Cooking	<ul style="list-style-type: none"> Gas cook-top, electric oven.
Washing	<ul style="list-style-type: none"> Laundry + Kitchen: exhausts ducted & sealed; manual 'top' 'off'.
Refrigerator/Freezer	<ul style="list-style-type: none"> Well ventilated.
Clothes drying (line)	<ul style="list-style-type: none"> Indoor & outdoor lines installed.
Refrigerator/Freezer	<ul style="list-style-type: none"> N/A.
Alternative Energy Sources	<ul style="list-style-type: none"> Photovoltaic, 5.0 'Mwatt' peak.

General Notes

The Builder shall check all dimensions and levels on site prior to construction or fabrication. Notify any errors, discrepancies or omissions to the architect. Drawings shall not be used for construction or manufacture purposes until issued for construction. Submit shop drawings for approval prior to fabrication of building elements. All structural works to be verified by structural engineer prior to fabrication. Obtain approvals from the relevant authorities prior to construction and/or fabrication.

LEGEND

TM - TIMBER
TL - TILE
MT - METAL
FC - FIBRE CEMENT CLADDING

DRAWINGS LIST

DA01 SITE CONTEXT
DA02 GROUND FL + ROOF PLANS
DA03 FIRST + SECOND FL PLANS
DA04 ELEVATIONS
DA05 SECTIONS
DA06 AREA CALCULATIONS, MATERIALS & 3D VIEW
DA07 SWEEP PATH DIAGRAM

CONSULTANTS LIST

PLANNING DRE Design
BASIX/NATHAN The House Energy Rating Co. AU
SHADOW ANALYSIS CAD Draft Pty Ltd
NOISE Nelson & Gould Services
FIRE Beaches Fire Services

ISSUE

A - 10/09/2018 - SKETCH PLANS
B - 16/10/2018 - DA
C - 14/02/2019 - DA (pre) path added
D - 20/04/2019 - DS 2-8-5 (DS2A) review

DRE DESIGN

Architectural Urban Design & Planning
(ABU) Pty Ltd
28 Rawson Avenue,
Queens Park NSW 2022
T: +61 2 9398 4558
E: info@dredesign.com.au
Notified Architect:
David Epstein ARB Reg No.: 3072

Proposal:

ALTERATIONS ADDITIONS &
NEW APARTMENT

Client:

MIDDLE SAF PIL

Site:

11 AYLESBURY ST BOTANY

Status:

DEVELOPMENT APPLICATION

Drawing Title:

SITE CONTEXT + ANALYSIS PLANS

Date:

30 April 2019

Scale:

As shown @A2

Draw No.:

Rev:

DA01

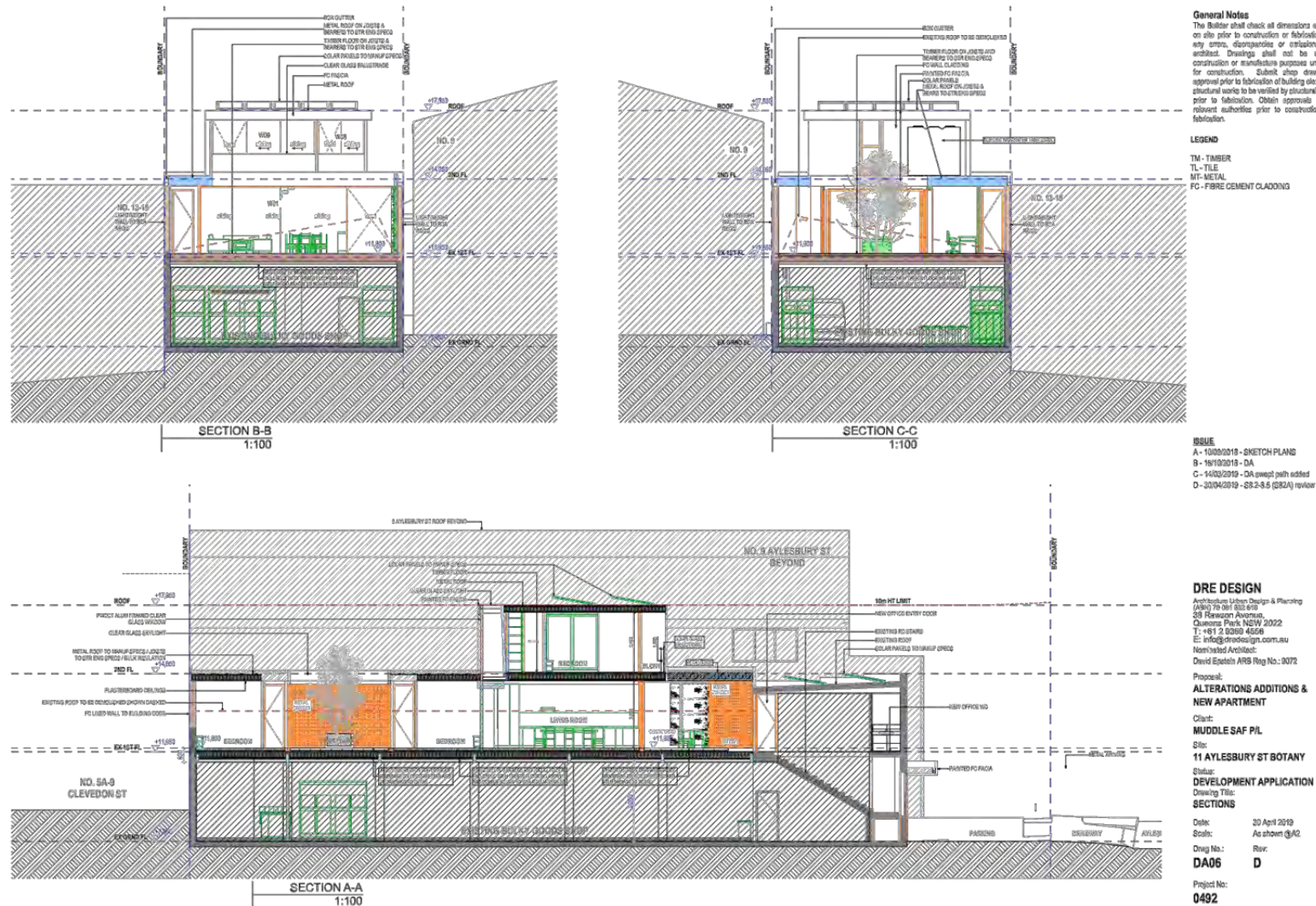
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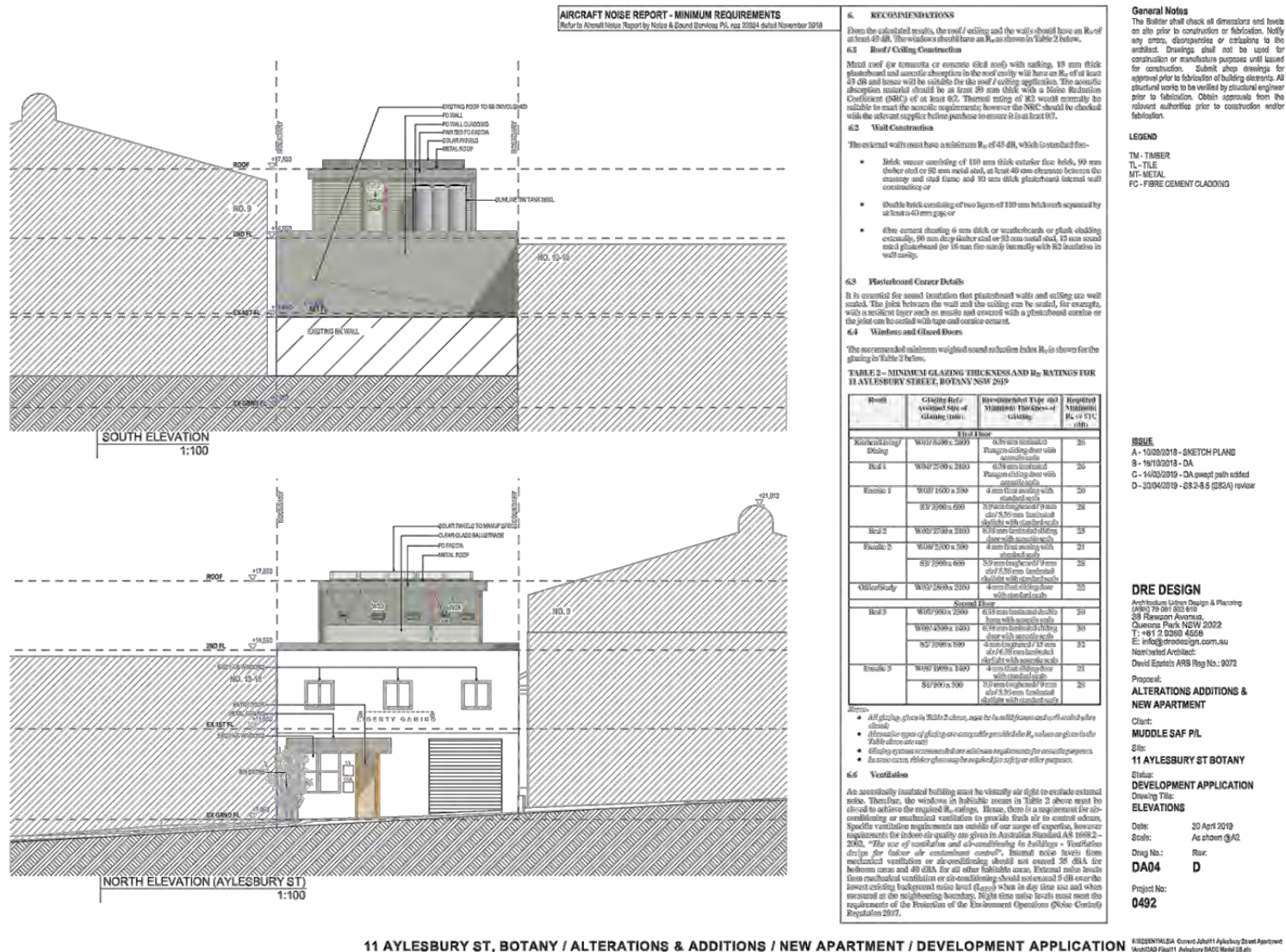
11 AYLESBURY ST, BOTANY / ALTERATIONS & ADDITIONS / NEW APARTMENT / DEVELOPMENT APPLICATION

REPRESENTATIVE: Current Job: 11 Aylesbury Street Apartment
Architect: David Epstein



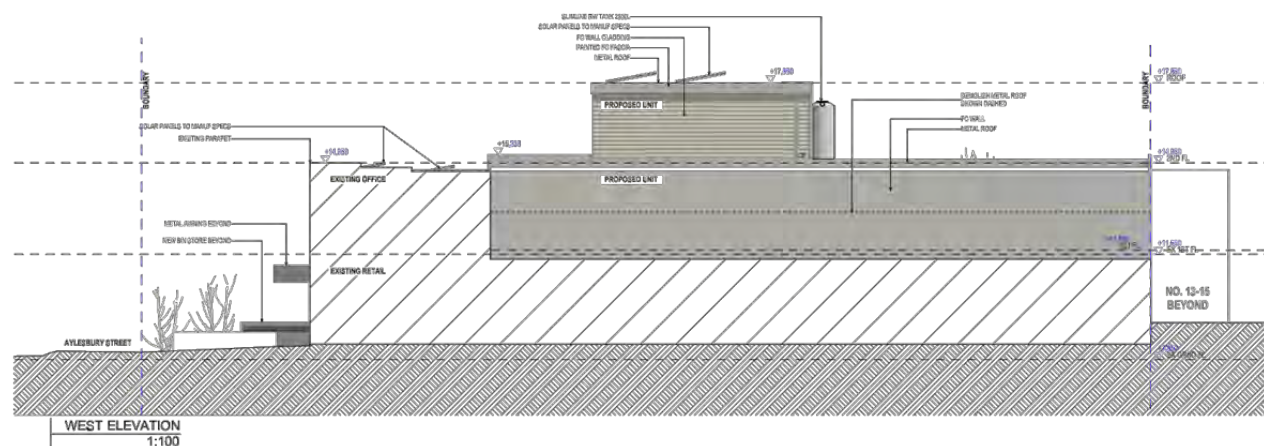
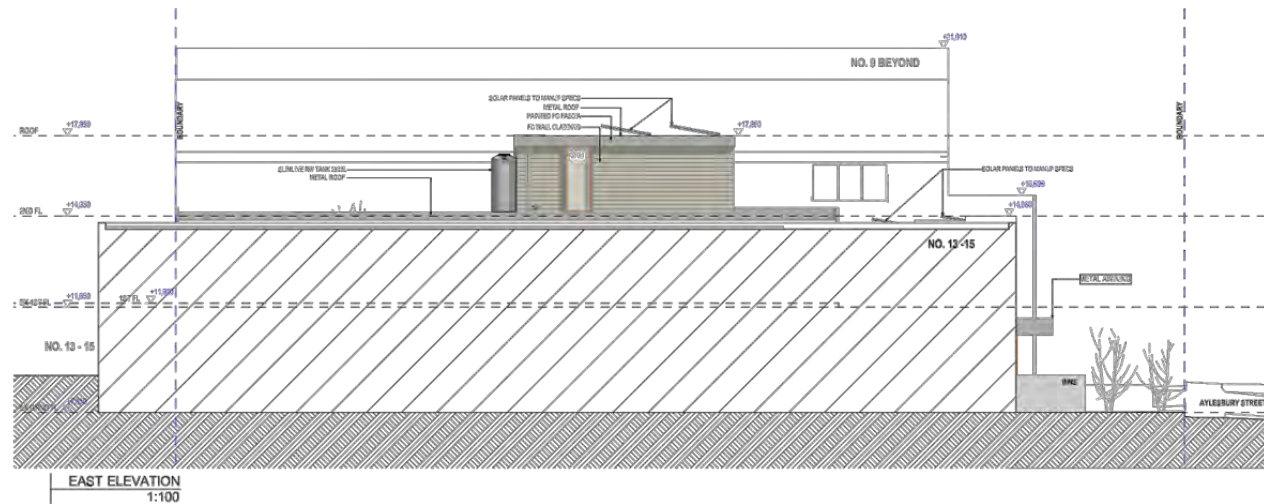
11 AYLESBURY ST, BOTANY / ALTERATIONS & ADDITIONS / NEW APARTMENT / DEVELOPMENT APPLICATION

PRESENTATION: Current 11 Aylesbury St Apartment
Architect: David Epstein ARB Reg No.: 3072



11 AYLESBURY ST, BOTANY / ALTERATIONS & ADDITIONS / NEW APARTMENT / DEVELOPMENT APPLICATION

6/RESENTHALDA - Current 11 Aylesbury Street Apartment
Architectural Urban Design & Planning (ABU) Pty Ltd

**General Notes**

The Builder shall check all dimensions and levels on site prior to construction or fabrication. Notify any errors, discrepancies or omissions to the architect. Drawings shall not be used for construction or manufacture purposes until issued for construction. Submit shop drawings for approval prior to fabrication of building elements. All structural work to be verified by structural engineer prior to fabrication. Obtain approvals from the relevant authorities prior to construction and/or fabrication.

LEGEND

TM - TIMBER
TL - TILE
MT - METAL
FC - FIBRE CEMENT CLADDING

ISSUE

A - 10/09/2018 - SKETCH PLANS
B - 16/10/2018 - DA
C - 14/02/2019 - DA (revised) path added
D - 30/04/2019 - CS 2-B-6 (SS2A) review

DRE DESIGN

Architectural Design & Planning
(ABR) Pty Ltd (ABR)
28 Riverton Avenue,
Queens Park NSW 2022
T: +61 2 9359 4558
E: info@dredesign.com.au
Notified Architect:
David Epstein ARB Reg No.: 8072

Proposal:

ALTERATIONS ADDITIONS & NEW APARTMENT

Client:

MUDDLE SAF PIL

Site:

11 AYLESBURY ST BOTANY

Stage:

DEVELOPMENT APPLICATION

Drawing Title:

ELEVATIONS

Date: 30 April 2019

Scale: As shown @A2

Drawn No.: Rev:

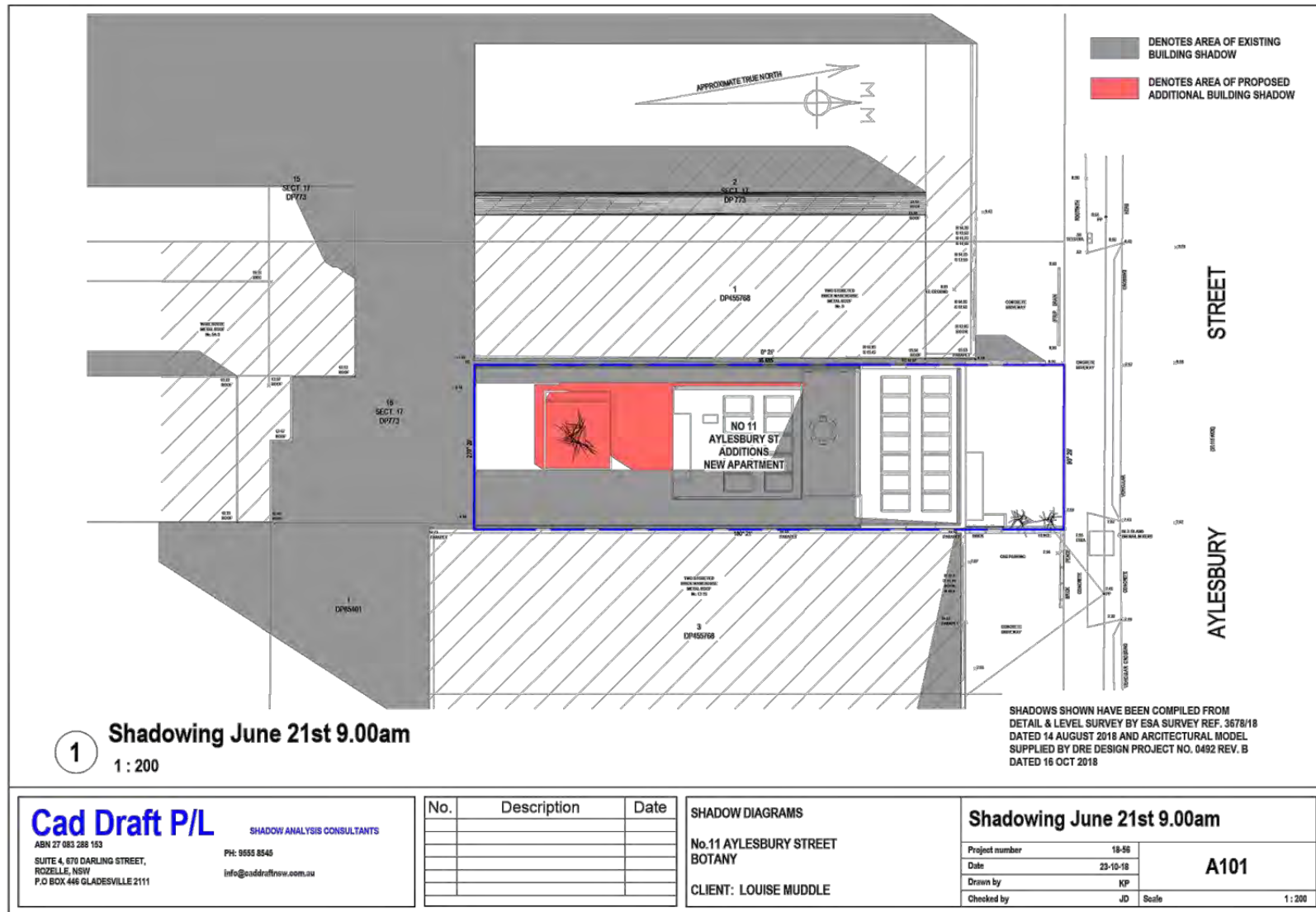
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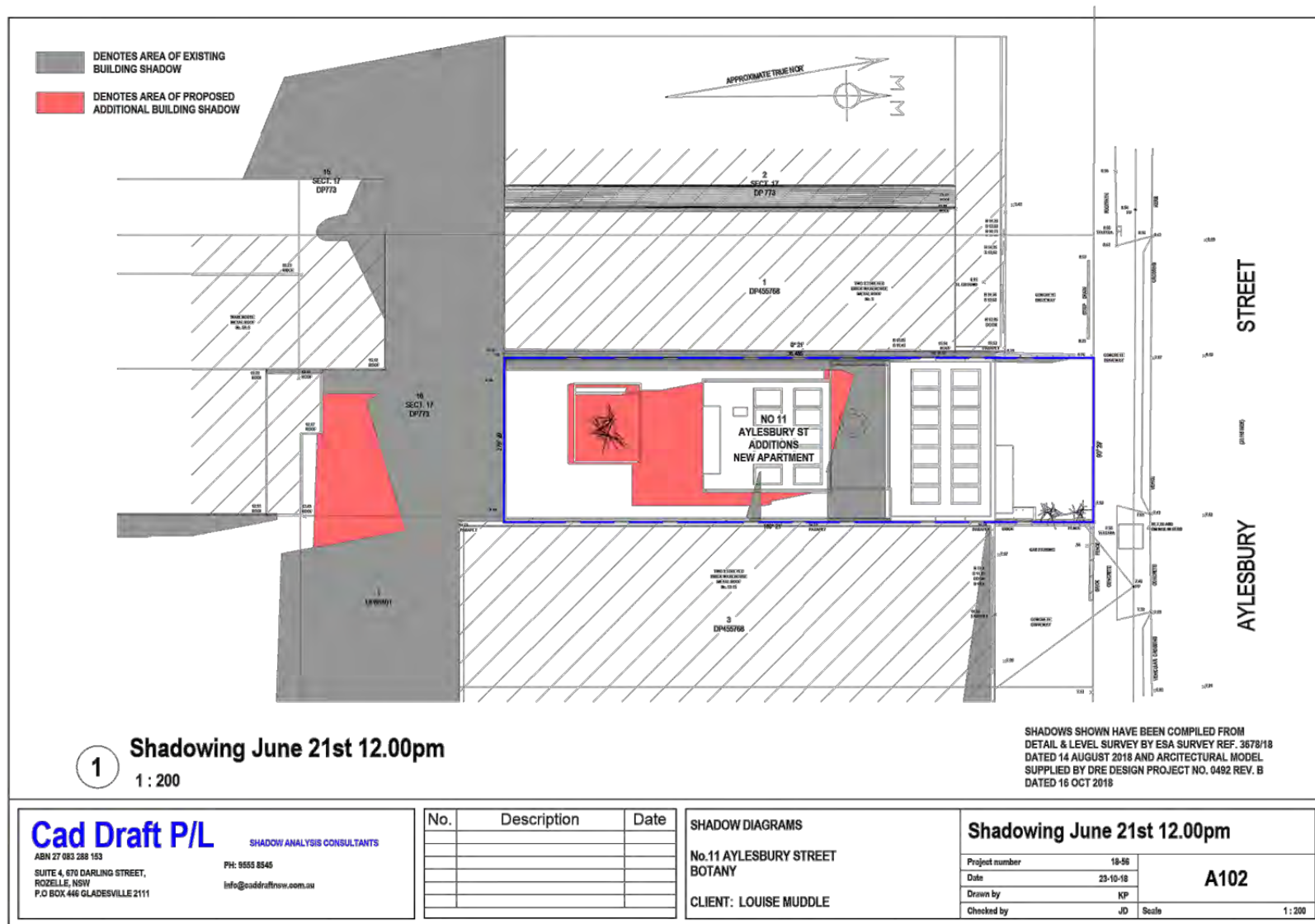
Project No:

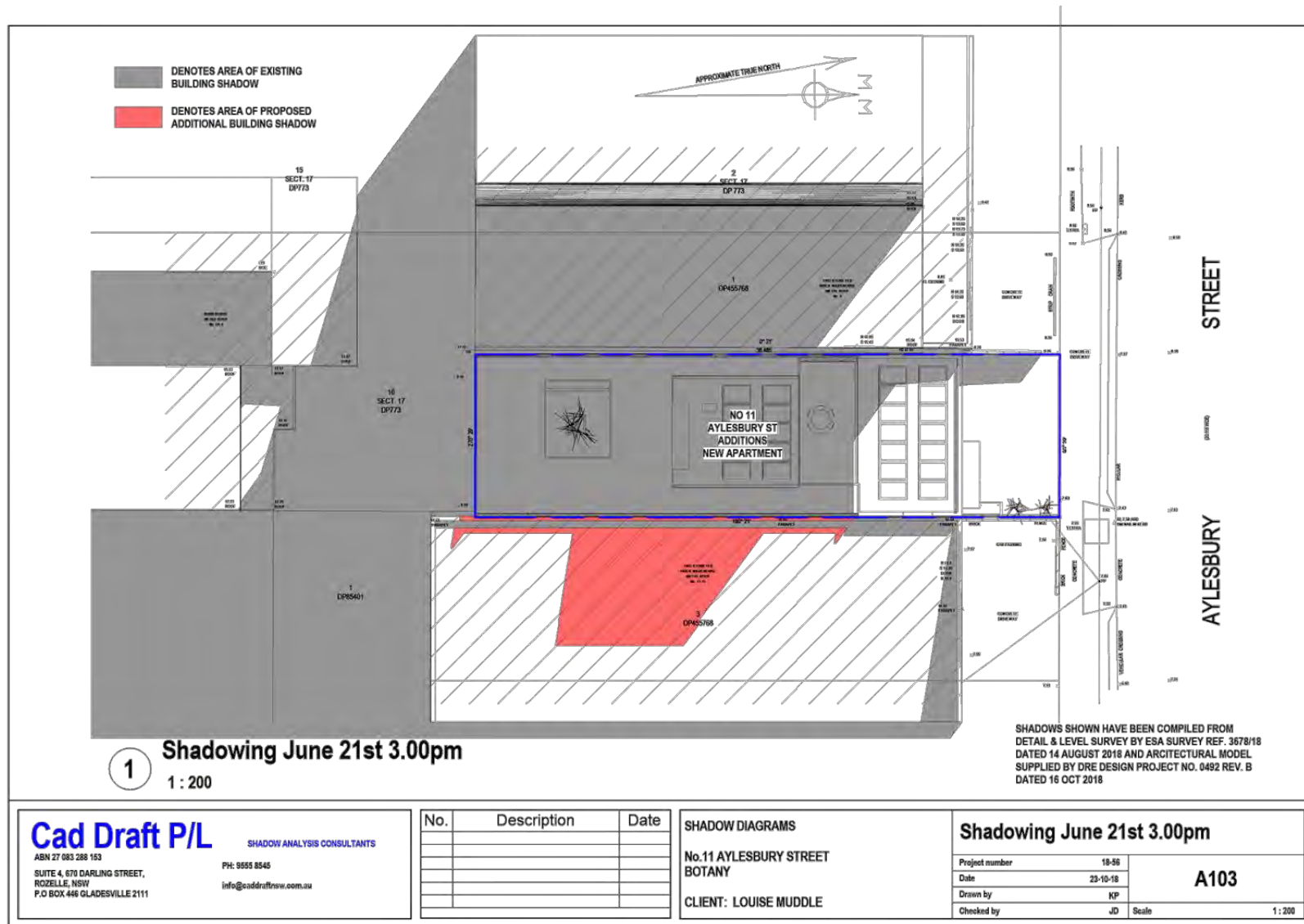
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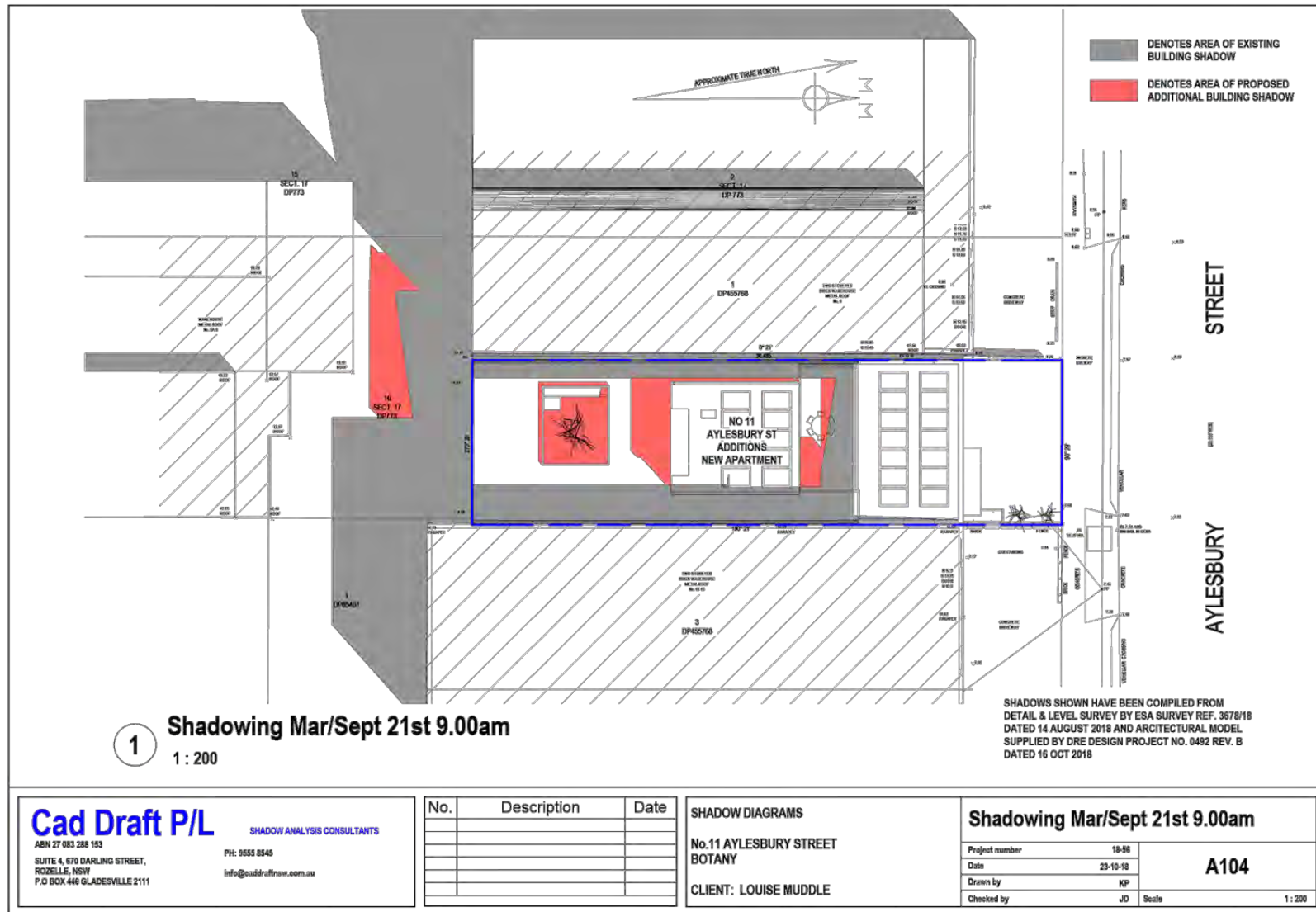
11 AYLESBURY ST, BOTANY / ALTERATIONS & ADDITIONS / NEW APARTMENT / DEVELOPMENT APPLICATION

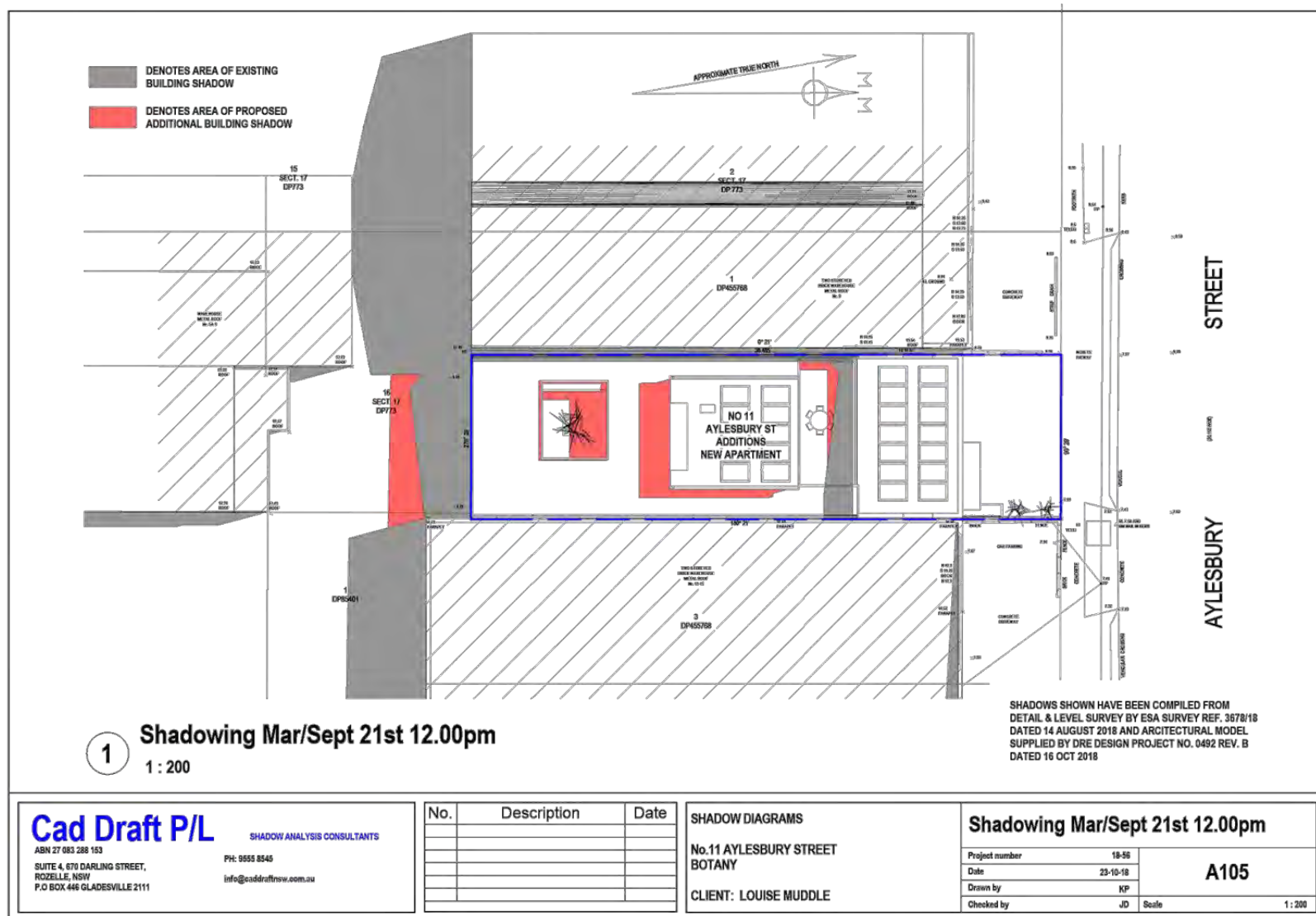
PRESENTATION Current Job: 11 Aylesbury Street Apartment
Architect: DRE DESIGN













Noise and Sound Services

Aircraft Noise Assessment

11 Aylesbury Street,
Botany,
NSW 2019.

November 2018

Report No. nss 22934 – Final

Prepared at the Request of:-

DRE Design
38 Rawson Avenue,
Queens Park NSW 2022

Prepared by:-

NOISE AND SOUND SERVICES
Spectrum House, 3, Cassandra Avenue, St Ives, NSW 2075
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A member firm of the Association of Australasian Acoustical Consultants
ABN: 7277 134 9599



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1. INTRODUCTION

Noise and Sound Services was requested by DRE Design, to carry out an aircraft noise assessment at 11 Aylesbury Street, Botany NSW 2019. The purpose of the assessment is to provide an independent and accurate appraisal of the internal level of aircraft noise for the proposed residential dwelling at the site. The assessment is in line with Australian Standard AS 2021 – 2015 *“Acoustics – Aircraft Noise Intrusion – Building Siting and Construction”* as required by Bayside Council for sound insulation against air traffic noise.

2. SITE AND DEVELOPMENT DESCRIPTION

2.1 Site Description

The site at 11 Aylesbury Street is approximately 1300 metres due East of the central part of the North/South runway of Sydney (Kingsford Smith) Airport and approximately 2400 metres due East of the central part of the North/South runway. Proposed on the site is a two-storey residency above an existing commercial property.

2.2 Development Description

It is proposed to construct a two storey residential dwelling above an existing commercial property. The residential dwelling is proposed to consist of three bedrooms, three ensuites, living/kitchen/dining area, office/study, and an internal courtyard. A full description of the proposed construction and development is given in architectural drawings supplied by DRE Design, 38 Rawson Avenue, Queens Park NSW 2022, titled *‘First + Second FL Plans’* for project No. 0492, dated 16 Oct 2018.

3. CRITERIA

3.1 Indoor Design Sound Levels

Indoor design sound levels for aircraft noise reduction assessments for homes are given in Table 3.3 (page 23) of the Australian Standard AS 2021 (2015). For houses, home units and flats the criteria are 50 dBA for sleeping areas and dedicated lounges, 55 dBA for other habitable spaces and 60 dBA for bathrooms, toilets and laundries.

4. NOISE LEVELS

The noise levels from aircraft can vary considerably with the type of aircraft, the runway used, weather conditions, etc. However standard aircraft noise levels are given for various centreline and sideline distances of the Australian Standard AS 2021 – 2015 *“Acoustics – Aircraft noise intrusion- building siting and construction”*. For a centreline of 1000 metres (DL) from the closer end of the runway, 3500 metres from the further end of the runway (DT) and sideline of 1400 metres (DS), the following results from Australian Standard AS 2021 were found, as shown in Table 1 below.

TABLE 1. AIRCRAFT NOISE LEVEL AT 11 AYLESBURY STREET, BOTANY NSW 2019

Aircraft Type	Departures /Arrivals	Noise Level (dBA)
Airbus A320-232	Departures	50
Airbus A320-232	Arrivals	67
Airbus A321-232	Departures	51
Airbus A321-232	Arrivals	69
Airbus A330-301	Departures	54
Airbus A330-301	Arrivals	71
Airbus A380-841	Departures (Short Haul)	54
Airbus A380-841	Departures (Long Haul)	69
Airbus A380-841	Arrivals	69
Boeing B747-400	Departures (Short Haul)	53
Boeing B747-400	Departures (Long Haul)	70
Boeing B747-400	Arrivals	54
Boeing 737-400	Departures	71
Boeing 737-400	Arrivals	59
Boeing 737-800	Departures	73
Boeing 737-800	Arrivals	69
Boeing 767-300	Departures	57
Boeing 767-300	Arrivals	77
Boeing 777-300	Departures	56
Boeing 777-300	Arrivals	72
Boeing 787-8	Arrivals (Long Haul)	52
Boeing 787-8	Departures (Short Haul)	66
Boeing 787-8	Departures (Long Haul)	64

5. NOISE ASSESSMENT

This section of the report discusses the measurement results at the existing site and details formula used to predict the internal noise levels in various rooms of the proposed development.

5.1 External Noise Levels

The logarithmic average maximum noise level from current aircraft movements of a range of aircraft, as given in Table 1 above, is typically 66 dBA with a maximum, but rarely occurring, noise level of 77 dBA.

5.2 Internal Noise Levels

Internal noise levels are dependent upon the sound transmission loss of the building components. For convenience, the sound transmission loss can be given in a single number known as the weighted sound reduction index (R_w). This is similar to the sound transmission class (STC) used previously. The approximate value of the required R_w is found from the Aircraft Noise Attenuation (ANA) plus 5 dB; see section G3.1 (page 165) of Australian Standard AS 2021- 2015. The ANA for each building component is found from the following formula:-

$$ANA = ANR + 10 \log_{10} [S_c/S_f \times (3/h) \times 8TN] - K_c$$

Where:

- ANR** is the required aircraft noise reduction (dB);
- S_c/S_f** is the ratio of the component area and the floor area;
- h** is the ceiling height (metres);
- T** is the reverberation time of the room (seconds);
- N** is the number of building components;
- K_c** is the orientation effect for the component (dB).

By applying this formula, the selection of the weighted sound reduction index of the building components, particularly the windows and glazed doors in all four facades and the roof can be found. The glazed areas are normally the acoustically weakest partitions in the façades in nearly all situations. It is assumed that the rooms, particularly the bedrooms, will be normally furnished (e.g. bed, carpet and curtains) giving an average reverberation time of approximately 0.5 seconds for bedrooms and 0.8 seconds for living areas.

6. RECOMMENDATIONS

From the calculated results, the roof / ceiling and the walls should have an R_w of at least 43 dB. The windows should have an R_w as shown in Table 2 below.

6.1 Roof / Ceiling Construction

Metal roof (or terracotta or concrete tiled roof) with sarking, 13 mm thick plasterboard and acoustic absorption in the roof cavity will have an R_w of at least 43 dB and hence will be suitable for the roof / ceiling application. The acoustic absorption material should be at least 50 mm thick with a Noise Reduction Coefficient (NRC) of at least 0.7. Thermal rating of R2 would normally be suitable to meet the acoustic requirements; however the NRC should be checked with the relevant supplier before purchase to ensure it is at least 0.7.

6.2 Wall Construction

The external walls must have a minimum R_w of 43 dB, which is standard for:-

- Brick veneer consisting of 110 mm thick exterior face brick, 90 mm timber stud or 92 mm metal stud, at least 40 mm clearance between the masonry and stud frame and 10 mm thick plasterboard internal wall construction; or
- Double brick consisting of two layers of 110 mm brickwork separated by at least a 40 mm gap; or
- fibre cement sheeting 6 mm thick or weatherboards or plank cladding externally, 90 mm deep timber stud or 92 mm metal stud, 13 mm sound rated plasterboard (or 16 mm fire rated) internally with R2 insulation in wall cavity.

6.3 Plasterboard Corner Details

It is essential for sound insulation that plasterboard walls and ceiling are well sealed. The joint between the wall and the ceiling can be sealed, for example, with a resilient layer such as mastic and covered with a plasterboard cornice or the joint can be sealed with tape and cornice cement.

6.4 Windows and Glazed Doors

The recommended minimum weighted sound reduction index R_w is shown for the glazing in Table 2 below.

TABLE 2 – MINIMUM GLAZING THICKNESS AND R_w RATINGS FOR 11 AYLESBURY STREET, BOTANY NSW 2019

Room	Glazing Ref./ Assumed Size of Glazing (mm)	Recommended Type and Minimum Thickness of Glazing	Required Minimum R_w or STC (dB)
First Floor			
Kitchen/Living/ Dining	W01/ 8400 x 2800	6.38 mm laminated Paragon sliding door with acoustic seals	26
Bed 1	W04/ 2700 x 2100	6.38 mm laminated Paragon sliding door with acoustic seals	26
Ensuite 1	W05/ 1600 x 300	4 mm float awning with standard seals	20
	S3/ 3900 x 600	3.9 mm toughened / 9 mm air / 5.36 mm laminated skylight with standard seals	28
Bed 2	W02/ 2700 x 2100	8.38 mm laminated sliding door with acoustic seals	25
Ensuite 2	W06/ 2300 x 300	4 mm float awning with standard seals	21
	S3/ 3900 x 600	3.9 mm toughened / 9 mm air / 5.36 mm laminated skylight with standard seals	28
Office/Study	W03/ 2800 x 2100	4 mm float sliding door with standard seals	22
Second Floor			
Bed 3	W07/ 900 x 2300	6.38 mm laminated double hung with acoustic seals	30
	W09/ 4500 x 1400	6.38 mm laminated sliding door with acoustic seals	30
	S2/ 3900 x 800	4 mm toughened / 15 mm air / 6.38 mm laminated skylight with acoustic seals	32
Ensuite 3	W08/ 1900 x 1400	4 mm float sliding door with standard seals	21
	S1/ 900 x 500	3.9 mm toughened / 9 mm air / 5.36 mm laminated skylight with standard seals	28

Notes:-

- All glazing, given in Table 2 above, must be in solid frames and well-sealed when closed;
- Alternative types of glazing are acceptable provided the R_w values as given in the Table above are met;
- Glazing systems recommended are minimum requirements for acoustic purposes.
- In some cases, thicker glass may be required for safety or other purposes.

6.4.1 Glazing Manufacturers

Glazing manufacturers as listed in Appendix A below have provided attenuation data for their windows and will meet the requirements given in this report. Should other suppliers be used, laboratory test data to support the window system ratings must be provided.

6.6 Ventilation

An acoustically insulated building must be virtually air tight to exclude external noise. Therefore, the windows in habitable rooms in Table 2 above must be closed to achieve the required R_w ratings. Hence, there is a requirement for air-conditioning or mechanical ventilation to provide fresh air to control odours. Specific ventilation requirements are outside of our scope of expertise, however requirements for indoor-air quality are given in Australian Standard AS 1668.2 - 2002, *“The use of ventilation and air-conditioning in buildings - Ventilation design for indoor air contaminant control”*. Internal noise levels from mechanical ventilation or air-conditioning should not exceed 35 dBA for bedroom areas and 40 dBA for all other habitable areas. External noise levels from mechanical ventilation or air-conditioning should not exceed 5 dB over the lowest existing background noise level (L_{AF90}) when in day time use and when measured at the neighbouring boundary. Night time noise levels must meet the requirements of the Protection of the Environment Operations (Noise Control) Regulation 2017.

7. SUMMARY AND CONCLUSIONS

An aircraft noise assessment for the proposed alterations and additions at 11 Aylesbury Street, Botany has been carried out. The assessment is in line with Australian Standard AS 2021 – 2015 *“Acoustics – Aircraft noise intrusion - building siting and construction”* as required by Bayside Council.

It is concluded that the internal noise criteria as given in Australian Standard AS 2021 – 2015, will be fully met for the proposed development at 11 Aylesbury Street, Botany. This is from aircraft using Sydney (Kingsford Smith) Airport at Mascot, and is providing that the recommendations given in section 6 above are fully complied with.

Status	Date	Prepared by:	
Draft	5 th November 2018	Hugh Lloyd Bachelor of Music (Audio)	Technical Assistant
Status	Date	Checked by:	
Draft	6 th November 2018	Ken Scannell MSc MAAS	Acoustician
Status	Date	Issued by:	
Final	7 th November 2018	Ken Scannell MSc MAAS	Acoustician

Important Note. All products and materials suggested by 'Noise and Sound Services' are selected for their acoustical properties only. All other properties such as airflow, aesthetics, chemical, corrosion, combustion, construction details, decomposition, expansion, fire rating, grout or tile cracking, loading, shrinkage, ventilation, etc are outside of 'Noise and Sound Services' field of expertise and **must be** checked with the supplier or suitably qualified specialist before purchase.

APPENDIX A - EXAMPLE MATERIAL SUPPLIERS**Acoustic Glazing Suppliers**

'Vantage Windows' telephone: 1300 026 189

<http://www.awsaustralia.com.au>

'Wideline Pty Ltd' telephone: (02) 8304 6400.

www.wideline.com.au

'Trend Windows & Doors Pty Ltd' telephone: (02) 9840 2000.

www.trendwindows.com.au

'Thermoglaze Windows' telephone: 1300 166 571

www.thermaglazewindows.com.au

'Christoffel Pty Ltd' telephone: (02) 9627 4811

www.christoffel.com.au/contact.htm

'Sound Barrier Systems Pty. Ltd' telephone: (02) 9540 4333, or email

tony.angel@soundbarrier.com.au

'Velux' telephone: (02) 1300 859 856

<http://www.velux.com.au/>

'Safetyline Jalousie' telephone: 1300 86 3350

<http://www.safetylinejalousie.com.au/>

Internal Wall-Mounted Air Ventilators

Active:

Acoustica – telephone 1300 722 825 www.acoustica.com.au

Sonair – telephone 1300 858 674 www.edmonds.com.au

Passive:

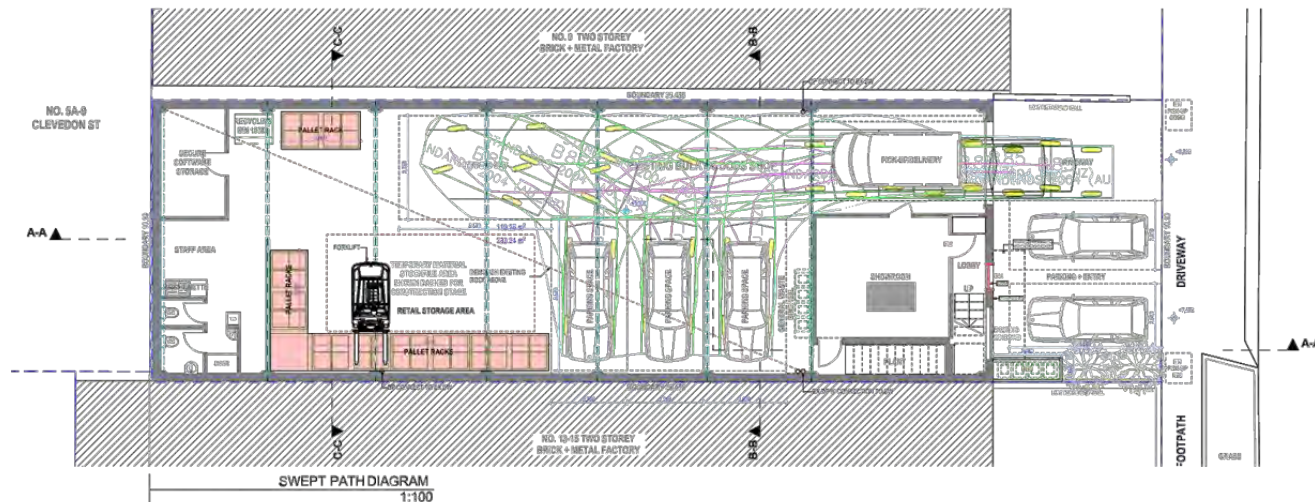
Silenceair® – telephone 02 9555 7215 www.silenceair.com

General Notes
The Builder shall check all dimensions and levels on site prior to construction or fabrication. Notify any errors, discrepancies or omissions to the architect. Drawings shall not be used for construction or manufacture purposes until issued for construction. Submit shop drawings for approval prior to fabrication of building elements. All structural works to be verified by structural engineer prior to fabrication. Obtain approvals from the relevant authorities prior to construction and/or fabrication.

LEGEND
TM - TIMBER
TL - TILE
MT - METAL
FC - FIBRE CEMENT CLADDING

ISSUE
A - 10/09/2018 - SKETCH PLAN
B - 19/10/2018 - DA
C - 14/02/2019 - DA (swept) path added
D - 30/04/2019 - SB 2-B-5 (SEA) review

DRE DESIGN
Architectural Urban Design & Planning
(ABN) 70 681 333 449
38 Rensselaer Avenue,
Cherrybrook NSW 2022
T: +61 2 9399 4558
E: info@dredesign.com.au
Notified Architect:
David Eschke ARB Reg No.: 8072
Project:
**ALTERATIONS ADDITIONS &
NEW APARTMENT**
Client:
MIDDLE SAF PIL
Site:
11 AYLESBURY ST BOTANY
Status:
DEVELOPMENT APPLICATION
Drawing Title:
SWEPT PATH DIAGRAM
Date: 30 April 2019
Scale: As shown @ A2
Draw No.: Rev:
DA08 D
Project No:
0492



11 AYLESBURY ST, BOTANY / ALTERATIONS & ADDITIONS / NEW APARTMENT / DEVELOPMENT APPLICATION

BASIXCertificate

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

Multi Dwelling

Certificate number: 971553M




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

Secretary

Date of issue: Wednesday, 31 October 2018

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



Project summary		
Project name	11 Aylesbury Street	
Street address	11 Aylesbury Street Botany 2019	
Local Government Area	Bayside Council	
Plan type and plan number	deposited 514437	
Lot no.	4	
Section no.	-	
No. of residential flat buildings	0	
No. of units in residential flat buildings	0	
No. of multi-dwelling houses	0	
No. of single dwelling houses	1	
Project score		
Water	 40	Target 40
Thermal Comfort	 Pass	Target Pass
Energy	 90	Target 50




Certificate Prepared by

Name / Company Name: The House Energy Rating Company of Aust. Pty Ltd

ABN (if applicable): 61495952256

Description of project

Project address	
Project name	11 Aylesbury Street
Street address	11 Aylesbury Street Botany 2019
Local Government Area	Bayside Council
Plan type and plan number	deposited 514437
Lot no.	4
Section no.	-
Project type	
No. of residential flat buildings	0
No. of units in residential flat buildings	0
No. of multi-dwelling houses	0
No. of single dwelling houses	1
Site details	
Site area (m²)	317.8
Roof area (m²)	252
Non-residential floor area (m²)	0.0
Residential car spaces	0
Non-residential car spaces	0

Common area landscape		
Common area lawn (m²)	0.0	
Common area garden (m²)	0.0	
Area of indigenous or low water use species (m²)	0.0	
Assessor details		
Assessor number	20069	
Certificate number	0003298080	
Climate zone	56	
Project score		
Water	 40	Target 40
Thermal Comfort	 Pass	Target Pass
Energy	 90	Target 50

Description of project

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

Single dwelling houses

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	3	194.0	0.0	5.0	5.0

No common areas specified.

Schedule of BASIX commitments

1. Commitments for multi-dwelling houses

2. Commitments for single dwelling houses

(a) Dwellings

(i) Water

(ii) Energy

(iii) Thermal Comfort

3. 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.

2. Commitments for single dwelling houses

(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)	3 star	3 star	3 star	no	-	-	-	-	-	-	-	-	-

Dwelling no.	Alternative water source							
	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".			✓	
(j) The applicant must install the photovoltaic system specified for the dwelling under the "Photovoltaic system" heading of the "Alternative energy" column of the table below, and connect the system to that dwelling's electrical system.		✓	✓	✓

	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 3 star	no mechanical ventilation (ie. natural)	-	individual fan, ducted to façade or roof	manual switch on/off	individual fan, ducted to façade or roof	manual switch on/off

	Cooling		Heating		Artificial lighting						Natural lighting	
Dwelling no.	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
All dwellings	1-phase airconditioning 1 Star	1-phase airconditioning 1 Star	1-phase airconditioning 1 Star	1-phase airconditioning 1 Star	4	2	yes	yes	yes	yes	3	yes

	Individual pool		Individual spa		Appliances & other efficiency measures							
Dwelling no.	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	-	yes	-	-	-	yes	yes

	Alternative energy
Dwelling no.	Photovoltaic system (min rated electrical output in peak kW)
All dwellings	5.0

(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.			

(iii) Thermal Comfort	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
(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.	✓	✓	✓

Thermal loads		
Dwelling no.	Area adjusted heating load (in MJ/m ² /yr)	Area adjusted cooling load (in MJ/m ² /yr)
All dwellings	27.6	26.4

Construction of floors and walls					
Dwelling no.	Concrete slab on ground(m ²)	Suspended floor with open subfloor (m ²)	Suspended floor with enclosed subfloor (m ²)	Suspended floor above garage (m ²)	Primarily rammed earth or mudbrick walls
All dwellings	-	-	155	-	No

3. 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).

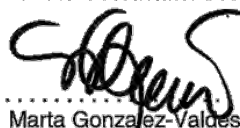
BAYSIDE COUNCIL

Delegated Planning Assessment Report

Application Details

Application Number:	DA-2018/316
Date of Receipt:	23 November 2018
Property:	11 Aylesbury Street, Botany
Lot & DP/SP No:	Lot 4 DP 514437
Owner:	Muddle Superannuation Fund P/L
Applicant:	DRE Design
Applicant Address:	38 Rawson Ave, Queens Park, NSW 2022
Proposal:	Alterations and additions including construction of a two storey residential unit above the existing warehouse building
Value:	\$ 893,678.00
Zoning:	Botany Bay Local Environmental Plan 2013
Author:	Eric Alessi – Development Assessment Planner
Date of Report:	04.04.2019
Classification of Building:	7b
Present Use:	Warehouse
No. of submissions:	Nil

Author's initials on clearance Under delegated authority, the abovementioned application is hereby refused in accordance with the Coordinator's recommendation.



Marta Gonzalez-Valdes

COORDINATOR - DEVELOPMENT ASSESSMENT

Key Issues

The key issues with this application are as follows:

- The proposal contains insufficient information to determine whether the application complies with State Environmental Planning Policy 55.
- The additional floor space is not supported.
- The proposal contains insufficient information to determine whether the proposal complies with the provisions of the Botany Bay Development Control Plan.

Recommendation

It is RECOMMENDED that Development Application No. DA-18/1198 for the Alterations and additions including construction of a two storey residential unit above the existing warehouse building be refused for the following reasons:

1. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act for the following reasons:
 - (a) The application fails to provide sufficient information to determine whether the application complies with State Environmental Planning Policy No 55 Remediation of Land.
 - (b) The proposal fails to comply with part 4.4 - Floor Space Ratio in the Botany Bay Local Environmental Plan. The 4.6 variation statement justifying non-compliance with this standard is not supported.
2. The proposal is unsatisfactory with regards to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, as the proposal is not compliant with or fails to provide sufficient information to determine whether the proposal is compliant with the controls contained within the Development Control Plan 2013 including but not limited the following.
 - (a) Part 3A – Parking and Access.
 - (b) Part 10 - Stormwater Management Technical Guidelines.
 - (c) Part 4C.1 Residential Flat Buildings.
3. Having regard to the previous reasons noted above pursuant to the provision of Section 4.15(1)(e) of the Environmental Planning and Assessment act 1979, approval of the development application is not in the public interest.

Site Description

The subject site is located on the north side of Aylesbury Street between Tenterden Road to the west and William Street to the east. The subject site is regular in shape with an area of 375.1 m² and a 10.19 metre frontage to Aylesbury Street. The site is relatively level with the existing concrete pavements and foundation works for the existing warehouse covering the whole allotment. The site is located within the B4 Mixed use zone.



The general locality can be characterised as light industrial with warehouses being located on either side of the land. There are dwelling house further along Aylesbury Street.

Site History

The following previous applications have been considered on the site:

- DA-2018/1032 for the Change of use to bulky goods premises, approved on 24 May 2018

The above application was submitted on the 05.03.2018. Formally a Commercial Carpet Business operated on the site. A development application (DA15/30) to formalise the use on the premises was refused by Council on the 18 June 2015. A final notice to cease using the premises was issued on 13 July 2017.

DA-2018/1032 was approved as a bulky goods retail premises for the purpose of the sale of gaming machines. The floor plans for the approved use show a stock and display area where the proposed parking for this proposal is located and an enclosed storage area which has been removed without consent. The approval included two (2) external parking spaces and two (2) internal parking spaces. The proposal has a shortfall of three (3) car spaces when measured against the numerical requirements of the DCP. The reduced car spaces were considered acceptable.

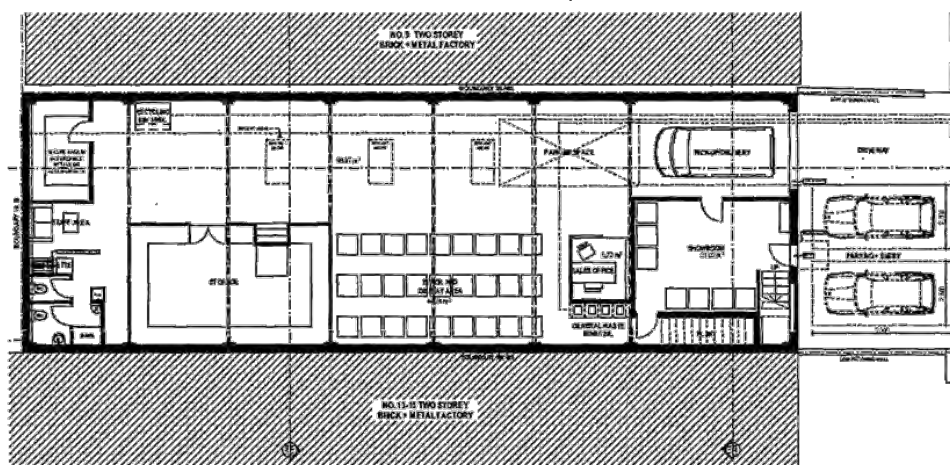
- A request for additional information letter was sent on the 19 December 2018 advising that the proposal was not consistent with clause 6.12 of the Botany Bay Local Environmental Plan.
- Additional information was provided on the 07.02.2019 addressing the above.
- A subsequent additional information letter was sent on the 20.02.2019 requesting the following additional information:
 - o Clarification on the characterisation of the use.
 - o Demonstrate compliance with parking as required by Part 3A of the Botany Bay DCP.
 - o Demonstrate compliance with Stormwater Management Technical Guidelines.
 - o Provide a contamination report as required by SEPP 55.
 - o Advised the 4.6 variation statement is not supported as it does not comply with planning principles.
- A statement addressing the above was received on 19.03.2019.

Description of Development

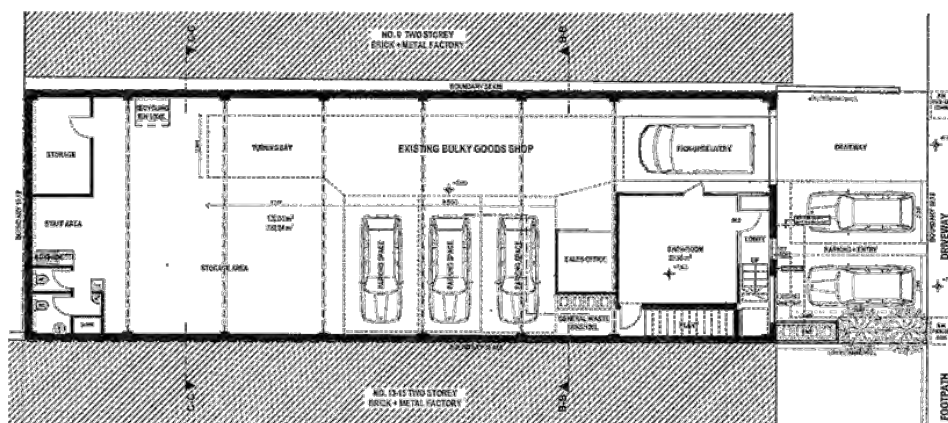
The proposal is for amendments to the existing industrial building to accommodate residential accommodation on the additional first and second level. A breakdown of the components of the proposal are as follows:

Ground Floor:

- Removal of stock and storage area and replacement with vehicle car park to accommodate three (3) parking space and one (1) loading/drop of space for the existing warehouse.
- Removal of enclosure of storage area.
- New entrance lobby.
- Replace existing awning with new extended metal awning over the entrance door.
- Construct a bin enclosure for residential bins.



Approved Ground Floor Plan under DA-2018/1032



PLAN 1-100
Proposed Ground Floor Plan

First and Second Floor

- Modification of the layout of the existing office including addition of a water closet.
- Demolition of existing warehouse roof and construct of new residential section. The floor plans show the following components:
 - o Three (3) bedrooms.
 - o Two open courtyards.
 - o Combined kitchen and dining room.
 - o Laundry
 - o Three (3) bathrooms.
 - o Office / Study room.

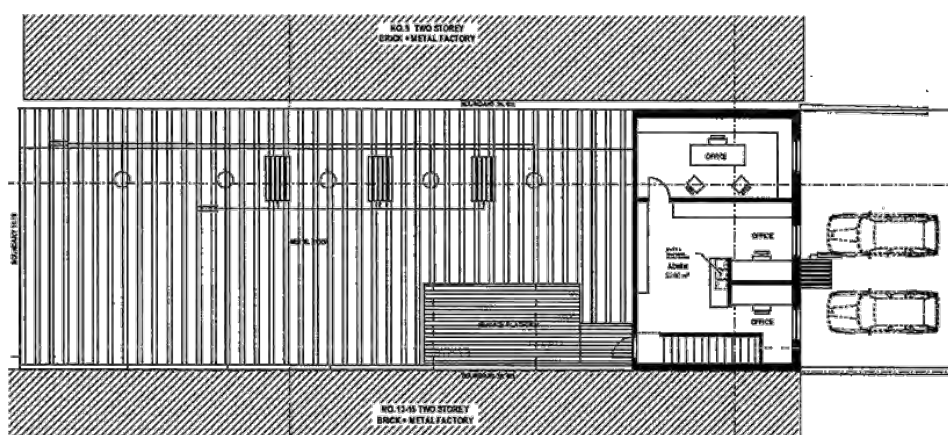


Figure 1. Approved First Floor Plan under DA

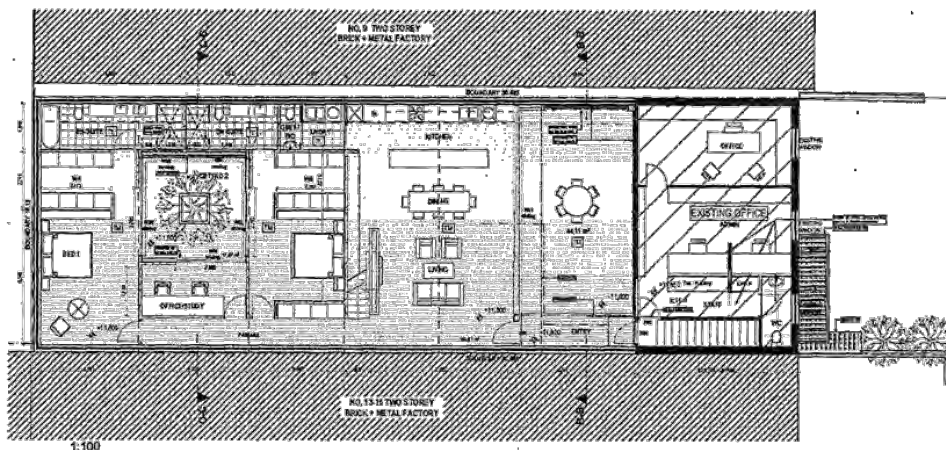


Figure 2. Proposed First Floor Plan

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 971553M committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application. As the proposal involves a change of use to residential accommodation, part 7 of State Environmental Planning Policy No 55 is relevant to the application. In accordance with the SEPP consent cannot be granted unless Council has considered the following:

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

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A State 1 Preliminary Assessment and if found to be required a Stage 2 Detailed Site Assessment for the proposed development to assess site contamination and site suitability for residential use was requested from the application.

This information was not forthcoming and accordingly the application provides insufficient information to determine whether the application complies with State Environmental Planning Policy No. 55. The applicant justified not providing a report by stating that there is no evidence of contaminating activities identified in Table 1 to the Managing Land Contamination Planning Guidelines having taken place and that the application is of low risk of being affected by contamination as development is limited to a first floor apartment. This information was reviewed by Council's Environmental Scientist and the argument provided was not supported.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) has been considered in the assessment of the proposal. The site is cleared of vegetation and does not contain trees that are subject to approval under Part 3L Landscaping and Tree Management.

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:

Part 2 – Permitted or Prohibited Development

The subject site is zoned B4 - Mixed Use. The proposal has been defined as shop top housing in the Statement of Environmental Effects, which is a permissible form of development with council's consent. The definition of shop top housing from the Botany Bay Local Environmental Plan is as follows:

shop top housing means one or more dwellings located above ground floor retail premises or business premises.

The objectives of the zone are as follows:

- *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.*

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Clause 4.3 – Height of Buildings Maximum height limit: 10m	Y	The elevation plans show that the height of the building from the ground floor to the roof is 10 metres. The elevation plans show that the proposed solar panels on the roof breach the height by 0.4 metres. Despite breaching this height the solar panels could potentially be installed as exempt development.
Clause 4.4 – Floor Space Ratio Clause 4.4A – Exceptions to floor space ratio for residential accommodation Maximum Permissible FSR:	N	Proposed FSR: 1.09:1 A clause 4.6 variation statement has been provided. This is discussed after this table.
Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)	N/A	The land is not affected.
Clause 5.10 – Heritage Conservation Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	No heritage item is located on the site.
The following provisions in Part 6 of the LEP apply to the development– <ul style="list-style-type: none"> • 6.1 – Acid sulfate soils • 6.3 – stormwater management • 6.9 – Development in areas subject to aircraft noise • 6.10 – Airspace Operations 	N	6.3 Additional information was requested regarding stormwater. This is discussed after this table. 6.9 The land is within the ANEF 20 – 25 contour. An aircraft noise assessment has been accompanied with the application. 6.10 The OLS is 51 AHD but the maximum height of the building is 17.850 AHD.

6.3 Stormwater Management

Council's Development Engineers assessed the proposal against part 10 of the Botany Bay Development Control Plan - Stormwater Management Technical Guidelines. The proposal was found not to comply with the document and the following additional information was requested:

The proposal needs to comply with the Botany Bay Development Control Plan 2013 - Stormwater Management Technical Guidelines. As per the Botany DCP Part 10 – Stormwater management technical guidelines Section 4.2 (i) a new dwelling would require a 3000 litre rainwater/reuse tank to service the new dwelling.

Details of how the proposal is to comply with the above have not been provided, however the additional information states that there is no objection to the inclusion of a condition which requires the installation of a 2,000 litre rainwater tank for non-portable use.

Clause 4.6 Variation to Floor Space Ratio

The application has been accompanied by a 4.6 variation statement, providing justification for proposed variation in the maximum permissible floor space ratio. The objectives of the standard are as follows:

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

The applicant's justification for the variation to the standard is below:

- *The proposed development is consistent with surrounding development with regard to height and density.*
- *The proposal complies with the maximum height limit.*
- *The proposed development will have minimal impact on surrounding properties.*
- *The additional floor area on the upper level is substantially set back from the street and will be barely visible.*
- *The height of the building to the north is more than 3 metres higher than the subject development.*
- *The development is surrounded on all sides by commercial and industrial uses.*

The statement also justifies the proposal against the objectives of the standard as follows:

- *The proposal is compatible with the bulk and scale of existing and desired future development in the locality;*
- *The development maintains an appropriate visual relationship with existing surrounding development;*
- *The proposal will not adversely affect the streetscape or skyline which viewed from the adjoining road;*
- *The proposal will have minimal impact on surrounding industrial properties and will contribute favourably to the public domain;*
- *The proposed footprint of the first and second floor is smaller than the footprint of the existing building;*
- *The development will contribute to the mix and vitality of the existing mixed use precinct in Botany.*

In considering the justification the principles set out in *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*) and in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEX 910 (*Four2Five*) have been taken into consideration. The principles set out in *Wehbe v Pittwater* are as follows:

- 1 *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
- 2 *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
- 3 *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
- 4 *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- 5 *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

The proposed variation to the floor space ratio is not supported as the statement fails to demonstrate that the zoning of the particular land is unreasonable or inappropriate. The development standard has not been abandoned by Council and there are no similar developments in which a variation with the standard has been granted.

The statement does not demonstrate that the standard is unreasonable and unnecessary in the particular case as required to be demonstrated in *Four2Five Pty Ltd v Ashfield Council*. There are no particular constraints on the land which mean that the standard is unreasonable or unnecessary. It is considered that the justification provided in the statement could be applied to all land of the same zoning within the vicinity.

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

There are no current Draft EPIs applicable to this development

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

The following Development Control Plan is relevant to this application;

Botany Bay Development Control Plan 2013

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

Part 3A – Parking & Access

An assessment was made against Part 3A – Parking and Access of the Botany Bay Development Control Plan was made. The following additional information was requested from the applicant to demonstrate that the proposal is to comply with the part of the plan:

- *The layout of the site does not show how the required parking and loading/unloading of vehicles can be accommodated on site.*
- *All vehicles must be able to enter and leave the site in a forward direction.*
- *Swept path movements are to be provided for all parking spaces.*
- *All parking spaces and isle widths are to be dimensioned on the plans.*
- *A traffic and parking impact assessment report is required to justify any reduction of parking required under the Botany DCP Part 3A.*
- *The proposed parking spaces within the warehouse can be reasonable converted to a storage area for the warehouse as this areas was approved as stock display. Alternately it appears unlikely the approved use as a bulky goods retail premises could continue if the conversion of most of the usable area to vehicular parking is implemented. This needs to be addressed in the statement of environmental effects.*

Swept path movement plans were provided however they do not provide movements for a B99 vehicle to demonstrate elimination of instances of cars colliding with structural wall of the facility. Not all of above information has not been forthcoming and accordingly the proposal has insufficient information to determine whether the application will comply with Part 3A – Parking and Access.

Part 4C – Residential Apartment Buildings

The Statement of Environmental Effects has characterised this development as unique and has not addresses how the proposal complies with any of the parts of the Botany Bay Development Control Plan addressing residential accommodation. The plan contains parts that apply to residential accommodation including part 4A Dwelling Houses, 4B Multi Dwelling Housing and 4C Residential Apartment Buildings and 7a Shared Accommodation: Bed & Breakfast, Backpackers & Boarding Houses.

Part 4B.6 of the Development Control Plan requires shop top housing to be assessed against part 4C - Residential Apartment Buildings.

The proposal does not comply with Part 4C.2.4 which requires residential flat building to have a minimum landscaped area of 35% and a maximum hard landscaped area of 20%.

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

All relevant matters of the regulations have been considered.

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

The likely impact of the development has been considered and is outlined in this report.

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

The application provides insufficient information to determine whether the proposal is suitable for the site as discussed in the report.

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

The application was placed on notification between the 21st February 2019 and the 8th March 2019 in accordance with Part 2 of the Botany Bay Development Control Plan. No submissions were received.

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

Granting approval for the proposed development is not in the public interest for the reasons outlined in this report.

Bayside Local Planning Panel

13/08/2019

Item No	6.3
Application Type	Development Application
Application No	BDA-2018/1140/A
Lodgement Date	09/04/2019
Property	11 Edward Street, Botany
Ward	Ward 2
Owner	Mr Dragoslav Vuksanovic
Applicant	GUD Studio
Proposal	Modification to increase size of approved semi-detached dwellings, including internal reconfiguration works.
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 SUPPORT the proposed modification application as it:
 - 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 the Bayside Local Planning Panel approve Section 4.55(2) application to modify Development Consent No. 2018/1140/A to increase size of approved semi-detached dwellings, including internal reconfiguration works at 11 Edward Street, Botany as follows:
 - i. By amending condition 1 and 4:
 - 1 The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing	Author	Dated
Site/roof Plan- Issue D S4.55 01	GUD Studio	March 2019
Ground Floor Plan- Issue D S4.55 02		March 2019
First Floor Plan- Issue D S4.55 03		March 2019
Elevations- Issue D S4.55 04		March 2019
Section – Issue D S4.55 05		March 2019
Demolition plan – Rev B DA06		10 October 2018
Subdivision plan – Rev B DA07		10 October 2018
Construction management plan – Rev B DA09		10 October 2018
Finishes Schedule – Rev B DA10		10 October 2018
Landscape plan 18-3763 LO1	Zenith Landscape Designs	25 July 2018
Stormwater plans Sheet 1 of 1, Job ref: 18081-C01-B	Cpm Engineering	9 March 2019

4.

Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (Certificate number: 644504M_02) are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 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*.

Location Plan



Attachments

- 1 Bayside planning report [↓](#)
- 2 Survey Plan [↓](#)
- 3 Site & Roof Plan [↓](#)
- 4 Elevations [↓](#)
- 5 Sections [↓](#)
- 6 Shadow Diagrams [↓](#)
- 7 Statement of Environmental Effects [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/1140/A
Date of Receipt:	9 April 2019
Property:	11 Edward Street BOTANY
Lot & DP/SP No:	Lot: 35 DP:15897
Owner:	Mr Dragoslav Vuksanovic
Applicant:	Gud Studio
Proposal:	Modification to increase size of approved semi-detached dwellings, including internal reconfiguration works
Property Location:	Between James Bourke Place and Daniel Street
Value:	N/A
Zoning:	Botany Bay Local Environmental Plan 2013
Author:	Adam Iskander
Date of Report:	23 July 2019
Classification of Building:	1a
Present Use:	Single residential dwelling
No. of submissions:	Nil

Key Issues

The application proposes to increase the approved FSR from 0.55:1 to 0.64:1 which is an overall increase in GFA, approximately 37sqm or 27% over the maximum FSR of 0.50:1. The reason for the increase in GFA is to improve the internal space of the dwelling to allow for better functionality for future residents without compromising the amenity of the neighbouring properties or impacting the existing streetscape character.

Recommendation

1. That the modification application BE SUPPORTED for the following reasons:
 - i. It is of minimal environmental impact;
 - ii. It is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii. It has been notified; and
 - iv. It 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 approve Section 4.55(2) application to modify Development Consent No. 2018/1140/A to increase size of approved semi-detached dwellings, including internal reconfiguration works at 11 Edward Street BOTANY, Botany as follows
 - i. By amending condition 1 and 4
 1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing	Author	Dated
Site/roof Plan- Issue D S4.55 01	GUD Studio	March 2019
Ground Floor Plan- Issue D S4.55 02		March 2019
First Floor Plan- Issue D S4.55 03		March 2019
Elevations- Issue D S4.55 04		March 2019
Section – Issue D S4.55 05		March 2019
Demolition plan – Rev B DA06		10 October 2018
Subdivision plan – Rev B DA07		10 October 2018
Construction management plan – Rev B DA09		10 October 2018
Finishes Schedule – Rev B DA10		10 October 2018
Landscape plan 18-3763 LO1	Zenith Landscape Designs	25 July 2018
Stormwater plans Sheet 1 of 1, Job ref: 18081-C01-B	Cpm Engineering	9 March 2019

4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (Certificate number: 644504M_02) are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 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*.

Site Description

The subject site is located on the southern side of Edward Street, between James Bourke Place and Dover Road, Botany. The site is rectangular in shape with a frontage and rear measuring 13.868m to Edward Street and side boundaries measuring approximately 37m in length. The site has an area of 511.6sqm. The site has a slight rise in the centre and has a slight fall from the western side to the eastern side by approximately 0.40m. The site has since been demolished as per development consent DA-2018/1140. Previously existing on site was a single storey residential dwelling with a terracotta pitched roof.



Aerial view of subject site and surround

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Site History

On 5 December 2018, Council approved development application DA-2018/1140 under delegated authority for the demolition of existing structures, Torrens title subdivision and construction of two (2) semi-detached dwellings.

Description of Development

The development application seeks Council consent to increase the size of the approved semi-detached dwellings, including internal reconfiguration works. Each semi will have an increase of floor space by approximately 17sqm. The proposed modifications are proposed in both semis:

Ground floor

- Expand kitchen further into the side setback by 720mm;
- Extend dining and living room further to the rear by 1.21m

First floor

- Increase the size of the ensuite within the master bedroom;
- Additional bathroom between bedroom 2 and 3;
- Extend bedroom 3 further to the rear by 1.95m

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by an amended BASIX Certificate No. 944504M_02 committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

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

- 1 The site appears to have been continuously used for residential purposes.
- 2 The adjoining and adjacent properties are currently used for residential purposes.
- 3 The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

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

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) applies to the modification, however, no trees are proposed to be modified with this modification and as such, the proposal remains satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) and Botany Bay DCP 2013 subject to the original conditions of consent.

SECTION 4.55(2) CONSIDERATIONS

Section 4.55(2) 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 development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and,*

Comment: The proposed modifications alter the footprint of the approved semi-detached dwelling without effecting the front façade. However, the proposal remains as a low density development. As such it is considered substantially the same development.

- b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

Comment: Division 4.8 of the Act does not apply to this application.

- c) *it has notified the application in accordance with:*
(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and

Comment: In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the development application was notified and advertised for 14 day.

- 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 received.

4.55(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

Sections 4.55(3) states that:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. 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. The proposal as modified is acceptable for the reasons given in this report.

Botany Bay Local Environmental Plan 2013

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	N/A	The site is zoned R2 Low Density Residential under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed modification to the approved semi-detached dwelling is permissible with Council's consent under the BBLEP 2013.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed modification is consistent with objectives in the BBLEP 2013.
What is the height of the building? Does the height of the building exceed the maximum building height?	Yes	The modification seeks to reduce the overall building height by 56mm. The approved max height ridge was RL 14.316 and the proposed modified height ridge is at RL14.260. Proposed Height: 8m Maximum permissible: 8.5m
What is the proposed FSR? Does the FSR of the building exceed the maximum FSR? Is the site within land marked "Area 3" on the FSR Map? If so, does it comply with the sliding scale for FSR in Clause 4.4A?	No	Site Area – 511.6sqm Maximum FSR permitted = 0.50:1 (Area 3) or 255.8sqm of gross floor area (GFA). Approved GFA (per semi) = 141sqm Proposed GFA (per semi) = 158sqm Difference = 17sqm (per semi) Approved total combined GFA = 292 sqm Proposed total combined GFA = 329 sqm Difference = 37sqm Total GFA = 329sqm/511.6sqm Proposed FSR= 0.64:1 Departure from standard: <ul style="list-style-type: none"> • 0.64:1 (departure of 27% from the standard) • 70sqm over the maximum GFA of 255.8sqm
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	Not a heritage item or within a conservation area
The following provisions in Part 6 of the LEP apply to the development– <ul style="list-style-type: none"> • 6.1 – Acid sulfate soils 	Yes	The subject site is within ASS class 4 area however, the modification works will not penetrate 2 metres below the natural ground surface or lower the water table more than 2 metres below the natural ground surface.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> 6.3 – stormwater management 6.9 – Development in areas subject to aircraft noise 		<p>No changes to the approved stormwater system proposed.</p> <p>The site is subject to aircraft noise (ANEF 25). Several conditions have been applied to the original Da consent ensuring that the building is constructed in accordance with AS2021- 2015: <i>Acoustics, Aircraft Noise Intrusion, Building Siting and Construction</i></p>

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

Clause 4.4 Floor space ratio

The site is nominated as having a maximum floor space ratio of 0.50:1 as it is located within an Area 3 zone and is defined as a semi-detached dwelling which is a form of residential accommodation according to Botany Bay Local Environmental Plan 2013

Development application DA-2018/1140 approved the construction of a semi-detached dwelling with an FSR of 0.55:1 which is a variance of 9.9% or 51sqm over the maximum gross floor area (255.8sqm).

The current application for modification seeks to increase the variation to the FSR from 0.55:1 to 0.64:1. The increase results in an additional gross floor area to each semi by 17sqm from that which was originally approved.

In total, both semi-detached dwellings will have a combined overall departure of 70sqm from the maximum gross floor area permitted (255.8sqm) which equates to a variation of 27% or a total GFA of 326sqm.

The applicant is not required to provide a Clause 4.6 Justification in accordance with the case law *Gann v Sutherland Shire Council [2008]*, however, justification has been provided by the applicant presenting evidence of compliance with the Council's Objectives and numerical controls relating to height, setback and landscape. The following points have been made by the applicant:

- The approved rectilinear subdivision pattern is consistent with the desired future character of the area and provides a frontage width that is characteristic and acceptable in an otherwise varied subdivision pattern. Based on the approved subdivision with each lot being 255.75m², the LEP enables the construction of a dwelling house on each lot with an FSR of up to 0.75:1.

The FSR of 0.5:1 that applies to the proposed semi-detached dwelling is due to the clause that applies the "catch all" definition "residential accommodation" which includes residential flat buildings, boarding houses etc.

It is therefore the technical application of the 0.5:1 FSR that results in the non-compliance with the proposed development standard rather than the development being of a density that is not anticipated at the site.

- There appears to be no connection between the land use definition of a dwelling house and semi-detached dwelling that would suggest a restriction in FSR of 0.25:1 is necessitated. In fact, there are particular construction and spatial efficiencies of a semi-detached dwelling to suggest that it would be a more suitable land use typology for the identified FSR of 0.75:1. In particular, the party wall between the adjacent dwellings allows for the allocation of additional landscaped area, site coverage and a more efficient massing of the proposed FSR on the subject lot. We note that the proposed gross floor area of 312m² is 71.62m² below the allowable gross floor area for a dwelling house at the site;
- The proposed semi-detached dwellings are a low density residential form and are most closely related to dwelling houses within the definition "residential accommodation". The similarity between dwelling houses and semi-detached dwellings is evidenced by the application of identical DCP provisions that fall under the requirements relating to low density residential development.
- As indicated in the compliance assessment of the applicable DCP controls relating to the proposal, full compliance is achieved in relation to setbacks, building height, landscaped area and site coverage. These provisions are established to manage the spatial relationship of a development on the adjoining properties and within the streetscape and determine the desired character of development in the area. Given compliance with these provisions, it is assumed that the proposal in its current form represents a type of development that is reasonably expected at the site, despite the minor exceedance of the FSR requirement.
- We further note that the proposed floor space will be added to the rear of the approved building with no material changes to the scale or appearance of the approved development within the street.
- Strict application of the FSR control would be contrary to recently approved development in the area and the desired future character of the area such as:
 - DA-14/148: 16 William Street, Botany;
 - DA-15/95: 36 Edgehill Avenue, Botany;
 - DA-15/76: 66 Tenterden Road, Botany;
 - DA-16/116: 124 Banksia Street, Botany; and
 - DA-17/1246: 127 Bay Street, Botany.
- Despite resulting no material change in the appearance of the building when viewed from Edward Street, the modification does not increase the intensity of the approved development or materially increase any overshadowing, privacy or other amenity impacts.
- Given compliance with all remaining development controls and in the absence of any amenity impacts, to restrict the FSR beyond what is proposed would be to place an unreasonable burden on the development resulting from the loss of floor area that is otherwise permitted for a dwelling house on the approved lots.

Taking the above points into consideration and that Council has consistently varied the FSR standard for semi-detached dwellings within Botany. It is reiterated that the proposed modifications are located to the rear of the dwelling and will not be completely visible from the street and that the development remains compliant with the height standard, setbacks, landscaping and solar-access. Strict compliance with the development standard would therefore be unreasonable and necessary within the circumstance as the applicant has provided sufficient planning grounds to justify the contravention to the development standard.

The proposed variation is in the public interest as it will facilitate a more functional two storey semi-detached dwelling without adverse impact on the streetscape, locality and adjoining dwellings. The proposal is compatible with the existing development of the street and is in accordance with the Botany Bay Development Control Plan 2013 with regard to the Part 8 Desired Future Character for the Botany Precinct. There were no objections received during the public notification period for the proposal.

On this basis, it is recommended that the development standard relating to the floor space ratio for the site pursuant to Clause 4.4 of the Botany Bay Local Environmental Plan 2013 should be varied in the circumstances as discussed above.

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

There are no current Draft EPIs applicable to this development

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

The following Development Control Plan is relevant to this application;

Botany Bay Development Control Plan 2013

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

Part 4A- Dwelling House

4A.2.4 Streetscape

The proposal is in keeping with the desired future character of the area, and is compatible with the existing character of the streetscape, with respect to building siting and location, height, roof form, materials, design features, and streetscape presentation.

The additional floor space is located to the rear of the approved building and behind the approved roof ridge facing Edward Street. The additional floor space is typical of the area and consistent with recent approvals as shown below in table 1.

No changes are proposed to the front façade or roof.

The additional floor space does not unreasonably contribute to over-shadowing, over-looking, bulk or scale and maintains compliance with side and rear setbacks.

As such, it is considered that the proposed modification does not detract from the existing streetscape character and generally satisfies the Objectives of 4A.2.4 of BBDCP 2013.

4A.2.7 Site coverage

The total site coverage totals 40% of the site (255.75sqm). The maximum site coverage permitted is 60% of the lot on site areas between 250-300sqm. The modification will not alter the approved site coverage on site and therefore maintains compliance with Part 4A.2.7 of BDCP 2013.

4A.2.8 Building Setbacks

Front setback

The modification will maintain the approved front setback of 6.16m.

Side setbacks

The ground floor was approved with a 0.919m side setback which increased to 1.6m to the rear. The proposed ground floor extensions will reduce a portion of the rear side setbacks of 1.6m to 0.919m.

The first floor was approved with a 1.639m side setback which increased to approximately 2.5m to the rear. The proposed first floor addition will reduce a small portion of the rear side setback of 2.5m to 1.639m.

Table 1 of Part 4A.2.8 requires that the side setback be assessed based on planning merits for sites with a frontage less than 12.5m. As each resulting semi will have a frontage of 6.934m it is assessed that the modifications will have minimal impacts of bulk and scale to the street, minimal impacts to the pattern of adjoining developments and minimal impacts to overshadowing, privacy and amenity to adjoining neighbours.

Taking the above into consideration, the application has been assessed and is considered to have satisfied the numerical and Objective requirements of Part 4A.2.8 of BDCP 2013.

4A.2.9 Landscape Area and Open Space

The modification will not reduce the approved landscaping on site or private open space.

4A.4.1 Visual Privacy

The modification to the ground floor side windows servicing the kitchen will not generate unreasonable over-looking impacts as it will be obscured by the existing side boundary fences.

The ensuite windows along the first floor eastern and western elevation are also not considered to generate unreasonable levels of overlooking as the adjoining neighbours are single storey dwellings and the use of ensuites are not anticipated to generate high traffic or generate unreasonable levels of over-looking.

The rear facing first floor windows will maintain a sufficient distance from the rear boundary which is measured at 12.790m. The rear extension of the first floor by 1.95m is not assessed as generating unreasonable levels of over-looking.

Taking the above into consideration, the proposed modification maintains compliance with the Objectives of Part 4A.4.1 of BDCP 2013.

4A.4.3 Solar Amenity

Development Control Plan (DCP) 2013 states that the minimum amount of direct solar access to the dwelling's and adjoining dwellings primary open space area shall not be less than 2 hours between 9:00am and 3:00pm on the 21st June.

The applicant has submitted shadow diagrams for 9 a.m., 12 p.m. and 3 p.m. on June 21. The shadow diagrams show that the adjoining windows to the private habitable rooms will receive the prescribed amount of sunlight and at least 50% of the private open space will receive sunlight.

The modification satisfies the Objectives of Part 4A.4.3 of BDCP 2013 where the proposal ensures that private open and internal habitable spaces receive adequate solar access and sunlight and the development minimises the over-shadowing impacts on to the adjoining dwelling through appropriate design and siting.

Part 8 – Pagewood Character Precinct

The site is located within the R2 Low Density Residential zone of the Botany Precinct between. The dwelling has been designed to address the street and is consistent with the streetscape. The modification maintains compliance with building height, setbacks, site coverage, and private open space and is considered to have acceptable solar access to neighbouring sites. As such the proposal is suitable for the site and is consistent with the desired future character of the Botany Precinct pursuant to Botany Bay Development Control Plan Part 8 Character Precincts.

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

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

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

The proposed development will have no adverse environmental, social or economic impacts in the locality. Matters relating to subdivision are addressed in detail in this report and on balance are acceptable.

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

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The site is zoned R2 – Low Density Residential and currently accommodates an existing dwelling. Accordingly, the site is suitable to accommodate the development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period. No submissions were received.

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

Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land

Conclusion

Development Application No. 2018/1140/A for the modification to increase size of approved semi-detached dwellings, including internal reconfiguration works at **11 Edward Street BOTANY** has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

Attachment**Schedule 1 – Conditions of Consent****Premises: 11 Edward Street Botany****DA No: 2018/1140/A****SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

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

Drawing	Author	Dated
Site/roof Plan- Issue D S4.55 01	GUD Studio	March 2019
Ground Floor Plan- Issue D S4.55 02		March 2019
First Floor Plan- Issue D S4.55 03		March 2019
Elevations- Issue D S4.55 04		March 2019
Section – Issue D S4.55 05		March 2019
Demolition plan – Rev B DA06		10 October 2018
Subdivision plan – Rev B DA07		10 October 2018
Construction management plan – Rev B DA09		10 October 2018
Finishes Schedule – Rev B DA10		10 October 2018
Landscape plan 18-3763 LO1	Zenith Landscape Designs	25 July 2018
Stormwater plans Sheet 1 of 1, Job ref: 18081-C01-B	Cpm Engineering	9 March 2019

[Amendment A – 4.55(2) amended on 23 July 2019]

- 2 This Consent relates to land in Lot: 35 DP:15897 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 The following shall be complied with:
 - a. All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b. In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-

- i. smoke alarms must comply with AS3786 - 1993;
- ii. smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
- iii. be located in a position as required by Vol 2. BCA.

4 Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (Certificate number: 644504M_02) are fulfilled.

Note:

a. *Relevant BASIX Certificate means:*

- i. A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 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.

[Amendment A – 4.55(2) amended on 23 July 2019]

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 Certifying Authority; and
 - ii. Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii. The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

- 6 The eastern side elevation window servicing the living room and identified as window WB-08 on drawing number DA02 Issue B dated October-2018 shall be constructed with fixed and obscure glazing.

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

- 7 Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. A copy of the detailed design plans shall be provided to Bayside Council where Bayside Council is not the Principal Certifying Authority. The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Botany Bay Council Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.

The plans shall incorporate measures such as:

- a) The provisions made in the Stormwater Concept Plans by cpm engineering (Civil & Structural Consulting Engineers), dated 25.10.18, revision A, Job ref. 18081-C01-A with the following revisions detailed below:
- b) The development shall incorporate two separate absorption trench systems, one for each proposed lot. No absorption systems shall be designed over the common property boundary.
- c) A rainwater tank system shall be provided with a minimum capacity of 3000L for each proposed lot. The rainwater tanks shall service the toilets, clothes washers and the external taps in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. First flush device shall also be incorporated into the tank systems. Overflow from the rainwater tank shall connect to the proposed site drainage system. Upon completion, certification from a licenced plumber shall be submitted to the Principal Certifying Authority certify this condition has been complied with.
- 8 Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed absorption trenches shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
- 9 Prior to the issue of any Construction Certificate, the driveways over the absorption trenches shall be either constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the trench base or constructed as a structural slab so that no load is transferred to the plastic trench. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
- 10 Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian

Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new concrete driveway shall be constructed. Two new three (3) metre wide driveway laybacks shall be constructed as part of the new driveways. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter. A minimum six (6) metre separation shall be provided between the two driveways.

All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted.

The design should be submitted to the PCA for approval. The approved design shall form part of the future road opening permit application.

- 11 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.
- 12 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>
- 13 The building must be constructed in accordance with *AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*. Details of compliance must be outlined within a report prepared by a practicing professional acoustical consultant (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants). The report must be submitted to the Certifying Authority prior to the release of any Construction Certificate and the building plans must be endorsed with the required acoustical measures.

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

The work detailed in the report includes:

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

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

15 Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

16 Prior to the issue of the Construction Certificate, the applicant must pay the following fees:

a. Footpath Crossing Deposit	\$5, 419.00
b. Development Control	\$875.00
c. Section 94 Contributions	\$20,000.00

17 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

18 Prior to the issue of any Construction Certificate, the applicant shall lodge a footpath crossing deposit of 5,419.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

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

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

20 A dilapidation report of 9 and 13 Edward Street plus any structure at 27 Dover Road which is in close proximity to the proposed works, including a photographic survey prepared by a Practising Structural Engineer, must be prepared in respect of the property known as 11 Edward Street, Botany. A copy of the dilapidation report together

with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Certifying Authority prior the release of the Construction Certificate.

- 21 Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter.

- 22 Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.

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

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/developmentconstruction/buildingoralteringproperty/commonlyusedforms>

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

http://www.gnb.nsw.gov.au/_data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Final.pdf

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

- 24 Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
- a. Written notice, indicating the date when demolition of the building is to commence.
 - b. This persons full name and address.
 - c. Details of Public Liability Insurance.
- 25 The Certifying Authority must be satisfied that: -
- a. In the case of work to be done by a licensee under the Home Building Act: -

- i. Has been informed in writing of the licensee name and contractor licence number, and;
 - ii. Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b. In the case of work to be done by any other person: -
 - i. Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii. Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
 - c. And is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
- 26 Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a. The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b. The name and permit number of the owner-builder who intends to do the work;
 - c. The Council also must be informed if: -
 - i. A contract is entered into for the work to be done by a different licensee; or
 - ii. Arrangements for the doing of the work are otherwise changed.
- 27 The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 28 Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
- 29 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 30 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.

31 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a. The *Soil and Water Management Plan* if required under this consent;
- b. "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organization of Councils, 2001; and
- c. "Managing Urban Stormwater – Soils and Construction" published by the NSW Department of Housing 4th Edition ("The Blue Book").
- d. Where there is any conflict The Blue Book takes precedence.

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

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

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

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

Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

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

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

- a. Permit to erect hoarding on or over a public place, including Council's property/road reserve;

- b. Permit to construction works, place and/or storage building materials on footpaths, nature strips;
- c. Permit for roads and footways occupancy (long term/ short term);
- d. Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
- e. Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
- f. Permit to place skip/waste bin on footpath and/or nature strip; and
- g. Permit to use any part of Council's road reserve or other Council lands.

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineering and Regulatory Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

- 33 Prior to commencing demolition/any works on site, in order to ensure that the *Waterhousea floribunda* (Weeping Lilly Pilly) is protected during demolition and construction, and the health and structural stability ensured a Tree Protection Zone shall be established.
- 34 In accordance with AS4970-2009 protective fences consisting para-webbing or chain wire mesh mounted on star pickets or similar metal posts, shall be placed prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction.
- 35 The applicant is to submit payment for a Tree Preservation Bond of \$1,000.00 to ensure protection of Council's street tree.
- 36 The Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ.
- 37 Dewatering is not permitted on this site without NSW-EPA approval.
- 38 If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;

d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

e) If the soil conditions required it:

i. Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-

ii. Adequate provision must be made for drainage.

DURING WORKS

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

40 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- a. WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
- b. Protection of the Environment Operations Act 1997;
- c. Protection of the Environment Operation (Waste) Regulation;
- d. DECC Waste Classification Guidelines 2008.

41 No demolition materials shall be burnt or buried on the site.

42 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.

43 The proposed development shall comply with the following:

- a. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i. Stating that unauthorised entry to the work site is prohibited;
 - ii. Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii. The Development Approval number; and

- iv. The name of the Certifying Authority including an after-hours contact telephone number.

- b. Any such sign is to be removed when the work has been completed.

44 Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.

45

- a. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

- i. Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
- ii. Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -

The additional load on the system; and

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

- b. Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

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

47 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.

48 The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.

49 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.

50 If any excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:

- a. Must preserve and protect the building/ fence from damage; and,
 - b. If necessary, underpin and support such building in an approved manner;
 - c. Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d. Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e. If the soil conditions required it:
 - i. Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
 - ii. Adequate provision must be made for drainage.
 - f. All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.
- 51 Any dewatering is not permitted on this site without NSW-EPA approval.
- 52 The following shall be complied with during construction and demolition:
- a. Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - b. Level Restrictions
 - i. Construction period of 4 weeks and under:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii. Construction period greater than 4 weeks and not exceeding 28 weeks:

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

c. Time Restrictions

- i. Monday to Friday 07:00am to 05:00pm
- ii. Saturday 08:00am to 01:00pm
- iii. No Construction to take place on Sundays or Public Holidays.

d. Silencing

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

53 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a. construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b. Each toilet provided:
 - i. must be standard flushing toilet; and,
 - ii. must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- c. The provisions of toilet facilities in accordance with this condition must be in place before work commences.

54 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls as required by this consent and the Protection of the Environment Operations Act 1997.

55 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.

56

- a. In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be

available in all weather conditions. The area shall be stabilised and protected from erosion; and,

- b. In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c. Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d. Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e. Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- 57 During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 58 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.
- 59 Inspections must be conducted by Council's Engineer at the following occasions:
- a. Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - b. Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - c. Formwork inspection of Council's footpath prior to laying of concrete,
 - d. Final inspection of driveway layback and adjacent kerb and gutter,
 - e. Final inspection of Council's kerb and gutter,
 - f. Final inspection of Council's footpath.

- 60 During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 61 All absorption trenches must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of principal Certifying Authority. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction. The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes to ensure the effective performance of the system during construction and the long term viability of the system.

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

- 62 Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 63 Prior to the issue of any Occupation Certificate, satisfactory inspection reports (formwork and final) for any works on the road reserve shall be obtained from Council's engineer and submitted to the Certifying Authority.
- 64 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.
- 65 The Council nature strip at any site frontage shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- 66 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
- 67 Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:

- a) On Edward Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
 - b) On Edward Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
- 68 Prior to the issue of any Occupation Certificate(s), 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.
- 69 Prior to the issue of an occupation certificate, certification from a licenced plumber shall be provided certifying the installation of the required minimum capacity 3000L rainwater tank(s) in each lot in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. The rainwater tanks shall be certified as servicing the toilets, clothes washers the external taps on the site. First flush device shall be installed & overflow from the rainwater tank shall connect to the proposed site drainage system.
- 70 Prior to the issue of any Occupation Certificate(s), documented certification from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed in accordance with the approved stormwater management construction plan(s) and all relevant Australian/Council standards.
- 71 Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(B) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- Restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
 - Positive Covenant for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

- 72 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
- 73 Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
- 74 The building is approved as a single dwelling on each site for use and occupation by a single family. It shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added,

doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.

75 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed. Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.

76 All intruder alarms must be fitted with a timing device in accordance with the requirements of Protection of the Environment Operations (Noise Control) Regulation 2008, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.

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

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

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

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

78 Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.

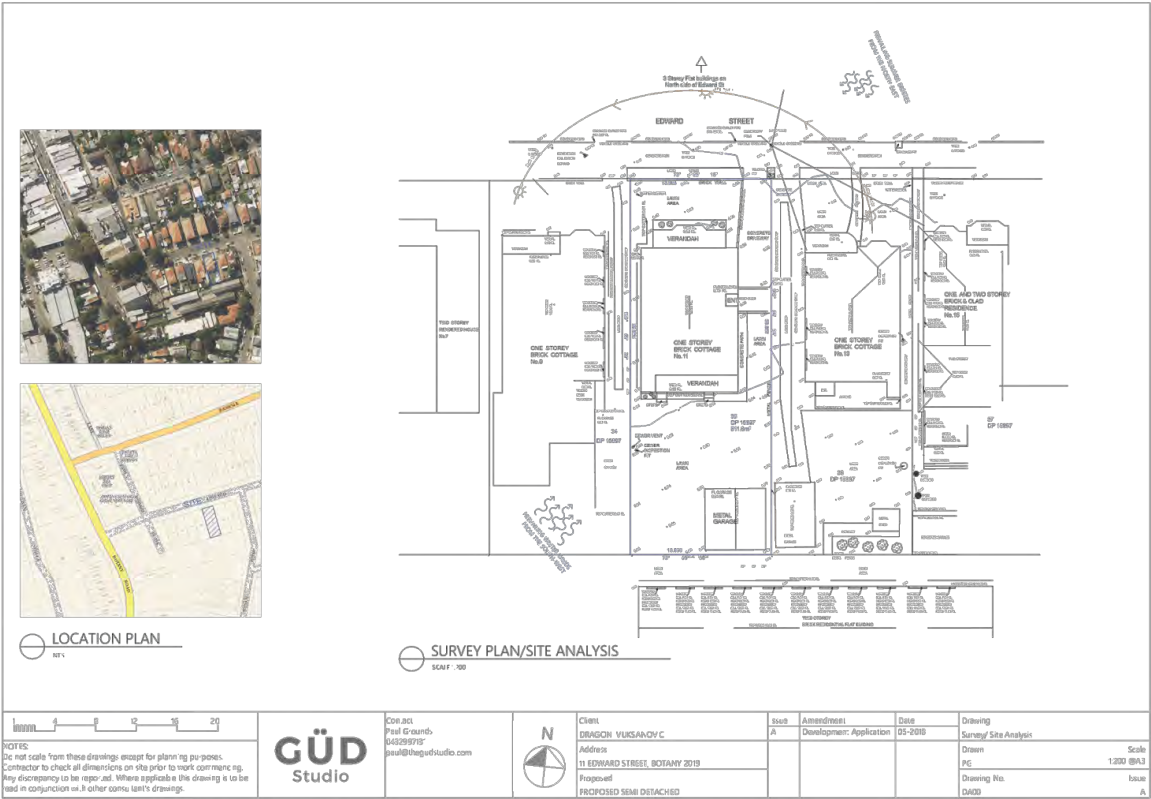
79 The Protection of the Environment Operations (Noise Control) Regulation 2000, states that noise from any air-conditioning units (measured as the LAeq 15 minute) is not to exceed the background level (measured as the LA90 15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

Note: in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is to be located a sufficient distance from any residential

boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

80 All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

81 The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 2018/1140 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.











Statement of Environmental Effects

11 EDWARD STREET, BOTANY

Section 4.55(2) – Modification of DA2018/1140 in relation to minor reconfiguration of the existing semi-detached dwellings

PREPARED BY AVENUE STUDIOS

Reference: 1794.S455.1
Date: 09 April 2019
Contact: 0404 160 868

1 INTRODUCTION / PROPOSAL

This Statement of Environmental Effects is to accompany a modification application to Bayside Council pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 seeking to modify DA2018/1140 as it relates to the approval for the demolition of an existing dwelling and the construction of 2 x demi-detached dwellings at 11 Edward Street, Botany.

The proposed modifications are highlighted on the plans that accompany this submission and include a minor increase in the ground and first floor levels to improve the proportions of the living spaces and bedroom within each dwelling whilst maintaining the appearance and resulting in no material impacts when compared to the approved development. The modifications as they relate to each level are detailed as follows.

Ground Floor Level

The modifications include a minor increase in the approved building footprint at the southern portion of the building in relation to each dwelling. The changes will increase the width of each kitchen by 720mm towards the side boundary whilst maintaining the required setback of 900mm. In addition, the proposal seeks to extend the living space southwards by 1.2m, resulting in an additional 4.48m² to each dwelling. The effects of the proposal will be an increase of 5.68m² in relation to each dwelling at the ground floor level.

First Floor Level

Modifications to the first floor level include a minor internal reconfiguration of the bedrooms and bathrooms. The modifications will provide slightly increase bedroom sizes and allow for the provision of a bath within the family bathroom. The effects of the modifications is a slight increase in the width of the first floor level and an increase of 1.95m in relation to the length of the first floor level where it is setback 2.4m from each side boundary. The first floor level to each dwelling will increase in floor area by 7.76m².

The modification proposed will result in a development that is substantially the same as the originally approved development and is best described as a modification pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979. The modifications to the ground and first floor configuration will not result in any discernible changes to the building when viewed from the street, nor will the modifications give rise to any material additional impacts on the amenity of the adjoining dwellings.

Whilst there will be an increase in floor space, the extended elements of each dwelling occurs within the permitted building envelope and the proposal will assist with providing more comfortable proportions without giving rise to any material changes in the intensity of the building or resulting impacts.

This Statement of Environmental Effects provides an assessment of the proposed development with consideration to the relevant statutory planning framework and the likely impacts of the development on the natural and built environment in accordance with S.4.55(2) of the EP&A Act, 1979.

S.4.55(2) - MODIFICATION TO DA2018/11470
11 EDWARD STREET, BOTANY

2 SUBJECT SITE AND BACKGROUND

The subject site is located on the southern side of Edward Street and is identified as No. 11 Edward Street, Botany. The site has a legal description of Lot 35 in Deposited Plan 15897.

The site is a regular shaped lot that is located on a north to south axis. The site has a frontage length of 13.87m, side boundary lengths of 36.8m and a rear boundary length of 13.86m. The site area by survey is 511m². The site location is identified as Figure 1.



Figure 1: Site Identification

The subject site benefits from DA2018/1140 which was approved on 10 December 2018 permitting the demolition of the existing dwelling at the site and the construction of 2 x semi-detached dwellings and Torrens title subdivision. The applicant is in the process of finalising Construction Certificate documentation and intends on commencing the development imminently.

3 SECTION 4.55 – MODIFICATION OF CONSENTS

3.1 Section 4.55(2) – Other Modifications

The proposed modification application is most appropriately described as a modification under Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 as it involves modifications to the external portions of the dwelling.

The proposed modifications will maintain the appearance and height of the approved building and whilst there will be a minor increase in the footprint of the building, the proposal will maintain the use of each semi-detached dwelling. Approved development is compliant with all key development standards and controls, however, was granted a variation to the maximum permitted FSR. The modifications will maintain compliance with the relevant controls, however, will result a further increase in floor space. Given that the increased floor space results in a building that maintains compliance with height, setbacks, landscaped area and other key requirements the development as proposed remains consistent with the scale of development expected at the site.

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The proposed modifications are "alterations without radical transformation" (Sydney City Council v Ilenace Pty Ltd [1984]) and the proposal is substantially the same as the originally approved application both quantitatively and qualitatively (*Moto Projects (No 2) Pty Ltd v North Sydney Council*).

In light of the above, the proposal is best described as a modification pursuant to Section 4.55(2) of the Environmental Planning and Assessment Act, 1979.

3.2 Section 4.55(3) – Applicable Planning Controls

Section 4.55(3) requires that:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application. 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.

Provided below is a consideration of the relevant planning policies that apply to the site and the proposed development that require further assessment as part of this modification application.

SEPP (Building and Sustainability Index: BASIX) 2004

In accordance with the requirements of SEPP (BASIX) 2004 a revised BASIX Certificate has been submitted in support of this modification application.

Botany Local Environmental Plan 2013

The proposal will maintain the approved use of the site as 2 x semi-detached dwellings including Torrens tile subdivision and as such the proposal remains permissible with consent from Council.

Provided at Table 1 is a consideration of the development standards that are of relevance to the modification application.

TABLE 1: RELEVANT PROVISIONS OF BOTANY LEP 2013		
Provision	Proposal	Complies
4.3 Building Height Maximum 8.5m	As detailed in the submitted sectional drawings the proposed building is remains below the maximum 8.5m height limit.	Yes
4.4 Floor Space Ratio Maximum 1:1 in Area 3	Refer to Clause 4.4A below.	-
4.4A Exception to FSR for Residential Accommodation Maximum FSR for all residential accommodation – 0.5:1	 The approved development contains a floor space ratio of 0.549:1 and exceeds the maximum permitted floor space resulting in a variation of 9.9% to the requirement. The proposal seeks to provide an additional 15.43m ² of floor space to each dwelling	 Refer to justification following this table.

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TABLE 1: RELEVANT PROVISIONS OF BOTANY LEP 2013		
Provision	Proposal	Complies
	<p>resulting in an FSR of 0.609:1 across the site and an overall variation of 21.9% of the development standard.</p> <p>We note that no variation request pursuant to Clause 4.6 of the LEP is necessary in relation to the departure of a development standards that relates to a modification application as per <i>Gann v Sutherland Shire Council [2008]</i>. Despite not requiring a variation pursuant to Clause 4.6 of the LEP, detailed justification for the floor space exceedance is provided below.</p>	

Floor Space Ratio – Justification for non-compliance

As noted above, the approved development contains a floor space ratio of 0.549:1 and exceeds the maximum permitted floor space resulting in a variation of 9.9% to the requirement. The proposal seeks to provide an additional 15.43m² of floor space to each dwelling resulting in an FSR of 0.609:1 across the site and an overall variation of 21.9% of the development standard.

Whilst no formal variation request pursuant to Clause 4.6 of the LEP is required as per *Gann v Sutherland Shire Council [2008]*, detailed justification for the floor space exceedance is provided below.

Council in the assessment of the original application accepted the request to exceed the floor space ratio at the site. The premises of the further exceedance of the floor space requirement is almost identical to the arguments advanced in the original proposal. Furthermore, the additional floor area proposed will only serve to enhance the amenity of the future residents to each dwelling without resulting in any additional amenity impacts or departing from key setback and height development controls.

In our view, the development continues to deliver a low density housing form that complies with the objectives Clause 4.4A as well as being consistent within the objectives of the R2 Low Density Residential zone. The following provide a list of sufficient environmental planning grounds that form the basis of the request for the further variation to the FSR requirement:

- The approved rectilinear subdivision pattern is consistent with the desired future character of the area and provides a frontage width that is characteristic and acceptable in an otherwise varied subdivision pattern. Based on the approved subdivision with each lot being 255.75m², the LEP enables the construction of a dwelling house on each lot with an FSR of up to 0.75:1.

The FSR of 0.5:1 that applies to the proposed semi-detached dwelling is due to the clause that applies the "catch all" definition "residential accommodation" which includes residential flat buildings, boarding houses etc.

It is therefore the technical application of the 0.5:1 FSR that results in the non-compliance with the proposed development standard rather than the development being of a density that is not anticipated at the site.

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There appears to be no connection between the land use definition of a dwelling house and semi-detached dwelling that would suggest a restriction in FSR of 0.25:1 is necessitated. In fact, there are particular construction and spatial efficiencies of a semi-detached dwelling to suggest that it would be a more suitable land use typology for the identified FSR of 0.75:1. In particular, the party wall between the adjacent dwellings allows for the allocation of additional landscaped area, site coverage and a more efficient massing of the proposed FSR on the subject lot. We note that the proposed gross floor area of 312m² is 71.62m² below the allowable gross floor area for a dwelling house at the site;

- The proposed semi-detached dwellings are a low density residential form and are most closely related to dwelling houses within the definition "residential accommodation". The similarity between dwelling houses and semi-detached dwellings is evidenced by the application of identical DCP provisions that fall under the requirements relating to low density residential development.

As indicated in the compliance assessment of the applicable DCP controls relating to the proposal, full compliance is achieved in relation to setbacks, building height, landscaped area and site coverage. These provisions are established to manage the spatial relationship of a development on the adjoining properties and within the streetscape and determine the desired character of development in the area. Given compliance with these provisions, it is assumed that the proposal in its current form represents a type of development that is reasonably expected at the site, despite the minor exceedance of the FSR requirement.

We further note that the proposed floor space will be added to the rear of the approved building with no material changes to the scale or appearance of the approved development within the street.

Should Council insist on strict compliance with the FSR requirements (despite achieving compliance with all other aspects of the DCP), it would unreasonably restrict FSR at the site and would provide an inappropriate correlation between the size of each lot and the resulting building form. Accordingly, strict application of the FSR control would be contrary to recently approved development in the area and the desired future character of the area.

- Finally, despite resulting no material change in the appearance of the building when viewed from Edward Street, the modification does not increase the intensity of the approved development or materially increase any overshadowing, privacy or other amenity impacts.

Given compliance with all remaining development controls and in the absence of any amenity impacts, to restrict the FSR beyond what is proposed would be to place an unreasonable burden on the development resulting from the loss of floor area that is otherwise permitted for a dwelling house on the approved lots.

- We are aware of Council having accepted similar proposals for FSR non-compliances relating to semi-detached dwellings with the following properties benefiting from approvals with similar variations to the floor space ratio requirement:
 - DA-14/148: 16 William Street, Botany;
 - DA-15/95: 36 Edgehill Avenue, Botany;

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- o DA-15/76: 66 Tenterden Road, Botany;
- o DA-16/116: 124 Banksia Street, Botany; and
- o DA-17/1246: 127 Bay Street, Botany.

In light of the above, it is our view that the modified proposal results in a slight increase in the technical non-compliance that has been considered and accepted by Council as part of the assessment of the original application. In the absence of any material increase in amenity impacts and based on the premises originally accepted as part of the original approval, it is our view that the proposed FSR represents a reasonable alternative to strict compliance, complies with the objectives of the standard and zone and therefore is in the public interest.

Whilst not strictly applicable, the FSR exceedance is consistent with the statutory tests of Clause 4.6 as well as the objectives which seek to apply an appropriate degree of flexibility in certain circumstances.

3.2.1 Botany Bay Comprehensive DCP 2013

Provided at Table 2 and 3 below is an assessment of the relevant controls that apply to dwelling houses and semi-detached dwellings.

TABLE 2: BOTANY COMPREHENSIVE DCP 2013 – DWELLING HOUSES		
DCP Control	Proposed Development	Compliance
4A.2.5 Height C1 The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	The proposal complies with the maximum 8.5m height limit as detailed on the submitted sectional drawings.	Yes
C2 Where a building built to the permissible height would have unacceptable adverse impacts in regards to: (i) The overshadowing of a dwelling, private open space or public open space; (ii) An inappropriate transition in built form and land use intensity; (iii) The design excellence of a building; (iv) View loss; or (v) The Obstacle Limitation Surface; Council may not permit the permissible height to be achieved.	The impacts of the proposal are detailed in detail at Section 4.2 of this Statement. As noted, the proposal results in acceptable impacts in relation to overshadowing, scale and view loss.	Yes
4A.2.6 Floor Space Ratio C1 The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the Botany Bay Local Environmental Plan 2013.	Refer to the discussions above relating to the FSR exceedance which is of a technical nature and does not give rise to any material impacts or changes to the appearance of the approval from within the street.	Refer to discussion above.
4A.2.7 Site Coverage For sites that are between 250m ² and 300m ² the required site coverage is 60%.	Each site contains a site coverage of 45.95% and therefore comfortably complies with the site coverage requirements.	Yes

Avenue Studios Pty Ltd

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TABLE 2: BOTANY COMPREHENSIVE DCP 2013 – DWELLING HOUSES		
DCP Control	Proposed Development	Compliance
<p>Site coverage is the proportion of a site area covered by buildings. The following are not included for the purpose of calculating site coverage:</p> <ul style="list-style-type: none"> (i) any basement, (ii) any part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary, (iii) any eaves, (iv) unenclosed balconies, decks, pergolas and the like. <p>Swimming pools are included in the calculation of site coverage, however 'landscaped area' and 'hard landscaped area' is not included.</p>	Noted.	-
<p>4A.2.8 Building Setbacks</p> <p>Street Setback Comply with the prevailing street setback or 6 metres (Min)</p> <p>Side boundary setback Up to 2 floors 900mm (Council may require an increased setback due to streetscape and bulk considerations)</p> <p>Rear setback 6 metres</p> <p>Eaves Minimum 450 from any boundary</p>	<p>No changes to the approved setback to Edward Street.</p> <p>The minor increase in the width of the building to increase the kitchen size has been done in a way that maintains the required setback of 900mm.</p> <p>The dwellings are setback 8.11m from the rear boundary at the ground floor level and 12.79m from the rear boundary at the first floor. The post to the pergola that extends from the southern façade of each dwelling is setback 5m from the rear boundary. The setback to the pergola structure only applies to the posts which Council could condition to be setback 6m from the rear boundary should this be considered necessary. In our view, the setback proposed is appropriate to the site context.</p> <p>No eaves encroach beyond the 450mm setback to the boundary.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>4A.2.9 Landscaped Area Sites between 250-350m² – 20% to be landscaped area</p> <p><i>Landscaped area includes all of the parts of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. This refers to soft landscaping</i></p>	As detailed on the submitted plans, the proposal provides a landscaped area of 35.93% in relation to each of the proposed lots, thus exceeding the minimum requirement.	Yes

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TABLE 2: BOTANY COMPREHENSIVE DCP 2013 – DWELLING HOUSES		
DCP Control	Proposed Development	Compliance
only. 4/A.4.3 Solar Access:		
C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and to 50% of the primary private open space areas of both the subject site and adjoining properties.	The submitted shadow diagrams detail the shadow cast from the approved building and the incremental additional shadow cast by the proposal. As noted, on the drawings, the shadow cast is negligible and not consequential between the adjoining dwellings achieving compliance with this control or not. As such, impacts from overshadowing are generally consistent with the approval and remain compliant.	Yes
C2 Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.	The adjoining dwellings at No. 9 Edward Street contains solar panels on the north facing roof. These are generally unaffected by the modification application.	Yes

In light of the above, the modified proposal continues to comply with the key setback, height, site coverage and landscaped area controls. The development maintains an acceptable level of impact in terms of overshadowing given compliance with the relevant control and is accordingly consistent with the relevant provisions of the Comprehensive DCP 2013.

Impacts on Natural and Built Environment

As the proposal is limited to the minor increase in the building footprint whilst maintaining a development that is substantially in accordance with the original approved application, the proposal does not introduce any impacts on the natural environment beyond those considered in the original application.

In relation to built environmental impacts, the modified proposal will not materially alter the appearance of the approved development when viewed from the street frontage. The changes relate to the rear portion of each dwelling and relate to elements that fit within a compliant building envelope.

Whilst the length of the building will increase, the overshadowing impacts are negligible and do not have any material bearing on compliance with the DCP controls for overshadowing. Each adjoining dwelling continues to maintain sunlight to living room windows and 50% of the open space areas for at least 3 hours between 9.00am and 3.00pm at mid winter.

In addition, the internal reconfiguration will maintain the general living arrangements of the dwellings and will not modify the window configurations to the extent that they will introduce opportunity for overlooking of the adjoining dwellings.

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The modified proposal will therefore have acceptable impacts on both the natural and built environment.

4 CONCLUSION

The proposal seeks to modify DA2018/1140 in relation to the minor increase in the building footprint at the ground and first floor level. The modifications will ensure that the development is substantially in accordance with the originally approved development and is most appropriately categorised as a modification pursuant to Clause 4.55(2) of the Environmental Planning and Assessment, Act 1979.

The modifications will result in an increase in floor area and a further departure from the floor space ratio development standard. The original application was approved with a variation to the floor space ratio requirement based on the building having acceptable impacts and the technical nature of the FSR variation. The additional floor area will provide an improved configuration for the dwellings without any material impacts and is acceptable for the reasons originally advanced and accepted by Council under DA2018/1140.

Given general compliance with the development controls under the DCP that determine a suitable spatial arrangement between adjacent dwellings as well as the lack of any increase natural or built environmental impacts, the modification application is in the public interest and it is therefore requested that Council determine the application favourably.

Bayside Local Planning Panel

13/08/2019

Item No	6.4
Application Type	Development Application
Application No	DA-18/1164
Lodgement Date	07/09/2018
Property	14-16 Ramsgate Street, Botany
Ward	Ward 2
Owner	NGPV Investments Pty Ltd
Applicant	NGPV Investments Pty Ltd
Proposal	Demolition of existing structures and construction of a 2 storey boarding house with 32 rooms and a managers room, associated parking and tree removal.
No. of Submissions	Twelve (12) – First round Nine (9) – Second round
Cost of Development	\$2,343,000
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 APPROVE development application DA-2018/1164 for demolition of existing structures and construction of a 2 storey boarding house with 32 rooms and a managers room, associated parking and tree removal at 14-16 Ramsgate Street, Botany; pursuant to s4.16 (1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 2. That the submitters be notified of the Bayside Local Planning Panel's decision.
-

Location Plan



Attachments

- 1 BPP Supplementary Report [↓](#)
- 2 Previous Planning Assessment Report [↓](#)
- 3 Letter to Panel [↓](#)
- 4 Survey [↓](#)
- 5 Site Plan [↓](#)
- 6 Elevation plan [↓](#)
- 7 Roof plan [↓](#)
- 8 landscape plan [↓](#)
- 9 Shadow June 21 [↓](#)
- 10 Shadow diagram Verification [↓](#)
- 11 Finishes [↓](#)
- 12 Acoustic Report [↓](#)
- 13 Arborist Report [↓](#)
- 14 Light Spill management [↓](#)
- 15 Section plan [↓](#)

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number:	DA-2018/1164
Date of Receipt:	7 September 2018
Property:	14-16 Ramsgate Street, Botany 21 and 22 Section 11 DP 773
Applicant:	NGVP Investments
Owner:	NGVP Investments
Proposal:	Demolition of existing structures and construction of a 2 storey boarding house with 32 rooms, managers rooms, associated parking and tree removal
Recommendation:	Approve the development, subject to conditions.
Value:	\$2,343,000
No. of submissions:	Twelve (12) submissions (First round) Nine (9) submissions (Second round)
Author:	Adam Iskander, Senior Development Assessment Planner
Date of Report:	16 July 2019

Key Issues

On 23 April 2019, the subject Development Application was referred to the Bayside Planning Panel (BPP) for determination. The BPP made the following comments:

That this Development Application be DEFERRED to give the applicant the opportunity to submit amended plans and accompanying documentation within one month to address issues raised in the council officer's report and in the submissions, together with the issues highlighted by the Panel, including: a revised plan of management to allow for community liaison and a register of complaints and how these are addressed which may be inspected by Council at any time; an acoustic report regarding the car stacking and access arrangements for vehicles; light spill management; the provision of privacy measures (fixed horizontal external louvres to windows east and west and privacy screens for balconies); and verified overshadowing diagrams.

This Supplementary report provides a response to the amended information provided by the applicant addressing the deferred comments raised by the Panel.

On 22 May 2019, the applicant provided Council with amended plans demonstrating a decrease in boarding units from 35 to 33 with a manager's room. The plans also included a double car stacker and a single car stacker at the rear of the boarding house to offset the non-compliance with parking. The applicant also provided an acoustic report for the use of car stacker system. The application was referred to Council's engineers who raised the concern that the stacker system would be inundated with flood waters as the site is flood affected. The

mechanical system would be exposed to stormwater which would also deteriorate the system over time.

As a result of these findings, the applicant re-submitted amended plans on 27 June and 9 July 2019 proposing 32 boarding rooms, a manager room, and on-grade parking at the rear of the site with a total of sixteen spaces. These amendments provide a further reduction in boarding units from the original 35 rooms. An amended PoM was also submitted along with a verified shadow diagram. Privacy screens were also provided to balconies and fixed louvers to the windows along the eastern, southern and western elevations. The amended plans were placed on neighbour notification from 3 July to 17 July 2019.

These amended plans maintain the existing landscaping and setbacks of the originally submitted design with a decrease in gross floor area by approximately 43sqm. The application also proposes to increase the building height by 0.23m while maintaining compliance with the Building height standard. Compliance with the parking provision of ARH SEPP 2009 has been achieved.

The additional information in response to Council and the Panels comments have been addressed and the application is recommended for approval subject to the conditions attached to this Supplementary Report.

Recommendation

It is RECOMMENDED that Council, resolve:

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2018/1164 for demolition of existing structures and construction of a 2 storey boarding house with 32 rooms and a managers room, associated parking and tree removal at 14-16 Ramsgate Street, Botany; pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
2. That the submitter(s) be notified of the Bayside Local Planning Panel's decision.

Assessment of the Panel's deferment

1. *Parking*

The original plans submitted provided a boarding house with 35 units plus a manager's room with fourteen (14) car spaces to the rear as shown in figure 1 below. The design failed to comply with parking, where the total on-site parking requirement was calculated at 19 spaces. The following is a breakdown of the parking calculation:

35 rooms x 0.5 parking rate	= 17.5 car spaces
1 managers room	= 1 car space
Total required	= 18.5 (This figure is rounded up to 19 car spaces).

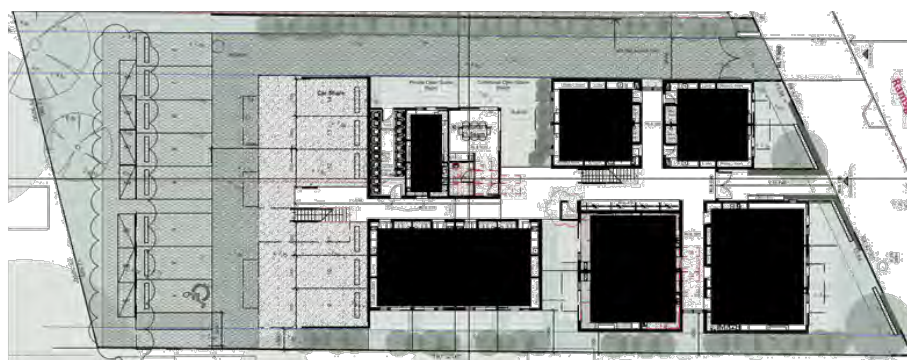


Figure 1: Originally submitted parking scheme

The amended plans submitted on 27 June 2019 show a reduction in overall boarding rooms from thirty-five (35) to thirty-two (32) with an onsite manager's room with sixteen (16) on-grade parking spaces located at the rear of the site as shown below in figure 2. This was achieved by relocating the bin room externally (which is sufficiently setback from the adjoining western neighbour by 3.3m, vegetation and a 1.8m high acoustic fence) and also with a reduced common area and deletion of three (3) units on the ground floor. The parking calculation is as follows:

32 rooms x 0.5 parking rate	= 16 car spaces
1 managers room	= 0 car space
Total required	= 16 car spaces

The amended plans provides sixteen (16) parking spaces, however, a space for the manager's room is not provided.



Figure 2: Amended parking scheme

According to Clause 29 (2)(e) of the State Environmental Planning Policy (affordable Rental Housing) 2009, a consent authority must not refuse consent to development (for a manager's office) if:

In the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site

The wording of this clause is read as not a requirement to provide one car space for the managers, but that *not more than* one parking space is to be provided for the manager's room. The standard is a maximum level of provision, not a minimum requirement. This has been justified by the applicant which is supported by recent case law and an example where Council has assessed the clause similarly. The following is an extract from their statement:

The reduction in boarding rooms reduces the parking requirement down to 16 spaces based on 0.5 spaces for each boarding room and 0 car spaces for the manager's room. 16 car spaces are now provided.

As the panel would be aware, the nil provision of parking for the manager's room is consistent with the State Policy which states "not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site"

This has been applied consistently by Council and the Court, and therefore the nil provision of car parking for the manager's room does not generate any non-compliance. In accordance with Arxidia Pty Ltd v Randwick City Council; Arthur Wong Pty Ltd v Randwick City Council [2017] NSWLEC 1463, no spaces were required for the manager's room. Also, a boarding house at 1537 Botany Rd, Botany, was granted by Council under DA 2017/1058, with no car space being required for the manager's room.

Council can confirm that DA-2017/1058 was approved for a three storey boarding house with no manager parking space. Taking the above into consideration, the proposed amendments successfully addresses the issue relating to parking with a design that is more compatible within the low density residential zone and provided an alternative design which reduces the intensity of the land resulting from a reduced amount of boarding rooms.

As the car stacker system is no longer pursued, the need for an acoustic report is redundant. Further, as the amendments demonstrate a decrease in boarding units, the applicant is not required to provide an updated traffic report as there is a reduction in demand for on-site parking which will also lessen the traffic within the area.

The application was referred to Council's engineers who have raised no concerns relating to the amendments subject to conditions of consent.

2. Plan of Management

The plan of management has been updated, reflecting the Panel's reason for deferral allowing for community liaison and a record maintenance of complaints with details on how the complaints are actioned. This record will be made available to both Council and police upon request.

The following is an excerpt from the amended PoM addressing the comments made by the panel (points 25 and 26 of the PoM):

The manager is responsible for recording any complaints in a complaints register which is to be available to surrounding neighbours and Council upon request. The register shall detail how and when any complaints are dealt with.

The manager will be available during business hours, being 9am to 6pm, Monday to Saturday. The manager is to deal with any complaints as to the operation and management of the premises. An after-hours number is to be provided, with such phone number being publicly available. There will be a register of all complaints. The register will contain –

a. Complaint date and time

- b. Name of person/police/council making the complaint*
- c. Contact details*
- d. Nature of the complaint*
- e. Action taken (by whom and when)*
- f. Outcome and/or further action required*

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

3. Light spill management

Low level bollard lightings are shown on the ground floor plans (DA 203 C Rev C dated 8 July 2019). The bollards are proposed along the western side of the driveway. The proposed bollards will reflect light downwards. Approximately eight (8) bollards are proposed. Taking into consideration that the bollards are located adjacent to the western boundary which will be lined with 5-8m high trees and with a 1.8m high acoustic wall, the impacts of the light spill onto the adjoining properties is not assessed as potentially being distracting or causing excessive light spill to the surrounding neighbours. The applicant has provided sufficient information on the matter and Council is satisfied that the proposed light bollards will be designed in a suitable manner with reasonable impacts to the adjoining properties.

4. Privacy screens

The panel had requested privacy screens to balconies and fixed horizontal external louvers to the windows along the eastern and western elevations. Angled louvers facing upwards have been provided on the amended plans reducing the direct over-looking impacts onto the adjoining properties. The louvers have also been applied to the rear southern first floor windows.

Privacy screens have also been provided on the side elevations of the balconies. Figure 3 and 4 below identify the location of the proposed angled louvers and privacy screens to the balconies:

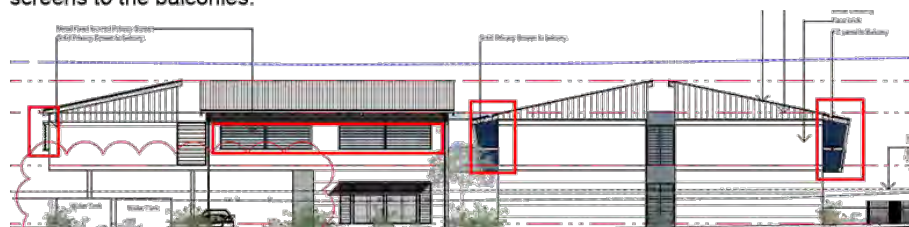


Figure 3: Eastern elevation plan showing privacy screens to balconies and louvers



Figure 4: Southern elevation plan showing louvers to first floor boarding rooms

5. Verified Overshadowing plans

Amended shadow diagrams have been provided illustrating the new over-shadowing impacts from the increase in building height by 0.23m. As the subject allotment is north-south orientated, the proposed amendments comply with the solar access requirements of DCP 2013 and the adjoining properties to the east and west receive 2 hours of solar access during 9am-3pm on 21st June.

A verification statement has been submitted with the amended plans, certifying the shadow diagrams.

As such, the applicant has provided sufficient evidence verifying compliance with the Objectives and Controls of Part 4A.4.3 of BBDCP 2013.

Description of Development

Ground floor:

- Ten (10) rooms consisting of six (6) single rooms, five (5) double rooms and two (2) accessible rooms;
- Nine (9) of the rooms will have private courtyards separated with 1.8m high privacy fences;
- One (1) manager's room;
- Communal room with kitchen and accessible bathroom;
- Communal private open space;
- 1.8m high acoustic privacy wall along western boundary;
- Bin room located along the western side elevation;
- Eight (8) light bollards along the western boundary driveway
- Rear parking consisting of sixteen (16) car spaces inclusive of one accessible parking.

First floor:

- Twenty-two (22) rooms consisting of eleven (11) single rooms and eleven (11) double rooms;
- Five (5) rooms facing north (facing Ramsgate Street) will have front facing balconies;
- Five (5) rooms facing south (facing the rear) will have windows with upward angled privacy louvers; and
- Internal balconies will have privacy screens along the side elevations.

Roof:

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

Landscaping:

- Landscaping will be provided within the front setback;
- The *Araucaria heterophylla* (Norfolk Is. Pine), and the *Phoenix canariensis* (Canary Is. Date Palm) are proposed to be removed;

- Eucalyptus botryoides, (Bangalay), Mangifera indica (Mango Tree), Pterandra elegantissima (False Aralia) and Dypsis lutescens (Areca palm) are proposed to be retained and protected;
- Privacy screening in the form of planting along the side and rear boundaries are proposed. The trees proposed are:
 - Twelve (12) x Lilly Pilly (height 5m) along the rear boundary
 - Seven (7) x Watergum (height 5m-8m) along the western side boundary
 - One (1) x Water gum (height 5m-8m), twenty (20) x Rhapsis Palm (height 3m) and twenty three (23) Minor Lilly Pilly (height 2m-3m);
 - One (1) x Tuckaroo within the front setback

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 1003386M_03 committing to environmental sustainable measures.

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

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

Standard	Control	Proposed	Compliance
Clause 26 – Land to which division applies	(b) Zone R2 Low density	The proposal is zoned R2 Low Density	Yes
Clause 27 – Development to which Division Applies	(2) Development on land within zone R2 Low Density Residential within Sydney Region, must be within an accessible area.	The applicant indicates that the site is located within an accessible area, being 250 metres from a bus stop on Banksia Street.	Yes
Clause 29(1) – FSR	Zone allows for residential flat buildings. Bonus 0.5:1 applied to maximum FSR of 0.50:1. Therefore max FSR 1:1	The application results in an FSR of 0.64:1 (the amended plans provide a reduction in FSR)	Yes
Clause 29(2)(a) – Building Height	Not more than permitted under an LEP. BBLEP 2013 Height Control 8.5m	8.36 metres (increase in height by 0.23m)	Yes
Clause 29(2)(b) – Landscape area	Compatible with streetscape	The landscape treatment is consistent with the immediate area.	Yes
Clause 29(2)(c) – Solar Access	One communal area received 3 hours of direct sunlight between 9am and 3pm in mid-winter	A common area is proposed which faces west and receives a minimum	Yes

		of 3 hours of sunlight.	
Clause 29(2)(d)- Private Open Space	<ul style="list-style-type: none"> One area at least 20m² with a minimum 3m. Manager area – 8m² with a minimum dimension of 2.5m 	<ul style="list-style-type: none"> The primary common area is 26m². In addition, smaller courtyards are proposed on the ground floor area. A manager's room is provided on-site, that benefits from a designated private open space area that is in excess of 8 m². 	Yes Yes
Clause 29(2)(e) - Parking	<ul style="list-style-type: none"> at least 0.5 parking spaces are provided for each boarding room; and Not more than 1 parking space is provided for each person employed 	16 spaces provided. No managers space provided	Yes
Clause 29(2)(f)- Accommodation size	<ul style="list-style-type: none"> 12m² per single boarding room 16m² in any other case. 	Between 12m ² to 18m ² (excluding bathroom and kitchen)	Yes
Clause 29(3)	Boarding house may have private kitchen or bathroom facility in each boarding room, but is not required to have those facilities in any boarding room.	A bathroom and kitchen has been provided to each boarding house room.	Yes
Clause 30(1)(a) – Communal Living room	At least one communal living room for 5 or more rooms.	One communal living room is proposed on the ground floor.	Yes
Clause 30(1)(b) – Size of rooms	No rooms more than 25m ²	No room, excluding the kitchen and bathroom facility, is over 25m ²	Yes
Clause 30(1)(c) – Number of Lodgers	No more than 2 lodgers per room	The applicant states that each boarding house room will be occupied by one or two adult lodger.	Yes
Clause 30(1)(d) – Bathroom & Kitchen Facilities	Access be provided to each lodger to use a bathroom and kitchen	All rooms have a bathroom and kitchen facilities. An additional communal kitchens is provided on the ground floor.	Yes

Clause 30(1)(e) – On site Manager	More than 20 lodgers	The boarding house has the capacity to accommodate up to 32 lodgers. An on-site manager is proposed for the development.	Yes
Clause 30(1)(g) – Commercial Zoned Lane	Not Applicable	Not Applicable	Not Applicable
Clause 30(1)(h) – Motorbike and bicycle parking	1 Motorbike and 1 bicycle space for each 5 rooms	7 motorbike and 8 bicycle spaces provided	Yes
Clause 30A Character of Local Area	Development must be compatible with the character of the local area.	Two storey building, pitch design and sufficient landscaping provided.	Yes
Clause 30AA	Limit 12 rooms within R2 Zone	32 rooms proposed	The application was lodged in September 2018 and does not require compliance in accordance with the savings provision of Clause 54C.

Botany Bay Local Environmental Plan 2013

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	Boarding house is permissible within the zone	The site is zone R2 Low Density Residential under the BBLEP 2013.
Maximum height permissible	Yes	Original proposed height: 8.13m Amended height proposed: 8.36m Maximum permissible: 8.5m Increase in height by 0.23m
Maximum FSR 0.50:1 (benefits from an additional 0.50:1 as per ARH SEPP 2009) totalling to a maximum of 1:1	Yes	Original proposed FSR: 0.70:1 Original GFA = 964sqm Amended proposed FSR: 0.64:1 Amended GFA = 921sqm

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		(reduction in GFA by 43sqm)
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/a	Not a heritage item or within a conservation area
<p>The following provisions in Part 6 of the LEP apply to the development–</p> <ul style="list-style-type: none"> • 6.1 – Acid sulfate soils • 6.3 – stormwater management • 6.9 – Development in areas subject to aircraft noise 	Yes	<p>The subject site is within ASS class 4 area however the proposed works will not penetrate 2 metres below the natural ground surface and the works will not lower the water table more than 2 metres below the natural ground surface.</p> <p>The proposed works have been assessed by Council's Development Engineer and appropriate conditions of consent have been imposed to ensure that all stormwater will drain in a suitable manner to Council's stormwater drainage system.</p> <p>The site is subject to aircraft noise (ANEF 25). Several conditions have been applied to the draft notice of consent ensuring that the building is constructed in accordance with <i>AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction</i></p>

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 1 July 2019 to 17 July 2019. Nine (9) submissions were received.

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

Issue 1: The proposed boarding house is an over-development of the site and will have an effect on the aesthetics of the street and the peace and amenity of the area

Comment: The proposal does not exceed the maximum height standard and measures 8.36m in height (maximum permissible is 8.5m). The proposal has an FSR of 0.64:1 (maximum permissible is 1:1). The amended plans have provided a reduction in gross floor area by 43 sqm. The proposed setbacks to the side and rear exceeds the minimum requirement. The design of the building has regard to the streetscape in terms of front setback, roof style, storey height and landscape and maintains its appearance as a two storey residential dwelling when viewed from Ramsgate Street. Therefore, the development in comparison to the site area

(1372sqm) is modest in size and does not generate unreasonable levels of impacts onto the adjoining properties in terms of privacy and over-shadowing. For these reasons, the proposal is not assessed as an over-development and does not detract from the streetscape character.

Issue 2: Development will create an increase in traffic in the area. Parking is non-compliant including motorcycle parking, turning circle and accessible parking. The traffic report should be updated.

Comment: The use of a boarding house is not anticipated to generate an unreasonable level of traffic in the area. The original parking survey submitted was based on 35 rooms. The amended plans demonstrate a decrease in boarding units which will further reduce traffic in the area in comparison to the original design. Furthermore, the amended plans comply with the minimum parking requirements and is in accordance with the SEPP for affordable housing (boarding houses). Council's engineers have assessed the amended plans and the traffic survey and have raised no concerns relating to parking, turning circle, accessible parking and motorcycle parking.

Due to the reduction of rooms, the traffic impacts are reduced and therefore the traffic report is not required to be updated.

As such, Council disagrees with the comments raised by the neighbour and assesses the application as having reasonable impacts of traffic and complies with the parking controls and standards.

Issue 3: Increase in noise generated from the use of the boarding house and privacy impacts;

Comment: All boarders are required to sign and abide by the PoM which has been submitted with this application upon leasing a unit. If a boarder breaks the rules outlined in the PoM, the boarder is issued a warning. Three warnings results in a termination of the lease agreement.

The PoM covers issues pertaining to noise, visitors, use of common areas and bad behaviour.

Privacy screens and louvers have been provided on all windows and balconies. These privacy measures will ensure that over-looking is minimised.

An acoustic wall is proposed along the western boundary to reduce the noise impacts from the use of the boarding house including the use of the driveway for vehicles.

The applicant has provided sufficient documentation and plans demonstrating that the proposed boarding house will not generate unreasonable levels of over-looking and noise impacts.

Issue 4: Neighbouring properties will lose property value as a result of the proposed development;

Comment: Contrary to the opinion of the neighbouring residents, the design of the proposed two storey boarding house is of a high quality and design which presents as a modern two storey dwelling from the street while maintaining the predominate street character such as materials, landscaping and roof design. It is not anticipated that the development will reduce the value of the neighbouring properties.

Issue 5: Discrepancy with plans shown on the DA tracker relating to amount of rooms proposed and parking facilities

Comment: The applicant had provided a set of amended plans on the 22 May 2019 addressing the deferred comments raised by the Panel. These plans proposed 33 boarding

rooms, one manager room and a three car stacker system to address parking. Council's engineers rejected these plans as the subject site is located within a flood zone and a stacker system would not be a viable option. As a result, further amended plans were submitted on 27 June and 9 July 2019, proposing sixteen on grade parking spaces and 32 boarding rooms. These plans were accepted by Council's engineers as complying with the flood zone area and satisfying the minimum parking requirements. These plans were subsequently uploaded to Council's DA tracker and the plans were publically notified. The description of the development was not updated to reflect the new plans showing 32 boarding rooms and no stacker system.

Notwithstanding, these final amended plans submitted on 27 June and 9 July 2019 result in a better outcome for both the neighbouring residents and wider community as these plans propose less rooms which results in less parking demand and traffic within the area.

To clarify, the final amended plans which have formed part of this assessment is for the proposed thirty-two (32) boarding rooms with one (1) manager room and sixteen (16) on grade parking. No stacker system is proposed with the application.

It is noted that a section plan was visible on the DA tracker which references 'room 35', which had created some uncertainty with the neighbours. This was an error on the applicant's part and has since been deleted by way of amended plans. This amended section plan will form part of the draft notice of consent.

Issue 6: Changes to SEPP ARH relating to boarding houses having 12 or less rooms.

Comment: This application was lodged in September 2018 and as such, the application is not required to comply due to the savings provisions under Clause 54C of the SEPP ARH 2009.

Issue 7: Application does not comply with site coverage

Comment: Site coverage controls apply to residential dwellings and not boarding houses as per Botany development Control Plan 2013.

Issue 8: Traffic plan submitted required traffic lights to be provided vehicles entering and exiting the site

Comment: Condition 20 has been inserted by Council's engineers requiring a traffic light and vehicular sensor system to be designed and certified by a suitably qualified traffic engineer prior to the release of Construction Certificate.

Section 7.11 Contributions

A Section 7.11 contribution of \$620,000.00 is to be paid to Council at the rate of 33 rooms. This rate will form part of the conditions of consent.

Conclusion

Amended plans requested by the Panel for Development Application No. 16/237 at 23 Swinbourne Street, Botany, have been considered and have addressed the Panels key concerns that were raised at the Panel meeting of 26 September 2017. Therefore, the development proposal is recommended for approval.

Attachment**Schedule 1 – Conditions of Consent****Premises: 14-16 Ramsgate Road****DA No: 2018/1164****GENERAL CONDITIONS**

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

Drawing	Author	Dated
Ground Floor Plan DA 203 C Rev C	BKA architecture	8 July 2019;
First Floor Plan- DA 204 B Rev B		27 June 2019;
Roof Plan- DA 202 G Rev G		27 June 2019;
Elevations- DA 300 G Rev G		24 March 2019;
Sections DA 400 H Rev H		24 July 2019
Consolidation plan - Sheet 1 of 1	CitiSurv Pty Ltd	26 July 2018
Landscape Plan LPS4.55 19 -19 Page 1 Rev F	Conzept Landscape Architects	25 June 2019
Landscape Plan LPS4.55 19 -19 Page 2 Rev C	Conzept Landscape Architects	8 August 2018
D01 and D02 – site and roof drainage details Issue C Job number 18DZ1678	Zait Engineering Solutions	27 June 2019
D03 – Soil and water management plan Issue C Job number 18DZ1678	Zait Engineering Solutions	27 June 2019

Reference Documents	Author	Dated
BASIX Certificate No. 1003386M_03	Building & energy Consultants Australia	18 July 2019
Schedule of Finishes DA 700 E Rev G	BKA architecture	27 June 2019;
DA Noise Impact Assessment Rev 1	Acoustic Logic	6 September 2018
Plan of Management	ABC Planning	June 2019
Access Report	Design Confidence	5 September 2018
Arborist Report	TLC Tree Solutions	1 August 2018
Geotechnical Report	Geotechnical Consultants Australia	19 July 2019

2. This Consent relates to land in Lot 21 & 22 in DP 773 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (as referenced at Condition No. 1) for the development are fulfilled.
- Note:
- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - i) The consent authority; or,
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:-
 - i) Has appointed a Certifying Authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and

- iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
- 6. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.
- 7. The building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993 and Local Government (General) Regulations 2005 and Public Health Act 2010 and Public Health Regulation 2012.
- 8. No amplified/ stereo/music/ speakers are permitted in all outdoor and indoor communal areas.
- 9. Adopt and implement all recommendations contained in the acoustic report prepared by acoustic logic – Project Number 20181042.1, Document Reference 20181042.1/0609A/R1/GC, '14-16 Ramsgate St, Botany DA Noise Impact Assessment' dated the 6 September 2018.
- 10. Trading shall not commence until a final inspection has been carried out by Councils Environmental Health Officer and all health related requirements have been complied with.
- 11. The proprietor of the premises - places of shared accommodation shall provide Council with details for Council's Environmental Health Unit register by completing the Registration form available on request from the customer service centre.
- 12. The louvers on all windows shall be constructed with metal with a fixed upward direction to reduce the impacts of direct over-looking. Details to be provided prior to the issue of Construction Certificate.
- 13. All balconies shall have a 1.8m high privacy along the side elevations. Details to be provided prior to the issue of Construction Certificate.

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

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

The detailed design plans shall incorporate the following measures:

- a)The provisions made in the Stormwater Concept Plans prepared by ZAIT Engineering Solutions Pty Ltd, job number 18DZ1678, issue C, dated 27 June 2019

15. Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed absorption trenches and underground rainwater tank(s) shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
16. Prior to the issue of any Construction Certificate, the driveway over the absorption trenches shall be structurally constructed so that no load is transferred to the plastic trenches. Structural/reinforced permeable pavement shall be utilised for all permeable paving required on the driveway for the development so that no load is transferred to the plastic trench. Details of the brand and type of the proposed permeable pavement shall be submitted to the satisfaction of the principal certifier. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.
17. Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood storm events. The Plan must make provision for the following:
 - a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
 - b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - c) Flood warning signs/depth indicators for areas that may be inundated.
 - d) A flood evacuation strategy.
 - e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
18. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the habitable areas shall be submitted to the Principal Certifying Authority for approval. The plans shall incorporate but not limited to:
 - a) The floor level of the habitable areas of the building shall be at least RL 8.42m AHD.
 - b) The floor level of the non-habitable areas of the building shall be at least RL 8.22m AHD.
 - c) The off street car parking spaces numbered 18 and adjacent vehicular circulation area are to retain the existing natural ground levels of the site. The off street car parking spaces numbered 916 and adjacent vehicular circulation area are to have a 5% gradient up towards the building structure, to at least RL 8.220m AHD.
19. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building

materials shall be flood resistant, or flood compatible to a height of RL 8.42m AHD. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at or above RL 8.42m AHD. Details shall be provided and approved prior to the issue of the construction certificate.

20. Prior to the issue of any Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - a) The length of the driveway requires traffic management to manage the two way movement. To this effect, prior to construction a traffic light and vehicular sensor system shall be designed and certified by a suitably qualified traffic engineer for implementation within the parking facility.
 - b) The accessible parking space shall be designed to comply with AS2890.6:2009.
 - c) A minimum of seven (7) bicycle parking spaces are to be provided and designed in accordance with AS2890.3:2015.
 - d) Sight distances on the driveway at the property boundary must comply with AS2890.1:2004. The driveway shall be a minimum 3.60m wide at the property boundary. Wheel stops are to comply with AS2890.1:2004.
21. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section.
22. Prior to issue of any Construction Certificate, a longitudinal driveway profile shall be submitted to the Principal Accredited Certifier for assessment and approval. The driveway profile design shall utilise existing natural ground levels with a maximum 1% AEP ponding depth of 460mm. 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 AS2890.1. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), flood levels and lengths.
23. Prior to issue of the Construction Certificate, an application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

24. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap 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>

25. 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.

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

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

The work detailed in the report includes:

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

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

27. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

28. Prior to the issue of the Construction Certificate, the applicant must pay the following fees:

a) Development Control Fee	\$3,174.00
b) Footpath crossing Deposit	\$11,915.20
c) Section 7.11 Contributions	\$620,000.00

29. A Section 7.11 contribution of \$620,000.00 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions are only used towards the provision or improvement of the amenities and services identified below.

Breakup:	
Community Facilities	\$ 50,751.97
Recreation and Open Space	\$ 523,615.85
Transport Facilities	\$ 41,117.84
Administration	\$ 4,514.34
Total in 2018/19	\$ 620,000.00

30. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing deposit (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
31. Prior to the issue of any Construction Certificate, the applicant shall lodge a Development Control Fee (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
32. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

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

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

34. A dilapidation report of all adjoining properties, including a photographic survey prepared by a Practicing Structural Engineer, must be prepared in respect of the property known as 14-16 Ramsgate Road. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Certifying Authority prior the release of the Construction Certificate.
35. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
36. A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
37. Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.
38. All fixtures, fittings, furniture, shall be constructed of durable, smooth, impervious materials capable of being easily cleaned. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
39. Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
40. Concrete area around water tank located on rear east southern boundary shall be replaced with soft landscape treatment and shall include screen shrubs to address privacy towards neighbouring properties.

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

42.

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

43. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:

- a) Written notice, indicating the date when demolition of the building is to commence.
- b) This persons full name and address.
- c) Details of Public Liability Insurance.

44. The Certifying Authority must be satisfied that: -

- a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
- b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
- c) And is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

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

- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
- b) The name and permit number of the owner-builder who intends to do the work;
- c) The Council also must be informed if: -

- i) A contract is entered into for the work to be done by a different licensee;
or
 - ii) Arrangements for the doing of the work are otherwise changed.
46. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
47. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
48. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
49. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
50. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The *Soil and Water Management Plan* if required under this consent;
 - b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organization of Councils, 2001; and
 - c) "*Managing Urban Stormwater – Soils and Construction*" published by the NSW Department of Housing 4th Edition" ('The Blue Book').
 - d) Where there is any conflict The Blue Book takes precedence.

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

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

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

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

Warning, irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

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

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

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

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineering and Regulatory Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

52. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or

underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

e) If the soil conditions required it:

- i. Retaining walls associated with the erection of a building or other approved methods of preventing movement of the soil must be provided and:-
 - ii. Adequate provision must be made for drainage.
53. For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.
- All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report.
- Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
54. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
55. The *Eucalyptus botryoides* (Bangalay) located in the south west corner of the block is to be retained and protected. A sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.
- All other trees on the site shall be removed, subject to one (1) *Corymbia maculata* (Spotted Gums) of 100L root ball to be planted in the rear yard (not within three (3) meters from any building structure) so as to offset the removal of the significant *Araucaria heterophylla* (Norfolk Island Pine).
- Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan.

DURING WORKS

56. Any demolition work shall be carried out in accordance with Australian Standards AS 2601-2001 Demolition of Structures and the requirements of the NSW WorkCover Authority.
57. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:

- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
- 58. No demolition materials shall be burnt or buried on the site.
- 59. 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.
- 60. The proposed development shall comply with the following:
 - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Certifying Authority including an after-hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
- 61. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
- 62.
 - a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - 1 The additional load on the system; and

- 2 The relocation and/or adjustment of the services affected by the construction.
 - b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
63. Should the construction process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.
64. 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.
65. The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.
66. 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.
67. If any excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
 - ii) Adequate provision must be made for drainage.

- f) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.
68. Any dewatering is not permitted on this site without NSW-EPA approval.
69. The following shall be complied with during construction and demolition:
- a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 28 weeks:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 05:00pm
 - ii) Saturday 08:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing

All possible steps should be taken to silence construction site equipment.
70. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 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.
71. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls as required by this consent and the Protection of the Environment Operations Act 1997.
72. 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.
- 73.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
74. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors,

concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

75. Separate permits are required to be obtained and approved by Council for all works including but not limited to road and footpath closure, stand and operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land.
76. 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.
77. Inspections must be conducted by Council's Engineer at the following occasions:
 - a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - c) Formwork inspection of Council's footpath prior to laying of concrete,
 - d) Final inspection of driveway layback and adjacent kerb and gutter,
 - e) Final inspection of Council's kerb and gutter,
 - f) Final inspection of Council's footpath.
78. For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
79. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
80. 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.
81. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) b) Protection of the Environment Operations Act 1997; and
- c) c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

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

82. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
- a) On Ramsgate Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
 - b) On Ramsgate Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
83. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
84. All absorption trenches must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of principal Certifying Authority. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction. The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes to ensure the effective performance of the system during construction and the long term viability of the system.
85. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
- The overflow from the rainwater tank shall be directed to the storm water system.
 - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
 - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
86. Prior to the issue of any Occupation Certificates(s), documentation from a practicing civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards. A works-as-executed drainage plan shall be prepared by a registered

surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.

87. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- Restriction on Use of Land and Positive covenant for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
88. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
- a) On Ramsgate Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
 - b) On Ramsgate Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
89. Prior to the issue of any Occupation Certificate(s), 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.
- Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
90. Prior to occupation, all offstreet car, bicycle and motorcycle spaces shall be provided in accordance with the approved plans. The traffic light/sensor system shall be installed and all parking spaces shall be line marked in accordance with AS2890 parking series to the satisfaction of a suitably qualified traffic engineer. Bollards shall be erected for all accessible parking spaces in accordance with AS/NZS 2890.6:2009.
91. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicles shall enter and exit the site in a forward direction at all times".
92. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable floor levels are constructed at or above RL 8.42m AHD. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.

93. Flow through open form fencing (louvres or pool fencing) is required for all new front fencing and all internal fences and gates up to RL 7.92m AHD. Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Details of approved types of flow through fencing can be obtained from Council. Documentation shall be provided to Certifying Authority prior to occupation.
94. A benchmark shall be established adjacent to the lowest point of the driveway to Australian Height Datum to enable comparison to the flood standard and the flood risk management plan shall be permanently erected to a prominent location within the development to the satisfaction of the principal certifier prior to occupation.
95. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
96. Prior to the issue of any Occupation Certificate, satisfactory inspection reports (formwork and final) for any works on the road reserve shall be obtained from Council's engineer and submitted to the Certifying Authority.
97. 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.
98. The Council nature strip at any site frontage shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
99. Prior the issue of the relevant Occupation Certificate an experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
100. At the completion of landscaping on the site, the applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been carried out in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
101. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

102. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
103. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even

coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.

104. The boarding house shall at all times be operated in accordance with the Plan of Management (PoM) which forms part of this consent. In addition, the Plan of Management is to address and include the following:

- a) Compliance with requirements the PoE (Noise Control) Regulation (2008)
- b) Recommendations documented in the acoustic logic – Project Number 20181042.1, Document Reference 20181042.1/0609A/R1/GC, '14-16 Ramsgate St, Botany DA Noise Impact Assessment' dated the 6 September 2018.
- c) Procedures for recording details of on-site motor vehicles/motor scooters/bikes
- d) Induction procedures for operating motor vehicles/scooters/bikes on site, including but not limited to, excessive noise, excessive acceleration, gear changing, speed limit <10kph, amplified music and stationary on-site vehicles.
- e) Procedures for addressing, managing and handling community specific issue arising on site activities and generated traffic on Ramsgate Street. This will involve community generated complaints being referred directly to the Site Manager. If the Site Manager is not on site at the time, an entry in the Site Management Book will be made to ensure appropriate action and monitoring is undertaken. A response would be required by the Site Manager to Complainant within 24 hours and prior to the 'close out' the complaint, Resolution of the complaint will be recorded in Site Management Book. The Site Management Book will be maintained on site and made available to Council on request.
- f) Maintenance procedure to ensure that the audio/video surveillance system installed for the purpose of managing on-site activities at the rear of the site is operational 24 hours a day, 7 days a week with direct streaming to the site office. Recorded data from the system shall be maintained for not less than 30 days and provided to Council on request.
- g) Details of how on-site car and motorbike parking spaces will be allocated for specific boarders and Site Manager.
- h) Procedures to be adopted by boarders and/or notices to boarders with respect to the use by any boarder and visitors.
- i) All deliveries and waste collection are to be managed by the Site Manager in strict compliance with an operational Plan of Management (PoM) that prohibits uses during peak traffic generation times.

105. In addition, the plan of management is to address and include the following to Council's written satisfaction prior to the issue of the Construction Certificate:

- a) Procedures managing and controlling motor scooters/bikes engine capacities to less than 300/400cc

106. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be

regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed. Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.

107. The bin area is to be maintained in a reasonable state during the life of the development and is not to emit unpleasant odours which will affect the boarders and the adjoining residents.
108. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

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

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

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

109. Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
110. The Protection of the Environment Operations (Noise Control) Regulation 2000, states that noise from any air-conditioning units (measured as the LAeq 15 minute) is not to exceed the background level (measured as the LA90 15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

Note: in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

111. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All

solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

112. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 2018/1164 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/1164
Date of Receipt:	7 September 2018
Property:	16 Ramsgate Street, Botany
Lot & DP/SP No:	21 and 22 Section 11 DP 773
Owner:	
Applicant:	N.G.P.V Investments
Applicant Address:	Level 1, 33 Morley Street Rosebery
Proposal:	Demolition of existing structures and construction of a 2 storey boarding house with 35 rooms, managers rooms, associated parking and tree removal
Property Location:	Southern side of Ramsgate Street between Cranbrook St to the west and Tenterden Rd to the east.
Value:	\$ 2,343,000
Zoning:	Botany Bay Local Environmental Plan 2013
Author:	Adam Iskander
Date of Report:	14 March 2019
Classification of Building:	Class 3 – Boarding House
Present Use:	Residential dwelling
No. of submissions:	Twelve (12) submissions against and one (1) supporting

Key Issues

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

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

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

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

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

Recommendation

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

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

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

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

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

(B) The period of the "Deferred Commencement" consent is to be limited to 6 months

2. That the objector(s) be advised of the Bayside Planning Panel's decision.

Site Description

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

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

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

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

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

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

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

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

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

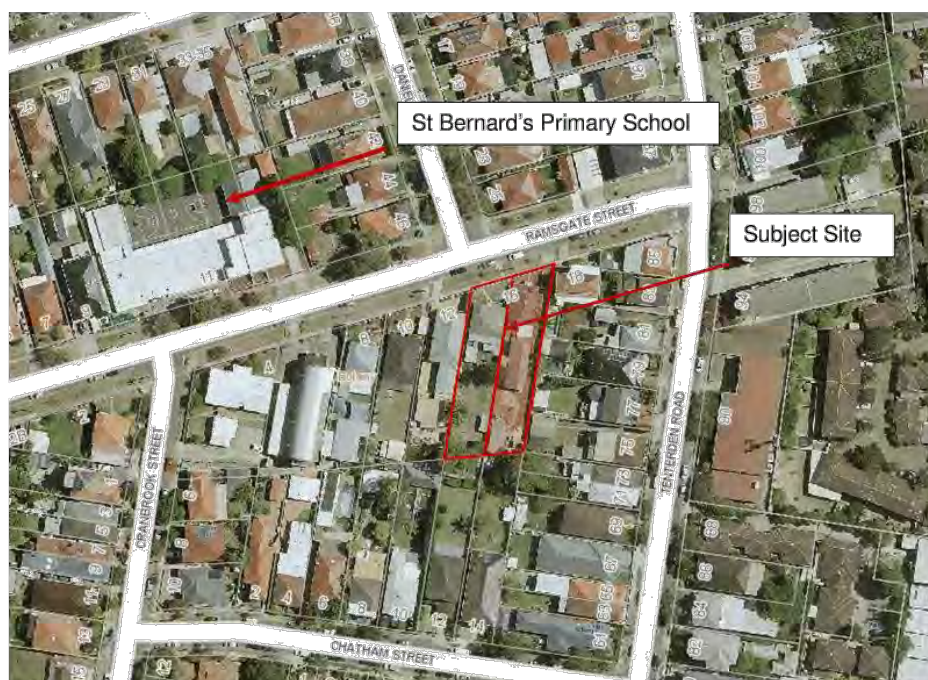


Figure 1 – aerial view

Site History

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

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

Description of Development

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

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

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

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

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

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

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

Ground floor:

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

First floor:

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

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

Roof:

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

Landscaping:

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

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

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 1003386M committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

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

- 1 The site appears to have been continuously used for residential purposes.
- 2 The adjoining and adjacent properties are currently used for residential purposes.
- 3 The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

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

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

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

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

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

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

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

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

Standard	Control	Proposed	Compliance
Clause 26 – Land to which division applies	(b) Zone R2 Low density	The proposal is zoned R2 Low Density	Yes
Clause 27 – Development to which Division Applies	(2) Development on land within zone R2 Low Density Residential within Sydney Region, must be within an accessible area.	The applicant indicates that the site is located within an accessible area, being 250 metres from a bus stop on Banksia Street.	Yes
Clause 29(1) – FSR	Zone allows for residential flat buildings. Bonus 0.5:1 applied to maximum FSR of 0.50:1. Therefore max FSR 1:1	The application results in an FSR of 0.70:1	Yes
Clause 29(2)(a) – Building Height	Not more than permitted under an LEP. BBLEP 2013 Height Control 8.5m	8.13 metres	Yes
Clause 29(2)(b) – Landscape area	Compatible with streetscape	The landscape treatment is consistent with the immediate area.	Yes
Clause 29(2)(c) – Solar Access	One communal area received 3 hours of direct sunlight between 9am and 3pm in mid-winter	A common area is proposed which faces west and receives a minimum of 3 hours of sunlight.	Yes
Clause 29(2)(d)- Private Open Space	<ul style="list-style-type: none"> One area at least 20m² with a minimum 3m. Manager area – 8m² with a minimum dimension of 2.5m 	<ul style="list-style-type: none"> The primary common area is 30m². In addition, smaller courtyards are proposed on the ground floor area. A manager's room is provided on-site, that benefits from a designated private open space area that is in excess of 8 m². 	<p>Yes</p> <p>Yes</p>

Clause 29(2)(e) - Parking	<ul style="list-style-type: none"> at least 0.5 parking spaces are provided for each boarding room; and Not more than 1 parking space is provided for each person employed 	14 spaces provided inclusive of one care share space	No – deficiency of 5 car spaces (See discussion under Part 4A.4.8 of this report)
Clause 29(2)(f)- Accommodation size	<ul style="list-style-type: none"> 12m² per single boarding room 16m² in any other case. 	Between 12m ² to 18m ² (excluding bathroom and kitchen)	Yes
Clause 29(3)	Boarding house may have private kitchen or bathroom facility in each boarding room, but is not required to have those facilities in any boarding room.	A bathroom and kitchen has been provided to each boarding house room.	Yes
Clause 30(1)(a) – Communal Living room	At least one communal living room for 5 or more rooms.	One communal living room is proposed on the ground floor.	Yes
Clause 30(1)(b) – Size of rooms	No rooms more than 25m ²	No room, excluding the kitchen and bathroom facility, is over 25m ²	Yes
Clause 30(1)(c) – Number of Lodgers	No more than 2 lodgers per room	The applicant states that each boarding house room will be occupied by one or two adult lodger.	Yes
Clause 30(1)(d) – Bathroom & Kitchen Facilities	Access be provided to each lodger to use a bathroom and kitchen	All rooms have a bathroom and kitchen facilities. An additional communal kitchens is provided on the ground floor.	Yes
Clause 30(1)(e) – On site Manager	More than 20 lodgers	The boarding house has the capacity to accommodate up to 35 lodgers. An on-site manager is proposed for the development.	Yes (deferred commencement will require reduction in boarding rooms to 26)
Clause 30(1)(g) – Commercial Zoned Lane	Not Applicable	Not Applicable	Not Applicable

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

Clause 30A - Character of the Area

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

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

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

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

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

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

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

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

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



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

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

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

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

As the subject site is located with an accessible area, Clauses 29, 30 and 30A do apply to the assessment of the development application.

Botany Bay Local Environmental Plan 2013

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

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	Boarding house is permissible within the zone	The site is zone R2 Low Density Residential under the BBLEP 2013.

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Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Maximum height permissible	Yes	Proposed Height: 8.13 Maximum permissible: 8.5m
Maximum FSR 0.50:1 (benefits from an additional 0.50:1 as per ARH SEPP 2009) totalling to a maximum of 1:1	Yes	Proposed FSR: 0.70:1 GFA = 964sqm
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/a	Not a heritage item or within a conservation area
<p>The following provisions in Part 6 of the LEP apply to the development—</p> <ul style="list-style-type: none"> 6.1 – Acid sulfate soils 6.3 – stormwater management 6.9 – Development in areas subject to aircraft noise 	Yes	<p>The subject site is within ASS class 4 area however the proposed works will not penetrate 2 metres below the natural ground surface and the works will not lower the water table more than 2 metres below the natural ground surface.</p> <p>The proposed works have been assessed by Council's Development Engineer and appropriate conditions of consent have been imposed to ensure that all stormwater will drain in a suitable manner to Council's stormwater drainage system.</p> <p>The site is subject to aircraft noise (ANEF 25). Several conditions have been applied to the draft notice of consent ensuring that the building is constructed in accordance with <i>AS2021- 2015: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction</i></p>

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

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

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

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

The following Development Control Plan is relevant to this application;

Botany Bay Development Control Plan 2013**3L – Landscaping**

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

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

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

Part 3N- Waste Minimisation and Management

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

Part 4A- Dwelling House4A.2.1 Site Design

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

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

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

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

4A.2.8 Building Setbacks

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

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

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

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

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

4A.2.9 Landscape Area

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

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

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

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

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

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

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

4A.4.1 Visual Privacy

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

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

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

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

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

4A.4.3 Solar Access

Development Control Plan (DCP) 2013 states that the minimum amount of direct solar access to the dwelling's and adjoining dwellings primary open space area shall not be less than 2 hours between 9:00am and 3:00pm on the 21st June.

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

Part 4A.4.8 Car Parking

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

35 rooms x 0.5 parking rate	= 17.5 car spaces
1 managers room	= 1 car space
Total required	= 18.5 (This figure is rounded up to 19 car spaces).

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

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

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

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

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

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

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

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

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

Part 7A.4.1 Boarding Houses

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

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

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

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

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

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

Part 8 – Botany Character Precinct

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

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

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

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

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

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

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

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

The proposed development will have no adverse environmental, social or economic impacts in the locality. Matters relating to bulk, scale, parking and privacy are addressed in detail in this report and on balance are acceptable.

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

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The site is zoned R2 – Low Density Residential and currently accommodates an existing dwelling. Accordingly, the site is suitable to accommodate the development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 19 September 2018 to 10 October 2018. Twelve (12) submissions were received and one (1) submission in support of the application.

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

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

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

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

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

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

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

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

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

- ***Loss of solar access and insufficient solar access to common areas***

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

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

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

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

- **Loss of property value as a result of the development**

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

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

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

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

Granting approval to the proposed development will have no adverse impact on the public interest. The proposal will facilitate the orderly development of the land.

Section 7.11 Contributions

A Section 7.11 contribution of \$376,415.06 is to be paid to Council at the rate of 27 rooms. This rate will form part of the conditions of consent.

Conclusion

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

Attachment

Schedule 1 – Conditions of Consent

Premises: 14-16 Ramsgate Road

DA No: 2018/1164

DEFERRED COMMENCEMENT CONDITIONS

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

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

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

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

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

- (B) The period of the "Deferred Commencement" consent is to be limited to 6 months

2. That the objector(s) be advised of the Bayside Planning Panel's decision.

GENERAL CONDITIONS

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

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

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

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

2. This Consent relates to land in Lot 21 & 22 in DP 773 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (as referenced at Condition No. 1) for the development are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

- ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - i) The consent authority; or,
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:-
 - i) Has appointed a Certifying Authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.
6. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act, 1997.
7. The building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993 and Local Government (General) Regulations 2005 and Public Health Act 2010 and Public Health Regulation 2012.
8. No amplified/ stereo/music/ speakers are permitted in all outdoor and indoor communal areas.
9. Adopt and implement all recommendations contained in the acoustic report prepared by acoustic logic – Project Number 20181042.1, Document Reference 20181042.1/0609A/R1/GC, '14-16 Ramsgate St, Botany DA Noise Impact Assessment' dated the 6 September 2018.
10. Trading shall not commence until a final inspection has been carried out by Councils Environmental Health Officer and all health related requirements have been complied with.
11. The proprietor of the premises - places of shared accommodation shall provide Council with details for Council's Environmental Health Unit register by completing the Registration form available on request from the customer service centre.

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

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

The detailed design plans shall incorporate the following measures:

- a) The provisions made in the Stormwater Concept Plans prepared by ZAIT Engineering Solutions Pty Ltd, job number 18DZ1678, issue B, dated May-18, and
 - b) Revisions shall be made to update the stormwater plans to accurately correspond with the approved architectural plans, and
 - c) Provision of a rainwater tank(s) system shall be provided with a minimum capacity of 10000L. The rainwater tank(s) shall service all toilets, clothes washers, landscape irrigation and any external taps in accordance with the requirements of Sydney Water and AS/NZS 3500 – National Plumbing and Drainage Code. First flush device shall also be incorporated into the tank systems. Overflow from the rainwater tank shall connect to the proposed site drainage system.
13. Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed absorption trenches and underground rainwater tank(s) shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
14. Prior to the issue of any Construction Certificate, the driveway over the absorption trenches shall be structurally constructed so that no load is transferred to the plastic trenches. Structural/reinforced permeable pavement shall be utilised for all permeable paving required on the driveway for the development so that no load is transferred to the plastic trench. Details of the brand and type of the proposed permeable pavement shall be submitted to the satisfaction of the principal certifier. These requirements shall be reflected on the Construction Certificate plans and supporting documentation.
15. Prior to the issue of the Construction Certificate, a Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood storm events. The Plan must make provision for the following:
- a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.

- b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
 - c) Flood warning signs/depth indicators for areas that may be inundated.
 - d) A flood evacuation strategy.
 - e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
- 16. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to the habitable areas shall be submitted to the Principal Certifying Authority for approval. The plans shall incorporate but not limited to:
 - a) The floor level of the habitable areas of the building shall be at least RL 8.42m AHD.
 - b) The floor level of the non-habitable areas of the building shall be at least RL 8.22m AHD.
- 17. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of RL 8.42m AHD. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at or above RL 8.42m AHD. Details shall be provided and approved prior to the issue of the construction certificate.
- 18. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section.
- 19. Prior to issue of the Construction Certificate, an application for Driveway Works (Public Domain Construction – Vehicle Entrance/Driveway Application) / Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- 20. 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>

21. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

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

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

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
 - b) Detailed roof and ceiling construction,
 - c) Wall and ceiling corner details and,
 - d) External door specification,
 - e) Acoustically treated mechanical ventilation.
23. **Note:** In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (requirements)
 24. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

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

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

26. A Section 7.11 contribution of \$654,025.10 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained Contributions Plan. The contribution is to be paid prior to the issue of any compliance certificate; subdivision certificate or construction certificate. The contributions are only used towards the provision or improvement of the amenities and services identified below.

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

27. Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing deposit (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
28. Prior to the issue of any Construction Certificate, the applicant shall lodge a Development Control Fee (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
29. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

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

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

31. A dilapidation report of all adjoining properties, including a photographic survey prepared by a Practising Structural Engineer, must be prepared in respect of the property known as 14-16 Ramsgate Road. A copy of the dilapidation report together with the accompanying photographs shall be given to the above property owner/s, and a copy lodged with Certifying Authority prior the release of the Construction Certificate.
32. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
33. A schedule showing the numeral designating each bedroom and dormitory and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
34. Each bedroom must be numbered in accordance with the schedule and there must be displayed clearly on the door of or in each bedroom the maximum number of persons allowed to be accommodated in the bedroom.
35. All fixtures, fittings, furniture, shall be constructed of durable, smooth, impervious materials capable of being easily cleaned. All parts of the premises and all appurtenances (including furniture, fittings, bedsteads, beds and bed linen) must be kept in a clean and healthy condition, and free from vermin.
36. Prior to the issue of a Construction certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan.
37. Concrete area around water tank located on rear east southern boundary shall be replaced with soft landscape treatment and shall include screen shrubs to address privacy towards neighbouring properties.

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

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

39. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
- a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This persons full name and address.
 - c) Details of Public Liability Insurance.
40. The Certifying Authority must be satisfied that: -
- a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
 - c) And is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.
41. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or

ii) Arrangements for the doing of the work are otherwise changed.

42. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
43. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
44. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
45. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
46. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The *Soil and Water Management Plan* if required under this consent;
 - b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organization of Councils, 2001; and
 - c) "*Managing Urban Stormwater – Soils and Construction*" published by the NSW Department of Housing 4th Edition" ("The Blue Book").
 - d) Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

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

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

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

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

(Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Engineering and Regulatory Services for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s)).

48. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, 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 of the soil must be provided and:-
- ii. Adequate provision must be made for drainage.

49. For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

50. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
51. The Eucalyptus botryoides (Bangalay) located in the south west corner of the block is to be retained and protected. A sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.

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

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

DURING WORKS

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

53. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
54. No demolition materials shall be burnt or buried on the site.
55. All services (Utility, Council, etc) within the road reserve (including the footpath) shall be relocated/adjusted to match the proposed/existing levels as required by the development.
56. The proposed development shall comply with the following:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Certifying Authority including an after-hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
57. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises.
- 58.
- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -

The additional load on the system; and

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

- b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
59. Should the construction process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.
 60. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
 61. The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.
 62. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
 63. If any excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building (swimming pool) or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided and:-
 - ii) Adequate provision must be made for drainage.

- f) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.
64. Any dewatering is not permitted on this site without NSW-EPA approval.
65. The following shall be complied with during construction and demolition:
- a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 28 weeks:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 05:00pm
 - ii) Saturday 08:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing

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

- to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
67. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls as required by this consent and the Protection of the Environment Operations Act 1997.
68. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 69.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
70. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times.

Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

71. Separate permits are required to be obtained and approved by Council for all works including but not limited to road and footpath closure, stand and operate a registered vehicle or plant, occupy road with unregistered item, work zone, hoarding, shoring support (anchoring), tower crane operation, public land access, temporary dewatering, and any excavation and works proposed to be undertaken on public land.
72. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
73. Inspections must be conducted by Council's Engineer at the following occasions:
 - a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - c) Formwork inspection of Council's footpath prior to laying of concrete,
 - d) Final inspection of driveway layback and adjacent kerb and gutter,
 - e) Final inspection of Council's kerb and gutter,
 - f) Final inspection of Council's footpath.
74. For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
75. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to council's stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
76. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.

77. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) b) Protection of the Environment Operations Act 1997; and
- c) c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

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

78. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
- a) On Ramsgate Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
 - b) On Ramsgate Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
79. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
80. All absorption trenches must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of principal Certifying Authority. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction. The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes to ensure the effective performance of the system during construction and the long term viability of the system.
81. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
- The overflow from the rainwater tank shall be directed to the storm water system.
 - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
 - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

82. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
83. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
 - Restriction on Use of Land and Positive covenant for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
84. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable floor levels are constructed at or above RL 8.42m AHD. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
85. Flow through open form fencing (louvres or pool fencing) is required for all new front fencing and all internal fences and gates up to RL 7.92m AHD. Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Details of approved types of flow through fencing can be obtained from Council. Documentation shall be provided to Certifying Authority prior to occupation.
86. Prior to occupation, all off-street car, bicycle and motorcycle spaces shall be provided in accordance with the approved architectural plans. All spaces shall be line marked in accordance with AS2890 parking series to the satisfaction of a suitably qualified traffic engineer. Bollards shall be erected for all accessible parking spaces in accordance with AS/NZS 2890.6:2009.
87. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicles shall enter and exit the site in a forward direction at all times".
88. A benchmark shall be established adjacent to the lowest point of the driveway to Australian Height Datum to enable comparison to the flood standard and the flood risk management plan shall be permanently erected to a prominent location within the development to the satisfaction of the principal certifier prior to occupation.
89. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

90. Prior to the issue of any Occupation Certificate, satisfactory inspection reports (formwork and final) for any works on the road reserve shall be obtained from Council's engineer and submitted to the Certifying Authority.
91. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
92. The Council nature strip at any site frontage shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
93. Prior the issue of the relevant Occupation Certificate an experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
94. At the completion of landscaping on the site, the applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been carried out in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.
95. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

96. Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway.
97. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
98. The boarding house shall at all times be operated in accordance with the Plan of Management (PoM) which forms part of this consent. In addition, the Plan of Management is to address and include the following to Council's written satisfaction prior to the issue of the Construction Certificate:
 - a) Compliance with requirements the PoE (Noise Control) Regulation (2008)
 - b) Recommendations documented in the acoustic logic – Project Number 20181042.1, Document Reference 20181042.1/0609A/R1/GC, '14-16 Ramsgate St, Botany DA Noise Impact Assessment' dated the 6 September 2018.

- c) Procedures for recording details of on-site motor vehicles/motor scooters/bikes
 - d) Induction procedures for operating motor vehicles/scooters/bikes on site, including but not limited to, excessive noise, excessive acceleration, gear changing, speed limit <10kph, amplified music and stationary on-site vehicles.
 - e) Procedures for addressing, managing and handling community specific issue arising on site activities and generated traffic on Ramsgate Street. This will involve community generated complaints being referred directly to the Site Manager. If the Site Manager is not on site at the time, an entry in the Site Management Book will be made to ensure appropriate action and monitoring is undertaken. A response would be required by the Site Manager to Complainant within 24 hours and prior to the 'close out' the complaint, Resolution of the complaint will recorded in Site Management Book. The Site Management Book will be maintained on site and made available to Council on request.
 - f) Maintenance procedure to ensure that the audio/video surveillance system installed for the purpose of managing on-site activities at the rear of the site is operational 24 hours a day, 7 days a week with direct streaming to the site office. Recorded data from the system shall be maintained for not less than 30 days and provided to Council on request,
 - g) Details of how on-site car and motorbike parking spaces will be allocated for specific boarders and Site Manager.
 - h) Procedures to be adopted by boarders and/or notices to boarders with respect to the use by any boarder and visitors.
 - i) All deliveries and waste collection are to be managed by the Site Manager in strict compliance with an operational Plan of Management (PoM) that prohibits uses during peak traffic generation times.
99. In addition, the plan of management is to address and include the following to Council's written satisfaction prior to the issue of the Construction Certificate:
- a) Procedures managing and controlling motor scooters/bikes engine capacities to less than 300/400cc
100. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed. Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.
101. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A)

above the existing background LA90 level (in the absence of the noise under consideration).

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

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

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

102. Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
103. The Protection of the Environment Operations (Noise Control) Regulation 2000, states that noise from any air-conditioning units (measured as the LAeq 15 minute) is not to exceed the background level (measured as the LA90 15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

Note: in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a suitable acoustic enclosure.

104. All wastewater and the stormwater system (including all pits, pipes, absorption, detention structures, treatment devices and rainwater tanks) shall be regularly maintained (at least once per year) in order to ensure that they remain effective. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
105. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 2018/1164 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.



27th June 2019

Bayside Local Planning Panel,
Bayside Council,
PO Box 21,
Rockdale NSW 2216

Attention: Panel Members

RE: 14-16 Ramsgate Street, Botany (DA-18/1164)- Proposed boarding house

Reference is made to the Panel's consideration of the above development application at the meeting on Tuesday 23rd April 2019.

A series of amendments were discussed to address the issues raised by neighbouring properties surrounding the subject site. The following amendments are considered to address those concerns, and are generally consistent with what was discussed at the Planning Panel meeting.

- The number of rooms has been reduced from 34 to 33 (including 32 boarding rooms and 1 manager's room)
- Car stackers have been removed and 16 car spaces are provided which complies with the parking requirement within the SEPP (Affordable Rental Housing) 2009 for boarding houses.

It is noted that the provision of car stackers was presented as a means of achieving parking compliance at the IHAP meeting, however, as Council would be aware, the site is subject to potential flooding impacts and therefore mechanical car stackers would not be supported.

Consequently, the architect has prepared an alternate layout which provides at grade parking without the need for car stackers.

The reduction in boarding rooms reduces the parking requirement down to 16 spaces based on 0.5 spaces for each boarding room and 0 car spaces for the manager's room. 16 car spaces are now provided.

As the panel would be aware, the nil provision of parking for the manager's room is consistent with the State Policy which states "not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site"

This has been applied consistently by Council and the Court, and therefore the nil provision of car parking for the manager's room does not generate any non-compliance. In accordance with *Arxidra Pty Ltd v*

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Randwick City Council; Arthur Wong Pty Ltd v Randwick City Council [2017] NSWLEC 1463, no spaces were required for the manager's room. Also, a boarding house at 1537 Botany Rd, Botany, was granted by Council under DA 2017/1058, with no car space being required for the manager's room.

The amended layout has generated a modification to the layouts from that previously considered. As is evident from a review of the amended plans, the amended scheme still meets the intent of what was discussed at the Local Planning Panel meeting – a reduction in bulk and scale at the rear of the built form, whilst also removing balconies and providing privacy screens to the eastern elevation facing the rear of properties addressed to Tenterden Road.

The amended landscape arrangement retains a significant buffer to the properties to the south / rear, whilst deep soil planting is also maintained along both side boundaries.

It is reiterated that the proposal achieves a high degree of compliance with the following SEPP, LEP and DCP controls:

- 8.5m height limit – 8.13m proposed
- 1:1 FSR standard – 0.67:1 proposed (456.6 sqm under)
- Landscape treatment of the front setback area is compatible with the streetscape
- Boarding room areas and communal room areas are compliant
- Solar access to communal room complies
- Solar access to neighbouring properties is compliant
- Car parking is now compliant
- Deep soil and landscaped open space are satisfactory, as confirmed in the planning assessment report.

The aerial photo below shows the substantial separation distances between the subject site and neighbouring properties to the east and south, which helps to minimise any amenity impacts to those properties:



Figure 1: Aerial photo showing separation distances between the subject site & neighbouring properties

The amended layout and parking reconfiguration are shown below:

Ground Floor



Figure 2: Previous ground floor and parking layout



Figure 3: Amended ground floor and parking layout

First Floor**Figure 4: Previous first floor layout****Figure 5: Amended first floor layout**

Bayside Local Planning Panel – 23rd April 2019

14-16 Ramsgate Street, Botany

In our opinion, the abovementioned amendments and accompanying amended plans and updated Plan of Management can suitably respond to issues raised at the Local Planning Panel meeting on 23rd April 2019.

We consider that such modifications strike an appropriate balance in addressing Council's concerns in relation to compatibility, whilst also addressing concerns in relation to car parking by achieving compliance.

An updated Plan of Management, which reflects the reduced boarding room numbers also accompanies this submission.

On this basis, we consider that the proposal is worthy of the Panel's support.

Yours sincerely,



Anthony Betros

Director- ABC Planning Pty Ltd

Bayside Local Planning Panel – 23rd April 2019

14-16 Ramsgate Street, Botany

APPENDIX 1

PLAN OF MANAGEMENT – BOARDING HOUSE

14-16 RAMSGATE STREET, BOTANY

**SUBMITTED TO
BAYSIDE COUNCIL**

**PREPARED BY
ABC PLANNING PTY LTD**

JUNE 2019

PLAN OF MANAGEMENT – 14-16 RAMSGATE STREET, BOTANY

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

SITE MANAGEMENT

1. The boarding house shall operate in accordance with the terms of this Plan as well as all conditions of development consent DA No/2018.
2. A copy of this plan is to be retained on Council's Development Application, Construction Certificate and Property File.
3. The boarding house shall be restricted to 32 boarding rooms, 1 manager room, and 1 communal room.
4. The boarding rooms shall comprise of 16 Single Rooms, 14 Double Rooms and 2 Accessible Rooms.
5. Maximum permanent resident occupancy shall be 48 persons (excluding manager). A schedule showing the numerical designation of each bedroom and the number of persons permitted to be accommodated in each room must be conspicuously displayed on the premises.
6. Each room must be numbered in accordance with the schedule and there must be displayed clearly on the door, or in each bedroom, the maximum number of persons allowed to be accommodated in the bedroom.
7. At no time is any room to be advertised or made available for short stay accommodation such as that associated with backpacker hostels, motels, hotels or the like.

ACCOMMODATION REGISTRATION

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

INFORMATION FOR LODGERS

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

LODGER IDENTIFICATION

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

MANAGERS RESPONSIBILITIES

17. The manager shall be familiar with and aware of his or her responsibilities under such legislation as the OHS Act 2000, OHS Regulation 2001 and the Innkeepers Act.
18. The manager must be a permanent resident. When not present on site, the mobile phone number of the manager must be readily available. A sign (including the name and phone number of the manager) which is clearly visible must be displayed adjacent to the entrance of the premises.
19. The on-site manager must be over 18 years of age.
20. The manager shall be responsible for keeping all common areas in an excellent state of cleanliness.
21. The manager shall ensure that no lodgers are using the communal area between 9pm and 7am daily
22. The manager will act as community liaison. Contact details for the manager will be distributed to local residents to contact with concerns or issues arising from the boarding house. The on-site manager will conduct meetings with local residents as required.

OCCUPANCY/VISITORS

23. No more than 1 adult lodger and 1 visitor shall be permitted in the single rooms and 2 adult lodgers and 1 visitor shall be permitted in the double rooms.
24. Visitors to the premises are only permitted between 9am and 9pm. Greater occupancy than those registered shall result in cessation of occupancy. Any lodger inviting visitors to the premises must accept full responsibility for them and their behaviour. Visitors are not permitted to utilise the communal open space area.

COMPLAINTS

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

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

SIGNAGE

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

ONGOING MAINTENANCE

32. A contracted gardener shall be engaged once every 3 months to maintain the health and appearance of all landscaped areas.
33. An accessible path of travel shall be maintained between the street entry and the accessible boarding rooms as well as to the common room and external courtyard.
34. Pest control by a professional contractor shall be carried out at least once a year.
35. The external presentation of the premises to maintained to a high standard with all rendered surfaces to be cleaned and painted as necessary.

WASTE MANAGEMENT

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

HOUSE CLEANING

39. The rooms, common areas and communal room are to be professionally cleaned by the on-site manager weekly.

HOUSE RULES

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

ROOM FURNISHING

46. All rooms are to be fully furnished and no lodger may bring their own furniture to the premises. Each room shall be provided with:
- a. Single/Double bed including base, mattress and mattress protector
 - b. Wardrobe
 - c. Mirror
 - d. Table and chair
 - e. Suitable lighting including night light
 - f. Waste receptacles including recyclables
 - g. Curtains/blinds or other privacy device
 - h. Kitchenette to include sink, bench, storage, bar fridge and microwave
47. No furniture or storage of any bulky household items are permitted to be stored on site.
48. The lodgers shall advise the manager of any broken furniture or faulty services within each room or laundry. The manager shall be responsible for replacement of furniture as required.
49. Each lodger shall permit the manager access as required to check cleanliness, condition of furniture and maintenance of services (fridge, microwave oven). The manager must give each lodger at least 1 days' notice of an inspection.

PUBLIC LIABILITY INSURANCE

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

ENERGY EFFICIENCY

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

FIRE SAFETY/CERTIFICATION

52. A copy of the annual fire safety compliance statement shall be displayed in a prominent location. Essential fire safety measures to comply with the *Environmental Planning and Assessment Regulation 2000*
53. Mattresses, curtains and furniture will be of materials that resist the spread of fire, and limit the generation of smoke and heat.
54. An evacuation plan must be clearly displayed in each room and common room. A floor plan must be permanently fixed to the inside of the door of each sleeping room to indicate the available emergency egress routes from the respective sleeping room
55. The manager's contact phone number must be clearly displayed at the entrance of the premises whilst also being available in each room. Other emergency contact

details (police, fire ambulance) as well as utility information (gas, electricity, plumbing) are to also be clearly visible in each room.

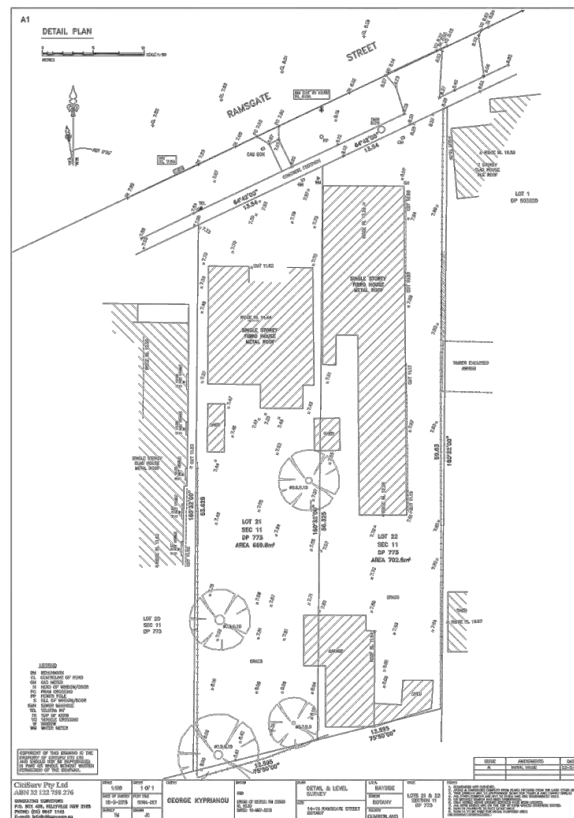
56. Annual certification of Fire Safety Equipment and preparation of the Form 15a is carried out by a fire safety consultant. Annual certification required of any of the equipment is overseen by the owners.

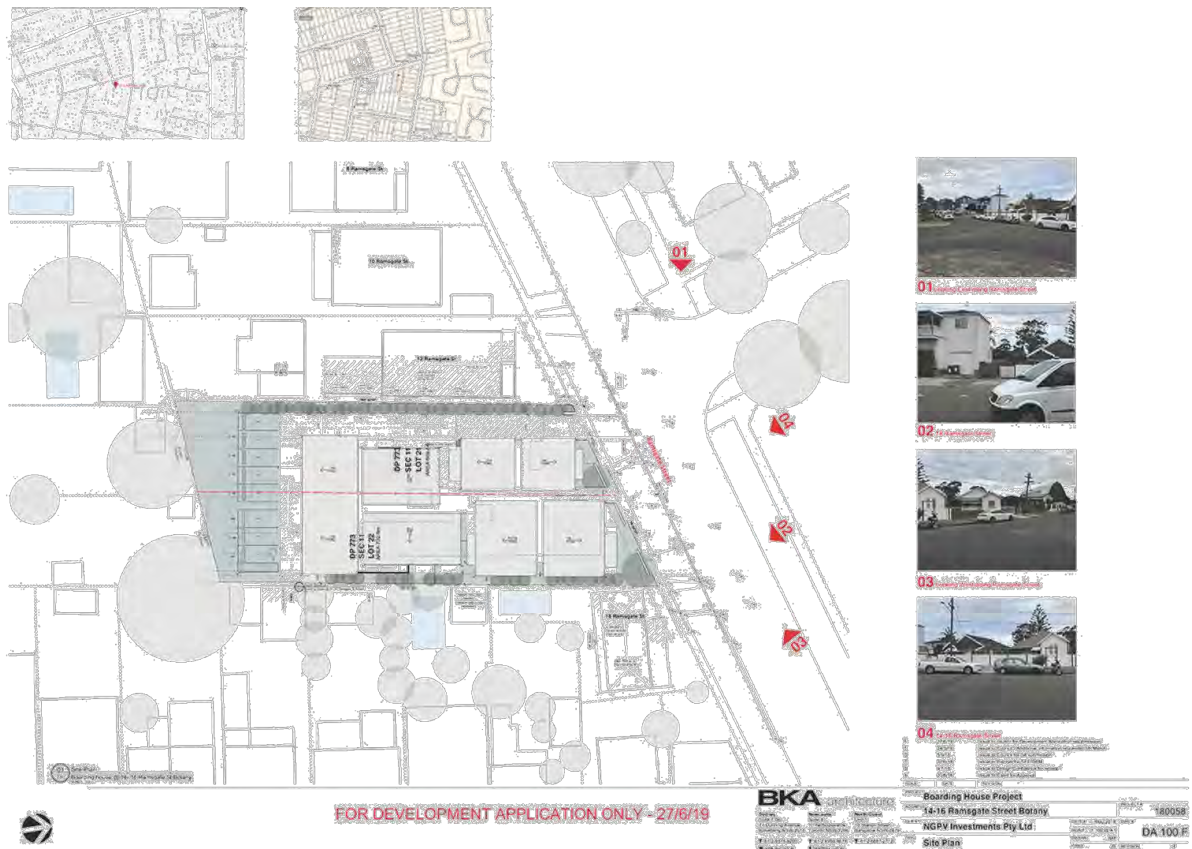
SAFETY AND SECURITY

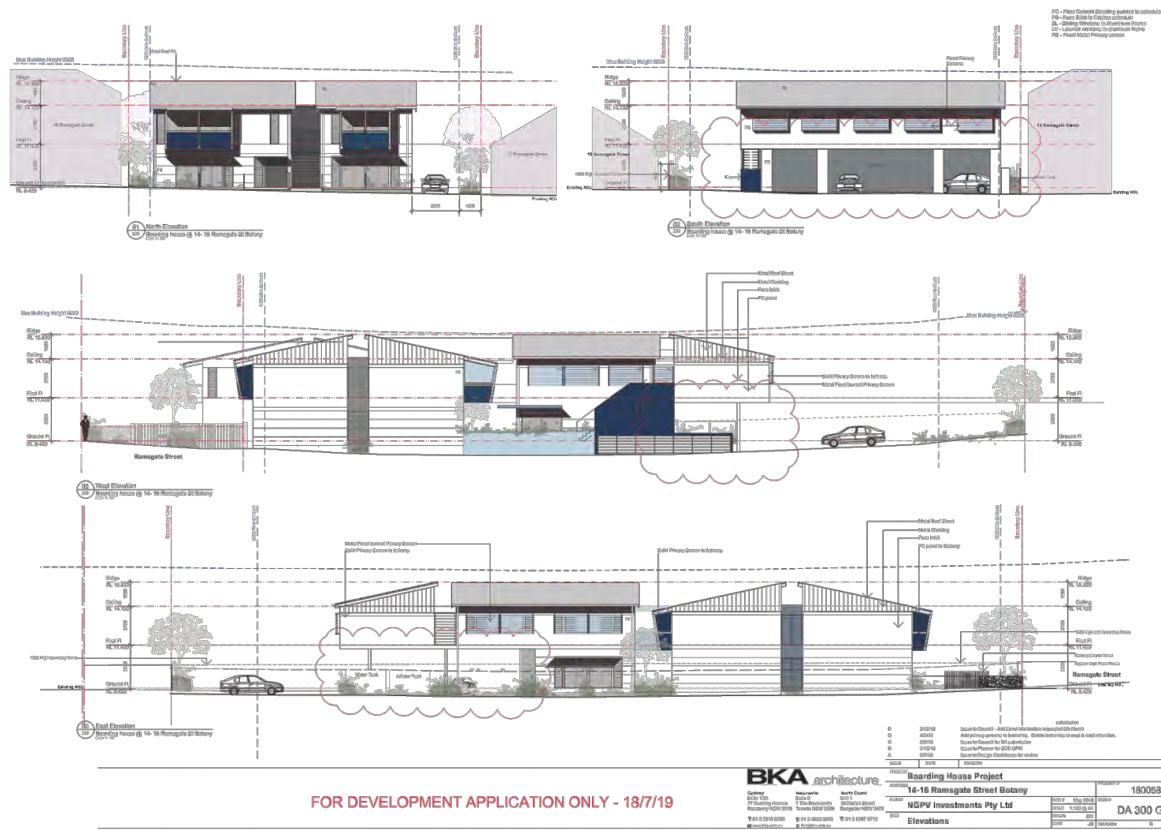
57. Check in time for new lodger will be between 9am and 6pm daily with lodgers to be registered by the lodger manager.
58. A swipe card will be issued to all lodgers with no additional cards to be issued to visitors.
59. Any lodger failing to observe the rules and any cases of serious misconduct will be dealt with by the manager who may require a lodger to leave the premises. Examples of serious misconduct include, but are not limited to, drug or alcohol abuse, sexual, racial or religious harassment, theft or violence. Lodgers are to advise the manager if another lodger is performing illegal acts on the property. The manager shall call the Police in such instance.
60. Additional safety and security measures for all residents may include but are not limited to such things as internal signage indicating the property manager and contact number, emergency contact numbers for essential services such as fire, ambulance, police, and utilities such as gas, electricity, plumbing, installation of perimeter lighting, appropriate fencing and secure gates, and all residents to have own keys.

OCCUPATION HEALTH AND SAFETY REQUIRMENTS

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









LEGEND & SCHEDULE

NOTES:

1. ALL FINAL PLANT QUANTITIES INDICATED ON PLANS SHALL BE CHECKED AND VERIFIED BY SUGGESTED LANDSCAPE CONTRACTOR.
2. ANY PLANT SPECIES REQUIRED TO BE SUBSTITUTED SHALL BE RECOMMENDED BY THE LANDSCAPE CONTRACTOR TO BEST MATCH SPECIFIED PLANTS AND APPROVED PRIOR TO PURCHASING BY THE LANDSCAPE CONTRACTOR.
3. WORKS SET OUT FOR FINAL OCCUPANCY DESIGN ARE TO BE APPROVED LANDSCAPE PLANS.
4. LANDSCAPE CONTRACTOR SHALL LOCATE AND AVOID ALL STORMWATER DRAINAGE SERVICES LOCATED WITHIN A MINIMUM 1.0M FROM THE PROPERTY BOUNDARY TO PREVENT DAMAGE TO THE DRAINAGE SYSTEMS.
5. ALL PLANTING AND MAINTENANCE WORKS SHALL BE COMPLETED BY THE LANDSCAPE CONTRACTOR PRIOR TO THE COMMENCEMENT OF THE PROJECT.
6. THE NATURAL BOUNDARY (HONEYEATER) FOR THE SITE IS PUBLIC LAND, AND ONLY APPROVED WORKS MAY OCCUR HERE. EXISTING CONDITIONS SUCH AS STREET TREES, DRIVING PLANTS AND SOIL SHALL BE RETAINED AND PROTECTED DURING CONSTRUCTION. UNLESS SPECIFIC APPROVAL HAS BEEN GRANTED FOR NEW PLANTING HERE.

TREES

	Botanical Name: <i>Waterhousea borbonica</i> Common Name: Weeping Lily Pili (Native) Pot size: 75L Mature H x W: 10m x 2m Qty Required: 1
	Botanical Name: <i>Cordia alliodora</i> Common Name: Tuckeroo (Native) Pot size: 75L Mature H x W: 8-10m x 3-5m Qty Required: 1
	Botanical Name: <i>Cratogeomys guineensis</i> Common Name: NSW Christmas Bush (Native) Pot size: 300mm Mature H x W: 3-5m x 3-4m Qty Required: 2
	Botanical Name: <i>Volcanella laevis 'Speciosa'</i> Common Name: Watercress (Native) Pot size: 35L Mature H x W: 5-6m x 3-5m Qty Required: 6
	Botanical Name: <i>Lagerströmia indica</i> Common Name: Cape Myrtle (Exotic) Pot size: 100L Mature H x W: 8m x 3m Qty Required: 1
	Botanical Name: <i>Chrysopsis reticulata</i> Common Name: Redwing Ash (Native) Pot size: 35L Mature H x W: 8-10m x 6-7m Qty Required: 6

SHRUBS AND HEDGES

	Botanical Name: <i>Acacia 'Sublimis'</i> Common Name: Sublimis Lily Pili (Native) Pot size: 300mm Mature H x W: 5m x 2.5m Qty Required: 18
	Botanical Name: <i>Acacia 'Cherry Supine'</i> Common Name: Cherry Supine Lily Pili (Native) Pot size: 350mm Mature H x W: 2m x 1.5m Qty Required: 32
	Botanical Name: <i>Acacia 'pinnatifida'</i> Common Name: Pinnatifida Lily Pili (Native) Pot size: 300mm Mature H x W: 2-3m x 2m Qty Required: 28
	Botanical Name: <i>Manisotoma 'Grand Top'</i> Common Name: Grand Top Honey Myrtle (Native) Pot size: 300mm Mature H x W: 8-10m x 1m Qty Required: 34
	Botanical Name: <i>Cornus alba</i> Common Name: White Cornus (Native) Pot size: 200mm Mature H x W: 1.5m x 1m Qty Required: 25
	Botanical Name: <i>Rhaphis excelsa</i> Common Name: Rhaphis Palm (Exotic) Pot size: 300mm Mature H x W: 2m x 1.5m Qty Required: 16

ACCENT PLANTS

	Botanical Name: <i>Zamia furcata</i> Common Name: Caribbean Palm (Exotic) Pot size: 200mm Mature H x W: 1m x 0.5m Qty Required: 9
	Botanical Name: <i>Corydalis aurea</i> Common Name: Golden Lily (Native) Pot size: 45L Mature H x W: 1.5m x 1m Qty Required: 8
	Botanical Name: <i>Rhododendron 'Kinsley'</i> Common Name: Kinsley Plant (Exotic) Pot size: 200mm Mature H x W: 0.5m x 0.5m Qty Required: 11
	Botanical Name: <i>Dorstenia grandifolia</i> Common Name: Fertilizer Lily (Exotic) Pot size: 140mm Mature H x W: 0.5m x 0.5m Qty Required: 67



AN AUTOMATED COMMERCIAL GRADE IRRIGATION SYSTEM SHALL BE PROFESSIONALLY INSTALLED TO ALL GARDEN AREAS, INCLUDING RAISED PLANTERS AND GARDENS IN NATURAL GROUNDS. THE SYSTEM SHALL BE DESIGNED AND INSTALLED IN LINE WITH THE IRRIGATION PERFORMANCE SPECIFICATION. A LICENSED CONTRACTOR OR LANDSCAPER, THE LICENSED CONTRACTOR SHALL PREPARE AN 'AS BUILT' PLAN OF THE SYSTEM TO THE SUPERINTENDENT FOR SITE RECORDS, FOR FUTURE MAINTENANCE.

GRASSES + GROUNDCOVERS

	Native Grass Groundcover Mix: <i>Parrotia longifolia 'Tanka'</i> <i>Thamnia blanda</i> <i>Stemodia laevis 'Riviera'</i> Pot size: 140mm Mature H x W: 4.5m Qty Required: 4m ² (15m ² total)
	Botanical Name: <i>Cynodon dactylon</i> Common Name: Mondo grass (Exotic) Pot size: 140mm Mature H x W: 0.2m x 0.2m Qty Required: 8m ² (12.5m ² total)
	Botanical Name: <i>Trachypogon 'Jambou'</i> Common Name: Star Jasmine (Exotic) Pot size: 140mm Mature H x W: 0.2m x 0.2m Qty Required: 8m ² (12.5m ² total)

OTHER LANDSCAPE ITEMS

	Brick edging - refer detail
	Turf area - refer detail
	Concrete surface
	Paved area - style & colour to be seen by client
	Gravel surface - refer detail
	Retaining / raised planter wall - refer detail
	Trees proposed to be removed and replaced with new landscaping
	Existing trees proposed to be retained and protected
	Tree Protection zone - refer to arborist's report
	1.0m Gate and fence - colour and style to be seen by client

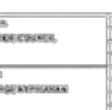
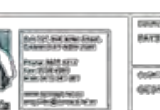
TREE SURVEY

Existing Trees based on Arborist's Report by TLO

No.	Species	Size (H x W)
1	<i>Amorpha heterophylla</i>	18x10
2	<i>Phoenix canariensis</i>	6x6
3	<i>Eucalyptus balyardii</i>	10x14
4	<i>Mangifera indica</i>	6x4.7
5	<i>Pterocarya elegans</i>	4.5x2
6	<i>Dysoxylum</i>	5x2



Site plan showing the layout of the site. It includes a large central area labeled 'TUNNEL' and a 'PROPOSED PERMEABLE DRIVEWAY' on the right. Various trees and shrubs are indicated by numbers 1 through 6, corresponding to the schedule. The plan also shows existing trees to be retained, trees to be removed, and a screen planting to be installed. A note indicates that the screen planting is to be installed near the boundary to include a 1.0m wide strip. The plan also shows a 'PROPOSED PERMEABLE DRIVEWAY' and a 'PROPOSED PERMEABLE DRIVEWAY'.





9am - 22nd June



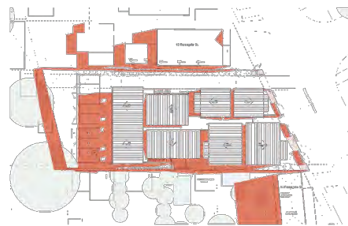
12pm - 22nd June



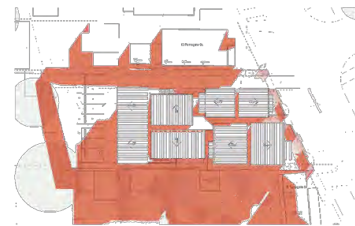
3pm - 22nd June



9am - 22nd June



12pm - 22nd June



3pm - 22nd June



FOR DEVELOPMENT APPLICATION ONLY - 27/6/19

BKA architecture		Boarding House Project		180058	
14-16 Ramsgate Street Botany		NGPV Investments Pty Ltd		DA 602 E	
Shadow June 22					

20 May 2019

Bayside Council
PO BOX 21,
Rockdale NSW 2216

Attn: Adam Iskander

SHADOW DIAGRAM VERIFICATION
Re: 14-16 Ramsgate Street Botany

BJA Architecture confirms that the Shadow Diagrams (drawing nos. DA601 and DA602) have been prepared by using a 3D computer generated model and the input levels from a survey prepared by a registered surveyor.

Yours Sincerely,
BJA Architecture

Silvia Fedel.
Director

Rev B 2019

BJA architecture

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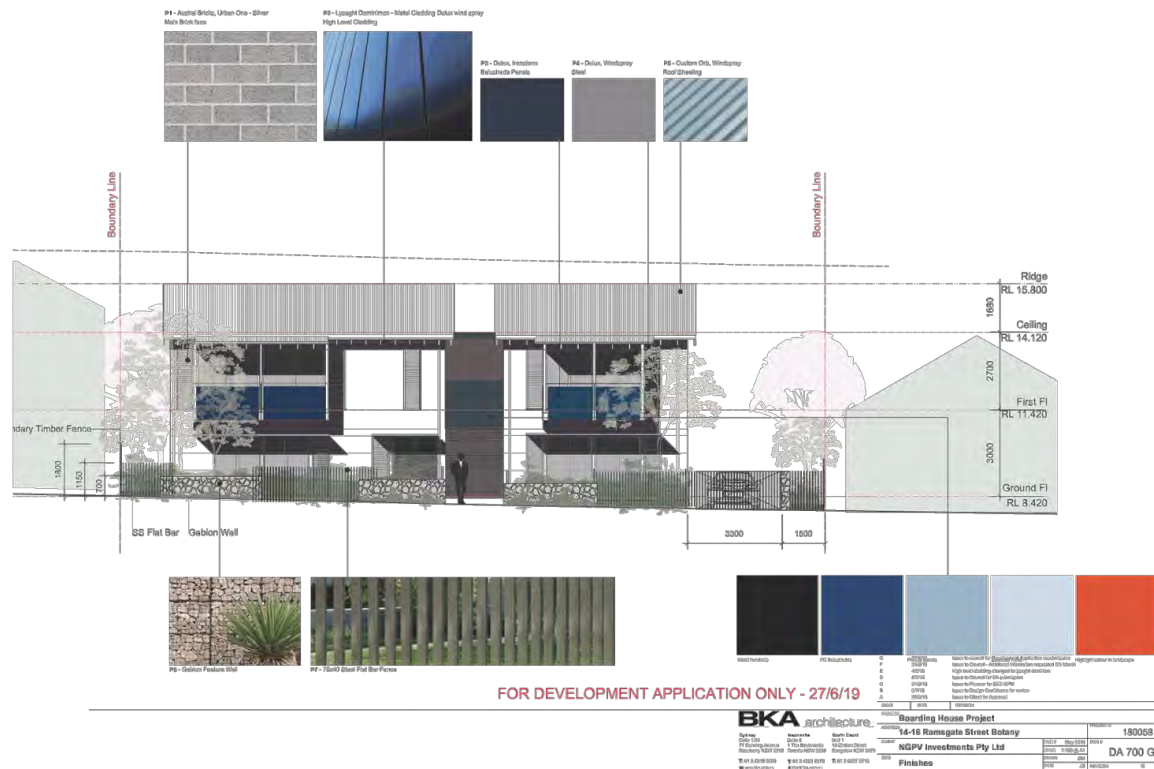
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1

DOCUMENT CONTROL REGISTER

Project Number	20181042.1
Project Name	14-16 Ramsgate St, Botany
Document Title	DA Noise Impact Assessment
Document Reference	20181042.1/0609A/R1/GC
Issue Type	Email
Attention To	The Trustee for NGPV Investments Trust

Revision	Date	Document Reference	Prepared By	Checked By	Approved By
0	24/08/2018	20181042.1/2408A/R0/GC	GC		GW
1	6/09/2018	20181042.1/0609A/R1/GC	GW		GW

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1 INTRODUCTION

Acoustic Logic Consultancy (ALC) have been engaged to conduct an acoustic assessment of potential noise impacts associated with the proposed boarding house development to be constructed at 14-16 Ramsgate Street, Botany.

This document addresses noise impacts associated with the following:

- Aircraft noise intrusion into the project building;
- Noise emissions from operation of external walkway, indoor communal room, outdoor communal area, car park and mechanical plant to service the project.

This assessment has been conducted in accordance with the requirements of the following documents:

- Botany Bay Council DCP 2013 (as part of the Bayside Council);
- Australian Standard AS 2021:2015 '*Acoustics – Aircraft noise intrusion – building siting and construction*';
- NSW Environmental Protection Agency document –Noise Policy for Industry 2017.

This assessment has been conducted based on the architectural drawings provided by BKA Architecture, see drawing details listed in table 1 below.

Table 1 – Architectural Drawing List

Drawing Number	Revision	Date	Drawing Title
DA001	B	May 2018	Cover Sheet
DA100	B	May 2018	Site Analysis
DA101	B	May 2018	Demolition, construction and waste plan
DA200	B	May 2018	Gnd Fl Plan
DA201	B	May 2018	First Floor Plan
DA202	B	May 2018	Roof
DA300	A	May 2018	Elevations
DA400	A	May 2018	Sections
DA500	A	May 2018	Perspective
DA600	B	May 2018	Site Calculations
DA601	A	May 2018	Shadow – March 22

2 SITE DESCRIPTION

The site is located at 14-16 Ramsgate St, Botany. The proposed development will be a two storey boarding house, with parking, communal room on the ground floor and studio units from ground level and the first floor.

The site is bound to the north by Ramsgate Street, which carries a low volume of traffic primarily for residential access.

The nearest noise receivers around the project site includes:

- Receiver 1 (R1): Residential dwelling bounding the site to the west (12 Ramsgate Street).
- Receiver 2 (R2): Residential dwelling bounding the site to the east (18 Ramsgate St) .
- Receiver 3 (R3): Residential dwellings bounding the site to the east (75 to 79 Tenterden Road) .
- Receiver 4 (R4): Residential dwelling bounding the site to the south (12 to 14 Chatham Street).

A site map, measurement description and surrounding receivers are presented in Figure 1 below.



Figure 1 - Site Map and Noise Measurement Locations (Map sourced by Google Maps)

3 NOISE DESCRIPTORS

In the case of environmental noise three principle measurement parameters are used, namely L_{10} , L_{90} and L_{eq} .

The L_{10} and L_{90} measurement parameters are statistical levels that represent the average maximum and average minimum noise levels respectively, over the measurement interval.

The L_{10} parameter is commonly used to measure noise produced by a particular intrusive noise source since it represents the average of the loudest noise levels produced by the source.

Conversely, the L_{90} level (which is commonly referred to as the background noise level) represents the noise level heard in the quieter periods during a measurement interval. The L_{90} parameter is used to set the allowable noise level for new, potentially intrusive noise sources since the disturbance caused by the new source will depend on how audible it is above the pre-existing noise environment, particularly during quiet periods, as represented by the L_{90} level.

The L_{eq} parameter represents the average noise energy during a measurement period. This parameter is derived by integrating the noise levels measured over the measurement period. L_{eq} is important in the assessment of traffic noise impact as it closely corresponds with human perception of a changing noise environment; such is the character of traffic noise.

Traffic noise constantly varies in level, due to fluctuations in traffic speed, vehicle types, road conditions and traffic densities. Accordingly, it is not possible to accurately determine prevailing traffic noise conditions by measuring a single, instantaneous noise level. To accurately determine the effects of traffic noise a 15-20 minute measurement interval is utilised. Over this period, noise levels are monitored on a continuous basis and statistical and integrating techniques are used to determine noise description parameters. These parameters are used to measure how much annoyance would be caused by a particular noise source.

Current practice favours the L_{eq} parameter as a means of measuring traffic noise, whereas the L_{10} parameter has been used in the past and is still incorporated in some codes. For the reasons outlined above, the L_{90} parameter is not used to assess traffic noise intrusion.

$LA_{max,F}$ refers to the maximum noise level occurring during a measurement period, and is used when assessing sleep disturbance impacts.

$LA_{max(Slow)}$ refers to the, slow, maximum noise level occurring during a measurement period, and is used when assessing aircraft noise intrusion.

The L_1 parameter refers to the sound pressure level that is exceeded for 1% of the time for which the given sound is measured.

SEL (sound exposure level) with "A" frequency weighting.

4 EXTERNAL NOISE INTRUSION ASSESSMENT

Site investigation indicates that the major external noise sources around project site are below:

- Aircraft noise from Sydney Kingsford Smith Airport; and

4.1 NOISE INTRUSION CRITERIA

An aircraft and traffic noise intrusion assessment has been conducted in accordance to the requirements of the following acoustic noise criteria/standards;

- Botany Local Environmental Plan 2013;
- Australian Standard AS 2021:2015 'Acoustics – Aircraft noise intrusion – building siting and construction';

4.1.1 Botany Local Environmental Plan 2013

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*.

It is noted that AS 2021-2000 has been superseded by AS 2021:2015.

4.1.2 Australian Standard AS 2021:2015 'Acoustics – Aircraft noise intrusion – building siting and Construction'

AS2021 states that a full evaluation of internal noise levels should be carried out for locations with an aircraft noise exposure close to or exceeding ANEF 20. This full evaluation requires an examination of likely levels of internal noise from aircraft flyovers.

AS2021 stipulates the internal noise levels listed in the tables below for residential and commercial buildings. These levels will be used to assess aircraft noise intrusion into the residential and commercial areas of the development.

Table 2- Aircraft Noise Levels inside Residential Buildings

Activity	Indoor Design Sound Level From Aircraft Flyover - dB(A) $L_{Max(slow)}$
Sleeping areas, dedicated lounges	50 dB(A)
Other habitable spaces	55 dB(A)
Bathrooms, toilets, laundries	60 dB(A)
Service activities (Hostels)	75 dB(A)

4.2 AIRCRAFT NOISE ASSESSMENT

4.2.1 Site Evaluation

Assessing the acceptability of aircraft noise exposure is done so using Australian Standard AS 2021-2015 "Aircraft Noise Intrusion – Building Siting and Construction". The standard sets the criteria for the allowable levels of aircraft noise exposure dependant on the situation and use of the development.

The acceptability of a site in terms of aircraft noise exposure is assessed using the Australian Noise Exposure Forecast System (ANEF). ANEF was produced to provide a rating system that reflects actual human response to different aspects of aircraft noise, allowing the noise exposure of a particular location to be readily assessed. The three fundamental factors that influence the perception of aircraft noise are as follows; the frequency of aircraft movements overhead, the noise level and duration of individual aircraft movements and the time of the day in which they occur.

The proposed site is located between the ANEF 20-25 contour, based on the Sydney Airport 2033 ANEF plan. For any sites located on or near the 20 ANEF contour and within any contours that are higher (i.e ANEF 25, 30 etc), it is recommended that the proposed site be assessed to ensure that internal noise levels are limited to those recommended in AS2021-2015.

4.2.2 External Aircraft Noise Levels

Aircraft noise levels at the site were determined using AS 2021. The Standard gives aircraft noise levels for aircraft landing and taking off for locations near airports. The location of the runways was obtained from the Sydney Airport ANEF 2033.

AS2021 predicts that the loudest typical aircraft movement will be from an Airbus A330 aircraft taking off from the Third Runway from Sydney Airport. The noise level at project site, as indicated by the standard, is 74dB(A). This noise level will be used to predict the resultant internal noise levels of the residence.

Table 3 – Predicted External Aircraft Noise Level

Airbus A330 Aircraft	Sydney Airport Third Runway
Sideline Distance (DS), m	1000m for take offs - 1000m for landings
Distance for Take Offs (DT), m*	3600m
Distance for Landings (DL), m*	1200m
A330 Take Off – (dB (A))	<74
A330 Landing – (dB (A))	<58
Aircraft Noise Reduction (ANR) - A330 Take Off - (dB (A))	19 Living 24 Sleeping 14 Wet
Aircraft Noise Reduction (ANR) - A330 Landing – (dB (A))	3 Living 8 Sleeping N/A Wet

4.3 NOISE INTRUSION ANALYSIS

Internal noise levels will primarily be as a result of noise transfer through the roof, walls, windows and doors as these are relatively light building elements that offer less resistance to the transmission of sound.

The predicted noise levels through the roof, walls, windows and doors are discussed below. The predicted noise levels have been based on the expected level and spectral characteristics of the external noise, the area of building elements exposed to aircraft and traffic noise, the absorption characteristics of the rooms and the noise reduction performance of the building elements.

Traffic and aircraft noise intrusion into the proposed development was assessed using the measured traffic noise levels and predicted aircraft noise level presented above.

Calculations were undertaken taking into account the orientation of windows, barrier effects (*where applicable*), the total area of glazing, facade transmission loss and room sound absorption characteristics. In this way the likely interior noise levels can be predicted.

4.4 RECOMMENDED CONSTRUCTIONS

4.4.1 Glazed Windows and Doors

The following constructions are recommended to comply with the project's internal noise criteria (see section 4.1). Aluminium framed/sliding glass doors and windows will be satisfactory provided they meet the following criteria. All external windows and doors listed are required to be fitted with Q-lon type acoustic seals.

Given that the existing glazing is to be retained for rooms 11 and 12 on level 1, it is recommended that an additional frame and glazing is installed behind the existing window with the nominated air gap. The additional window frame should fully enclose the existing window frame. Furthermore, the additional frame and glazing should seal airtight when closed.

We note that the existing construction of 6mm float glazing on the ground floor to the existing commercial space is sufficient to comply with the acoustic requirements of this report.

Mohair seals and/or mohair/plastic fin combination seals are unacceptable.

Thicker glazing may be required for structural, safety or other purposes. Where it is required to use thicker glazing than scheduled, this will also be acoustically acceptable.

The recommended constructions are listed in Table 4 below.

Table 4 – Glazing Thickness Requirements

Level	Space	Recommended Glazing	Acoustic Seals
Ground	Communal Room	6.38mm laminated	Yes
	Managers Room	6.38mm laminated	Yes
	Room 1 to 13	6.38mm laminated	Yes
1	All rooms	6.38mm laminated	Yes

Note: Mohair seals and/or mohair/plastic fin combination seals are unacceptable.

It is recommended that only window systems having test results indicating compliance with the required ratings obtained in a certified laboratory be used where windows with acoustic seals have been recommended. We note that glazing louvres are not acceptable.

In addition to complying with the minimum scheduled glazing thickness, the R_w rating of the glazing fitted into open-able frames and fixed into the building opening should not be lower than the values listed in Table 5 for all rooms. Where nominated, this will require the use of acoustic seals around the full perimeter of open-able frames and the frame will need to be sealed into the building opening using a flexible sealant.

Table 5 - Minimum R_w of Glazing (with Acoustic Seals)

Glazing Assembly	Minimum R_w of Installed Window
6.38mm Laminated	31

4.4.2 External Roof/Ceiling

Any external roof construction to be constructed from concrete will not require any further acoustic upgrading. In the event that any penetrations are required through the external skin, an acoustic sealant should be used to minimise all gaps.

Any light weight roof construction will need to be as per the table below.

Penetrations in ceilings (such as for light fittings etc.) must be sealed gap free with a flexible sealant. Any ventilation openings in the ceilings would need to be acoustically treated to maintain the acoustic performance of the ceiling construction.

The recommended roof/ceiling construction is shown in figure 4 below.

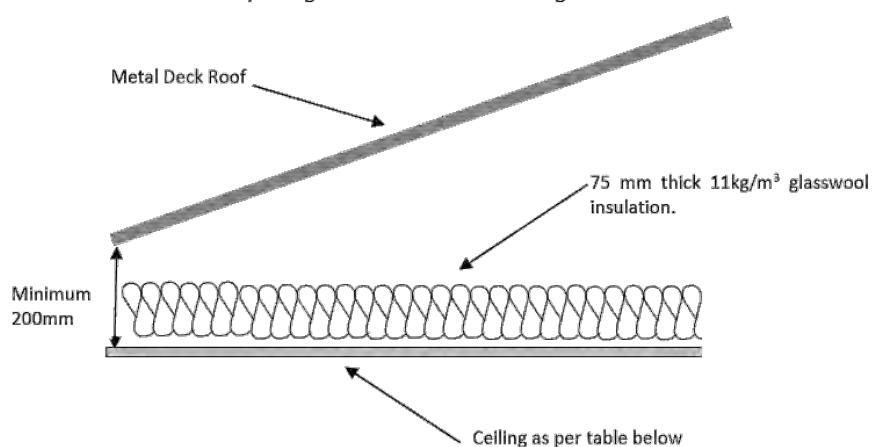


Figure 2 -Roof and Ceiling Construction

Table 6- Recommended Roof and Ceiling Construction

Space	Plasterboard Thickness
All Rooms	1x13mm plasterboard

4.4.3 Plasterboard Corner Details

The recommended plasterboard ceiling/wall corner construction options over the bedrooms are shown below.

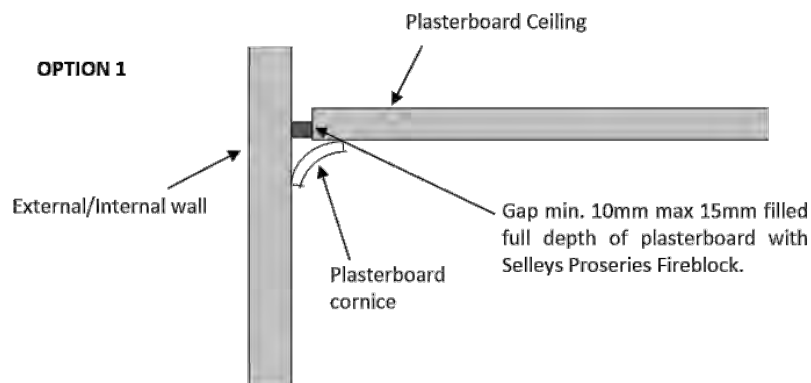


Figure 3: Plasterboard Corner Details (Option 1)

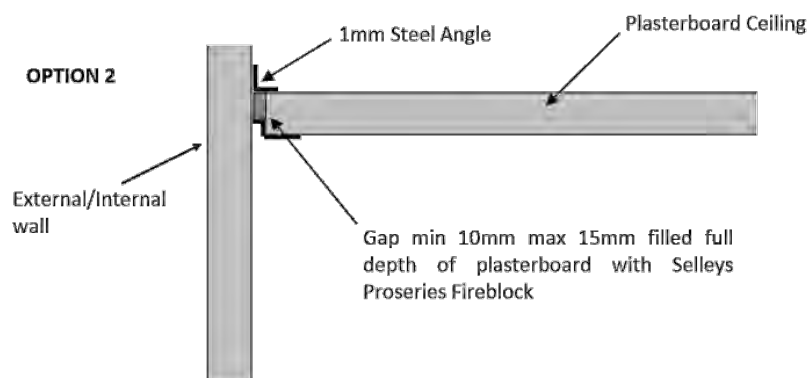


Figure 4: Plasterboard Corner Details (Option 2)

4.4.4 External Walls

Option 1 – Any external wall construction constructed from concrete elements will not require any further acoustic upgrading.

Option 2 – Any external wall construction constructed from lightweight elements (i.e. plasterboard, fibre cement sheeting etc) will not require any further acoustic upgrading with structure of minimum R_w 50 ratings.

In the event that any penetrations are required through the external skin, an acoustic sealant should be used to minimise all gaps.

4.4.5 External Entry Doors

Any timber external doors shall be a minimum 40mm solid core timber with Lorient IS7025 to the top and sides and IS8011si to the underside of the door.

Any glass doors should be constructed using glazing thickness set out in Table 4. Full perimeter acoustic seals around the doors are required.

4.4.6 Mechanical Ventilation

AS2021-2015 requires the installation of ventilation or air conditioning system where aircraft noise exposure exceeds ANEF 20. As internal noise levels cannot be achieved with windows open it is required that an in **All Habitable Spaces** have alternative outside air supply system or air conditioning be installed in accordance with AS 1668.2 requirements. Any mechanical ventilation system that is installed should be acoustically designed such that the acoustic performance of the recommended constructions are not reduced by any duct or pipe penetrating the wall/ceiling/roof. Noise emitted to the property boundaries by any ventilation system shall comply with Council requirements.

5 NOISE EMISSION ASSESSMENT

Noise emissions from the site have been assessed for the following noise sources:

- Noise emissions from mechanical plant in operation;
- Noise Emission from Outdoor Communal Area
- Noise Emission from Indoor Communal Area
- Noise Emission from Car Park

See Section 2 for nearest sensitive noise receivers and Figure 1 for their locations.

5.1 BACKGROUND NOISE LEVELS

Background noise levels which will be used as a basis for this assessment are detailed in the following sections.

5.1.1 Measurement Equipment

Unattended noise monitoring was conducting using one Acoustic Research Laboratories Pty Ltd noise logger. The logger was programmed to store 15-minute statistical noise levels throughout the monitoring period. The equipment was calibrated at the beginning and the end of each measurement using a Rion NC-73 calibrator; no significant drift was detected. All measurements were taken on A-weighted fast response mode.

5.1.2 Measurement Period

Unattended noise monitoring was conducted Friday July 20th, 2018 to Friday July 27th, 2018.

5.1.3 Measurement Location

Unattended noise monitors were installed at in the backyard of 14-16 Ramsgate St, Botany. For a detailed location refer to Figure 1. The photo of the noise monitor is below:



Figure 5 - Location 1 Picture of Noise Monitor in Backyard – 14-16 Ramsgate St

5.2 MEASURED BACKGROUND NOISE LEVELS

The background noise levels established from the unattended noise monitoring are detailed in the table below.

5.2.1 Unattended Noise Measurements

NSW EPA's RBL assessment procedure requires determination of background noise level for each day (the ABL) then the median of the individual days as set out for the entire monitoring period.

Appendix 1 provides the results of the unattended noise monitoring. The processed Rating Background Noise Levels (lowest 10th percentile noise levels during operation time period) are presented in Table below.

Location— At Rear of 14-16 Ramsgate St

Table 7 – Unattended Noise Monitor – Front Awning – Rating Background Noise Level

Date	Measured Rating Background Noise Level dB(A) _{L₉₀}		
	Day (7am-6pm)	Evening (6pm-10pm)	Night (10pm-7am Next Day)
Friday July 20 th , 2018	52	46	39
Saturday July 21 st , 2018	34	36	35
Sunday July 22 nd , 2018	41	42	40
Monday July 23 rd , 2018	40	45	38
Tuesday July 24 th , 2018	41	46	43
Wednesday July 25 th , 2018	41	47	38
Thursday July 26 th , 2018	36	37	40
Friday July 27 th , 2018	43	-	-
Median	41	45	39

5.2.2 Summarised Rating Background Noise Levels

Summarised rating background noise levels are presented below.

Table 8 – Summarised Rating Background Noise Level

Location	Period/Time	Background Noise Level dB(A) _{L₉₀(Period)}
14-16 Ramsgate St (Located in back yard- see figure 1)	Day (7am-6pm)	41
	Evening (6pm-10pm)	45
	Night (10pm-7am)	39

5.3 NOISE EMISSION OBJECTIVES

The following documents are used to establish the noise emission criteria for the development site:

- City of Botany Bay Council DCP
- EPA Noise Policy for Industry 2017
- Protection of Environmental Operation Act Regulation

5.3.1 City of Botany Bay Council DCP

The City of Botany Bay Council states:

"C18 The noise level from air conditioning systems is not to exceed the $L_{Aeq,15\text{ minute}}$ by 5dBA measured at the property Boundary.

5.3.2 NSW EPA Industrial Noise Policy for Industry 2017

The NSW EPA Noise Policy for Industry 2017, has two criteria which need to be satisfied; namely the Intrusiveness noise level criteria and the Project amenity noise level criteria. The project noise trigger level is then established based on the lower of the intrusiveness and project amenity levels.

Noise levels are to be assessed at the property boundary or nearby dwelling, or at the balcony or façade of an apartment.

5.3.2.1 Intrusiveness Noise Level Criteria

The guideline is intended to limit the audibility of noise emissions at residential receivers and requires that noise emissions measured using the L_{eq} descriptor do not exceed the background noise level by more than 5dB(A). Where applicable, the intrusive noise level should be penalised (increased) to account for any annoying characteristics such as tonality.

Background noise levels adopted are presented in Section 5.1. Noise emissions from the site should comply with the noise levels presented below when measured at nearby property boundary.

Table 9– Allowable Intrusive Noise Levels

Location	Intrusiveness Noise Goals dB(A) $L_{eq}(15\text{ minutes})$		
	Daytime (7am – 6pm)	Evening (6pm – 10pm)	Night-time (10pm – 7am)
All Affected Boundaries	46	50	44

5.3.2.2 Project Amenity Noise Level Criteria

The guideline is intended to limit the absolute noise level from all noise sources to a level that is consistent with the general environment.

The NSW EPA Industrial noise policy sets out acceptable noise levels for various localities. Table 2.2 on page 11 of the policy indicates 3 categories to distinguish different residential areas. They are rural, suburban, urban. This site is categorised by urban receivers.

For the purposes of this condition:

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays;
- Evening is defined as the period from 6pm to 10pm.
- Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sunday and public holidays.

The project amenity noise level is calculated by taking the recommended amenity noise level (as presented in table 2.2 of the policy), subtracting 5dB(A) and then adding 3dB(A) to convert from $L_{Aeq, period}$ to a $L_{Aeq, 15 minute}$ descriptor. The project amenity noise level criteria are presented in the table below.

Table 10 – Project Amenity Noise Level Criteria

Location	Period/Time	Project Amenity Noise Level Criteria dB(A) $L_{eq(15min)}$
Nearby Residences – Urban Receiver	Day (7am-6pm)	53
	Evening(6pm-10pm)	48
	Night(10pm-7am)	43

5.3.2.3 Project Noise Emission Limit

The project noise emission limit (as outlined in section 2.1 of the policy) is the lower of the intrusiveness and project amenity noise levels. The project noise emission limits are presented in the table below.

Table 11 – Project Noise Emission Limit Criteria

Location	Period/Time	Project Noise Trigger Level Criteria dB(A) $L_{eq(15min)}$
All Remaining Boundaries	Day (7am-6pm)	46
	Evening(6pm-10pm)	48
	Night(10pm-7am)	43

5.3.3 Sleep Arousal Criteria

Potential sleep arousal impacts should be considered for noise generated before 7am or after 10pm.

Short duration, intermittent noise events (such as cars driving by) are typically assessed for potential sleep disturbance.

Potential impacts are assessed using the recommended procedure in the NSW EPA Noise Policy for Industry.

- An assessment should be conducted to determine if noise levels at a residential location during the night time period (10pm-7am) exceed:
 - $L_{Aeq, 15min}$ 40dB(A) or the prevailing RBL (rating background noise level) plus 5 dB, whichever is greater, and/or
 - L_{AFmax} 52 dB(A) or the prevailing RBL plus 15 dB, whichever is greater.

The policy does not explicitly state where noise impacts should be assessed within the residential location. For the purposes of this assessment, noise impacts will be assessed at the location immediately outside a resident's bedroom window. If the noise events are compliant with this criteria, then sleep arousal impacts are unlikely and no further analysis is needed. This is consistent with the Noise Guide for Local Government. The criteria is set out below.

Table 12 – Sleep Arousal Criteria

Location	Background Noise Level (10pm-7am)	Sleep Arousal Criteria dB(A)
All Affected Receivers	39dB(A) L_{90}	44 dB(A) $L_{eq(15min)}$ 54dB(A) $L_{Max, F}$

5.3.4 Protection of the Environmental Operations Act Regulation

Protection of the Environmental Operations regulation limits the noise levels associated within the operation of domestic air conditioning criteria during night time periods which is presented below:

Protection of the Environmental Operations (Noise Control) Regulation 2000-Sect 52

52 Air Conditioners

(1) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or*
- (b) before 7 am or after 10 pm on any other day.*

5.3.5 Summary of Noise Emission Objectives

Based on the requirements stated in the sections above, the Table 13 below provides a summary of the assessment criteria applicable to the future residential development at the project site. The assessment criteria are also based on the ambient noise monitoring conducted at the site.

Table 13 – Environmental Noise Emission Criteria (All Affected Receivers)

Time of day	Measured Background Noise Level dB(A) $L_{90}(15\text{minutes})$	Amenity Criteria dB(A) $L_{eq}(\text{period})$	Intrusiveness Criteria Background + 5 dB(A) $L_{eq}(15\text{minutes})$	EPA Criteria for Residential Condensers	EPA Criteria for Sleep Arousal – dB (A)
Day	41	53	46	N/A	N/A
Evening	45	48	50	N/A	N/A
Night	39	43	44	Inaudible within neighbouring premises	44dB(A) $L_{eq}(15\text{min})$ 54dB(A) $L_{Max, F}$

5.4 ASSESSMENT OF NOISE EMISSION OF MECHANICAL SERVICES

As mechanical plant has not yet been selected at this stage, a complete assessment of mechanical noise emissions can not be conducted at this time. Generally, this is undertaken at CC stage, once the plant selections have been undertaken. Notwithstanding, compliance with the mechanical noise emission criteria presented in section 5.3.5 is both practical and reasonable with the use of one or more of (but not limited to) the following:

- Acoustic Barriers/Screens;
- Internally lined ductwork;
- External Lagging;
- Silencers etc.

5.4.1 Noise – Air-conditioners

As air conditioning plant has not yet been selected, a complete assessment of air-conditioning noise emissions can not be conducted at this time. Generally, this is undertaken at CC stage, once the plant selections have been undertaken. Notwithstanding, compliance with the air conditioning noise emission criteria presented in section 5.3.5 is both practical and reasonable with the use of one or more of (but not limited to) the following acoustic treatments:

- Acoustic Barriers/Screens;
- Internally lined ductwork;
- External Lagging;
- Silencers etc.

5.5 NOISE GENERATED BY CARPARK

5.5.1 Car Park Noise Assessment

A noise assessment of the car park entry has been carried out based on assumptions below:

- Car movements are as follows:
 - Day Time Peak hour car movements of 7 trips.
 - Evening Time Peak Hour car movements of 14 trips
 - Night time car movement of 2 Trips per hour
- Additional motorcycle movements will be approximately half of the car park movements (as they only have half the parking spots). Motorbike movements are as follows:
 - Day Time Peak Hour Motorcycle movements of 4 trips
 - Evening time Peak Hour Motorcycle movements of 7 trips
 - Night time motorcycle movements of 1 trip per hour
- Motor vehicles (cars) drive in/out at 10km/hour speed with typical sound power level 84dB(A) measured by this office.
- SEL of car door slamming 81 dB(A) at 1m distance measured by this office
- L_{max} of car door slamming 89 dB(A) $_{L_{max}}$ at 1 meter distance measure by this office
- L_{max} of car startup of 83 dB(A) $_{L_{max}}$ at 1 meter distance measured by this office
- Motorcycle drive in/out at 10km/hour speed with typical sound power level 89dB(A) measured by this office.
- L_{max} of motorcycle startup of 87 dB(A) $_{L_{max}}$ at 1 meter distance from exhaust pipe measured by this office.
- Recommendations in Section 6 are implemented.

The predicted noise levels at the nearby receivers are presented in the table below:

NSW EPA Noise Policy for Industry 2017 Criteria – (dB(A) L_{eq} Predictions)

Table 14- Predicted Noise Levels from Driveway

Noise at Affected Receivers (External Boundary)	Predicted Noise Level	Criteria $L_{eq, 15min}$ dB(A)	Complies
R1 – Residential property to the west	Day - 37	Day-46	Yes
	Evening Peak Hour- 41	Evening -48	
	Night (10pm to 7am) -34	Night - 43	Yes

Table 15- Predicted Noise Levels from Car Park

Noise at Affected Receivers (External Boundary)	Predicted Noise Level	Criteria $L_{eq, 15min}$ dB(A)	Complies
R1 – Residential property to the west	Day - 45	Day-46	Marginal
	Evening Peak Hour- 49	Evening -48	
	Night (10pm to 7am) -42	Night - 43	Yes
R3- Closest residential to the east	Day - 45	Day-46	Marginal
	Evening Peak Hour- 49	Evening -48	
	Night (10pm to 7am) -42	Night - 43	Yes
R4- Residential to the south	Day - 48	Day-46	No
	Evening Peak Hour- 50	Evening -48	
	Night (10pm to 7am) -42	Night - 43	Yes

Sleeping Disturbance Assessment – (dB(A) $L_{max, F}$ Predictions)**Table 16- Predicted Noise Levels from Car Park – Sleep Disturbance Assessment (10pm-7am)**

Noise at Affected Receivers (External Boundary)	Predicted Noise Level dB(A) $L_{Max, F}$	Criteria dB(A) $L_{Max, F}$	Complies
R1 – Residential property to the west	62dB(A)	54dB(A)	No
R3- Closest residential to the east	57dB(A)	54dB(A)	No
R4- Residential to the south	61dB(A)	54dB(A)	No

5.6 OUTDOOR COMMUNAL AREA

The outdoor communal area has been assessed for gatherings of the tenants of the boarding house. This assessment has been based on the following:

- Up to 20 people will be using the outdoor communal area at the same time.
- Based on previous measurements by this office in similar outdoor spaces, the sound power level of a patron talking will be 72dB(A)_{Leq}.
- 1 in 2 people talking at any one time.
- A barrier wall of 1.8m height shall be constructed from solid material along the west boundary of the outdoor communal space.
- No music to be played in outside communal area.
- Outdoor communal area to be closed between 10pm to 7am
- Recommendations in Section 6 are implemented.

With respect to noise transmissions from the outdoor communal area to the closest residential receivers, the noise levels in the Table below have been predicted.

Table 17 – Noise Emissions from the External Communal Space

Space	Receiver	Predicted Noise Level (L _{Aeq})	Noise Emission Criteria (Day/Evening) (L _{Aeq})	Compliance?
External Communal Area	R1- Residential premises to the west	<45	Day-46 Evening -48	Yes

5.7 INDOOR COMMUNAL AREA

The indoor communal area noise emission assessment has been based on the following assumptions:

- Up to 30 people will be using the indoor communal area at the same time.
- Based on previous measurements in similar indoor spaces, the sound pressure level of 10 patrons talking will be 76dB(A) L_{Aeq} .
- The windows to the west and north and door to the north are assumed to be closed except for patrons entering and exiting the room.
- Music allowed with a sound pressure level of 75dB(A) L_{Aeq} .
- Recommendations in Section 6 are implemented.

With respect to noise transmissions from the indoor communal area to the closest residential receivers, the noise levels in the Table below have been predicted.

Table 18 – Noise Emissions from the External Communal Space

Space	Receiver	Predicted Noise Level (L_{Aeq})	Noise Emission Criteria (Day/Evening) (L_{Aeq})	Compliance?
Internal Communal Area	R1- Residential premises to the west	<28	Day – 53 Evening – 48 Night - 43	Yes

6 RECOMMENDATIONS

The following building and management controls are recommended to mitigate the noise impact:

6.1 OUTDOOR CARPARK AND DRIVEWAY

- In order to comply with noise emission requirements, the following options for the outdoor carpark area must be constructed of the following:
 - Build a 1.8 metre high imperforate barrier along the western boundaries of the driveway area. Barrier to be constructed of colorbond, capped and lapped timber, masonry construction or a combination of each.
 - See figure 6 below for details and locations.

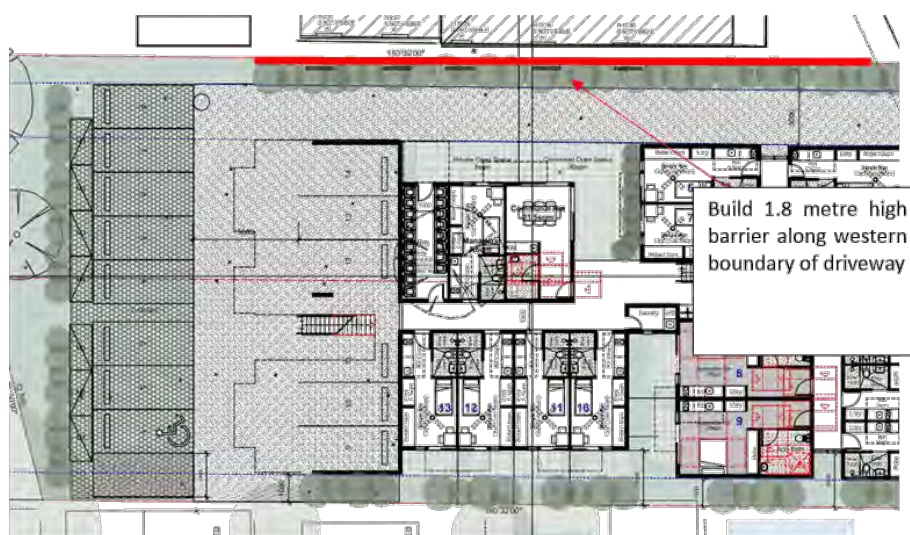


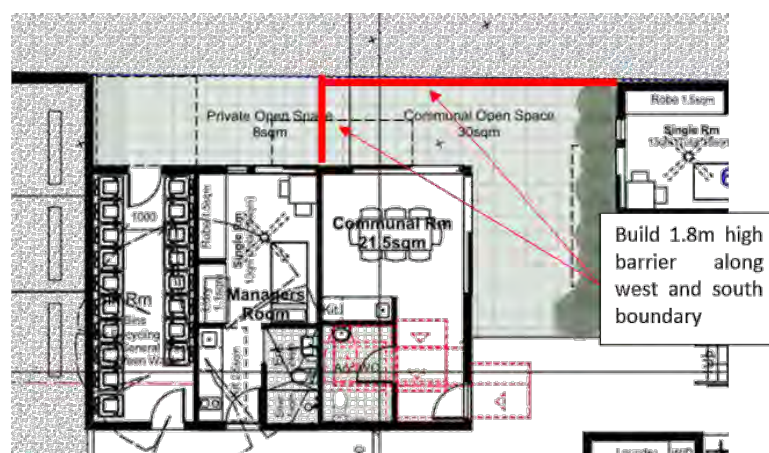
Figure 6 – Constructions for Car Park and driveway

- Prominent notice shall be placed within project site to remind tenants to minimise the noise levels at any time.

6.2 OUTDOOR COMMUNAL AREA

- Up to 20 people to be using the outdoor communal area at any time.
- The outdoor communal area should not be used between the hours of 10pm to 7am Monday to Saturday or 10pm to 8am Sunday/ Public Holidays.

- No Music to played in the outdoor communal area.
- Construct a minimum 1.8m high solid vertical fence at the western and southern boundary of the outdoor communal area. Fence to be constructed of colorbond, capped and lapped timber, masonry construction or a combination of each. See mark up below.



- Prominent notice shall be placed within project site to remind tenants to minimise the noise levels at any time.

6.3 INDOOR COMMUNAL AREA

- All windows of the indoor communal area should be minimum 6.38mm thick with acoustic seals around the perimeter.
- Music allowed with a sound pressure level of 75dB(A)_{L_{Aeq}}.
- All windows and doors of the internal communal area should be closed except for entry and exit from patrons.
- Prominent notice shall be placed within project site to remind tenants to minimise the noise levels at any time.

7 CONCLUSION

This report presents acoustic assessment of potential noise impacts associated with the proposed mixed -use development to be constructed at the 14-16 Ramsgate St, Botany.

Noise intrusion impact from aircraft noise onto the future occupants of the development has been assessed in accordance with Botany Bay Council DCP and Australian Standards 2021:2015. The typical acoustic treatments in principle necessary to achieve these guidelines have been presented within Section 4.4 of this report.

Noise emission criteria for the development site have been determined based on the site noise logging and Botany Bay Council DCP, NSW EPA Noise Policy for Industry and Protection of the Environmental Operation Act Regulation. These requirements and an assessment of noise emission impacts have been presented in Section 5 with recommendations presented in section 6.

We trust this information is satisfactory. Please contact us should you have any further queries.

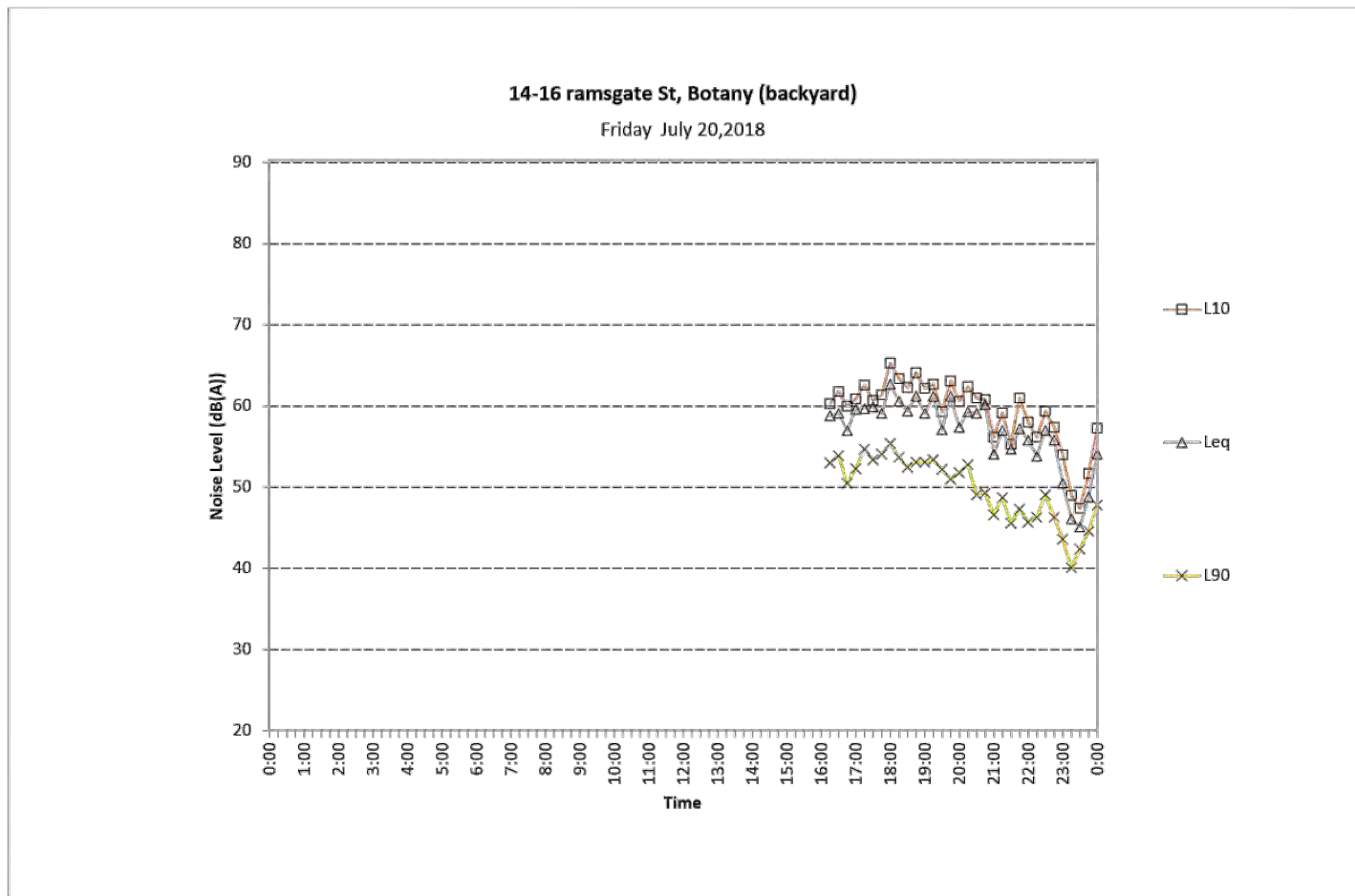
Yours faithfully,

A handwritten signature in black ink, appearing to read 'Glen Campbell', with a stylized flourish extending to the right.

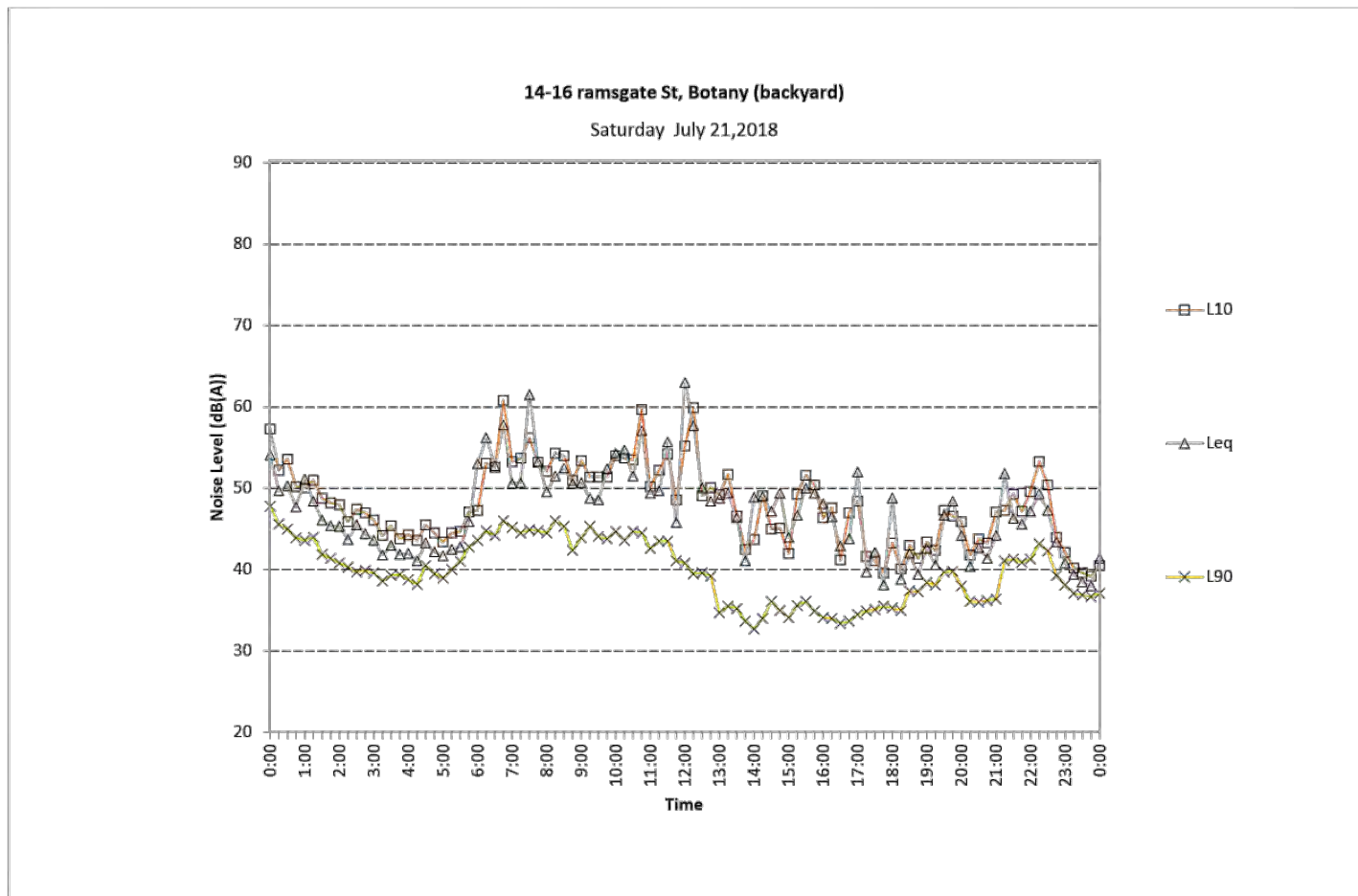
Glen Campbell

APPENDIX 1

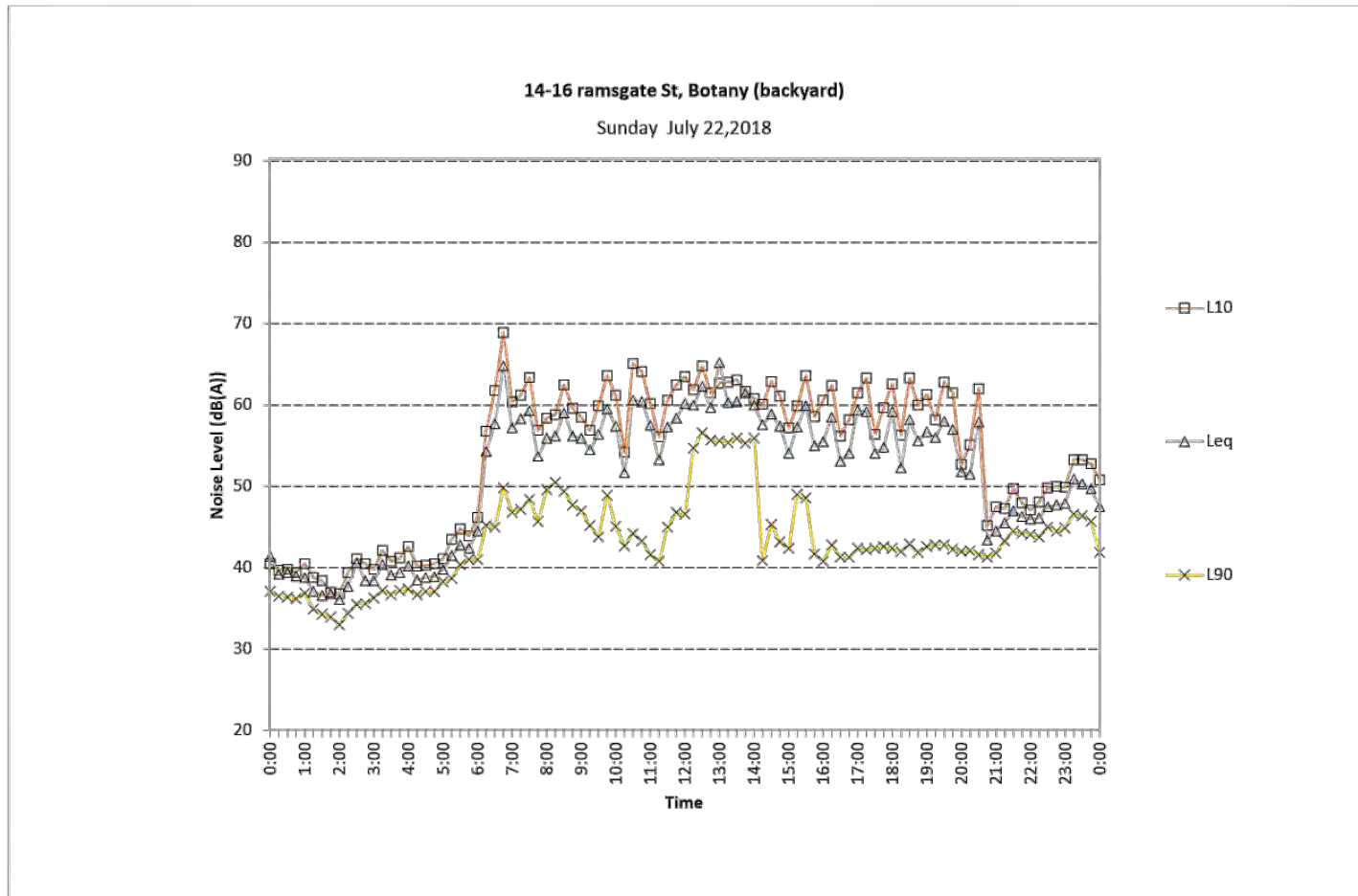
Unattended Noise Monitoring Data



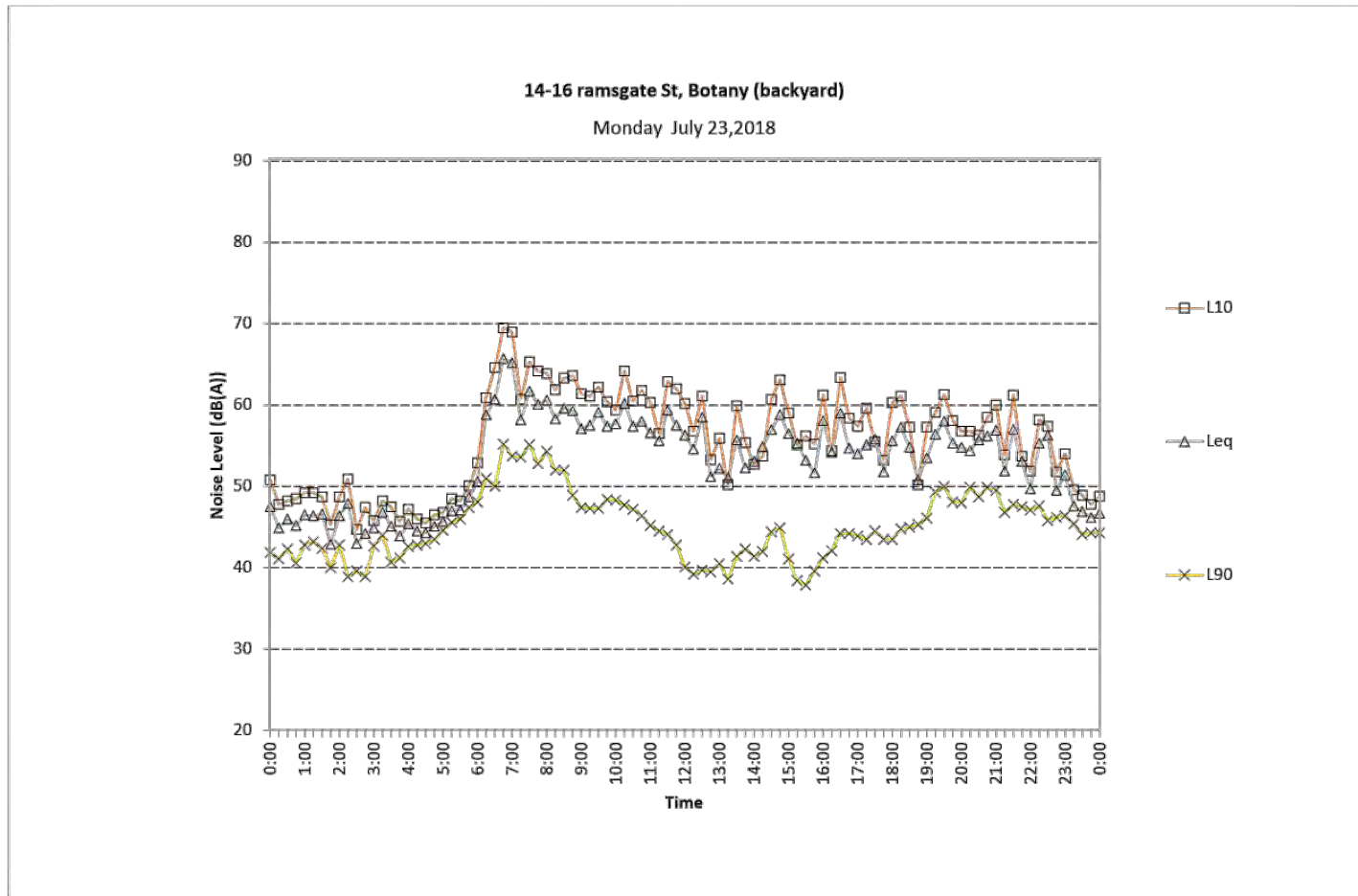
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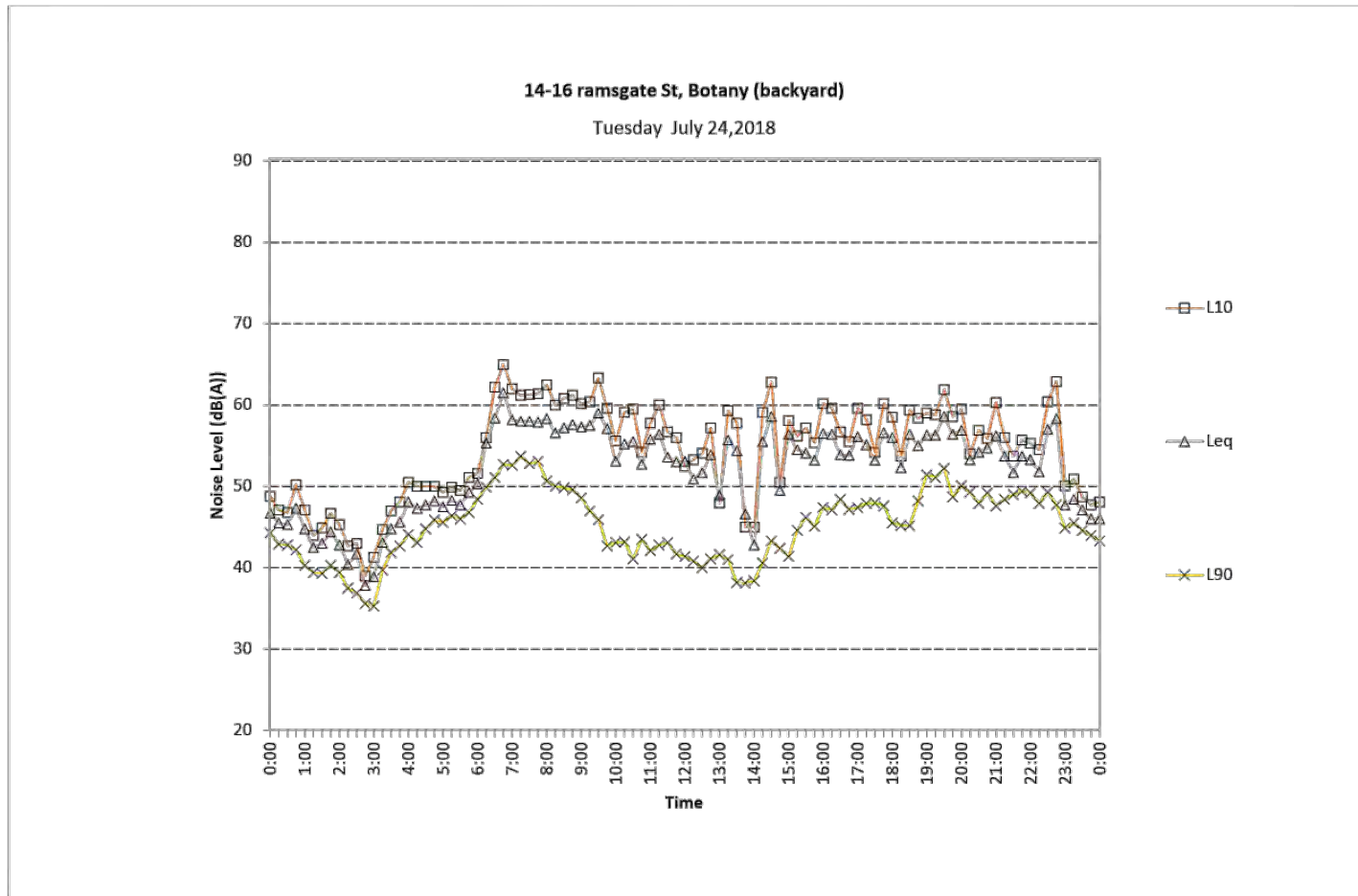
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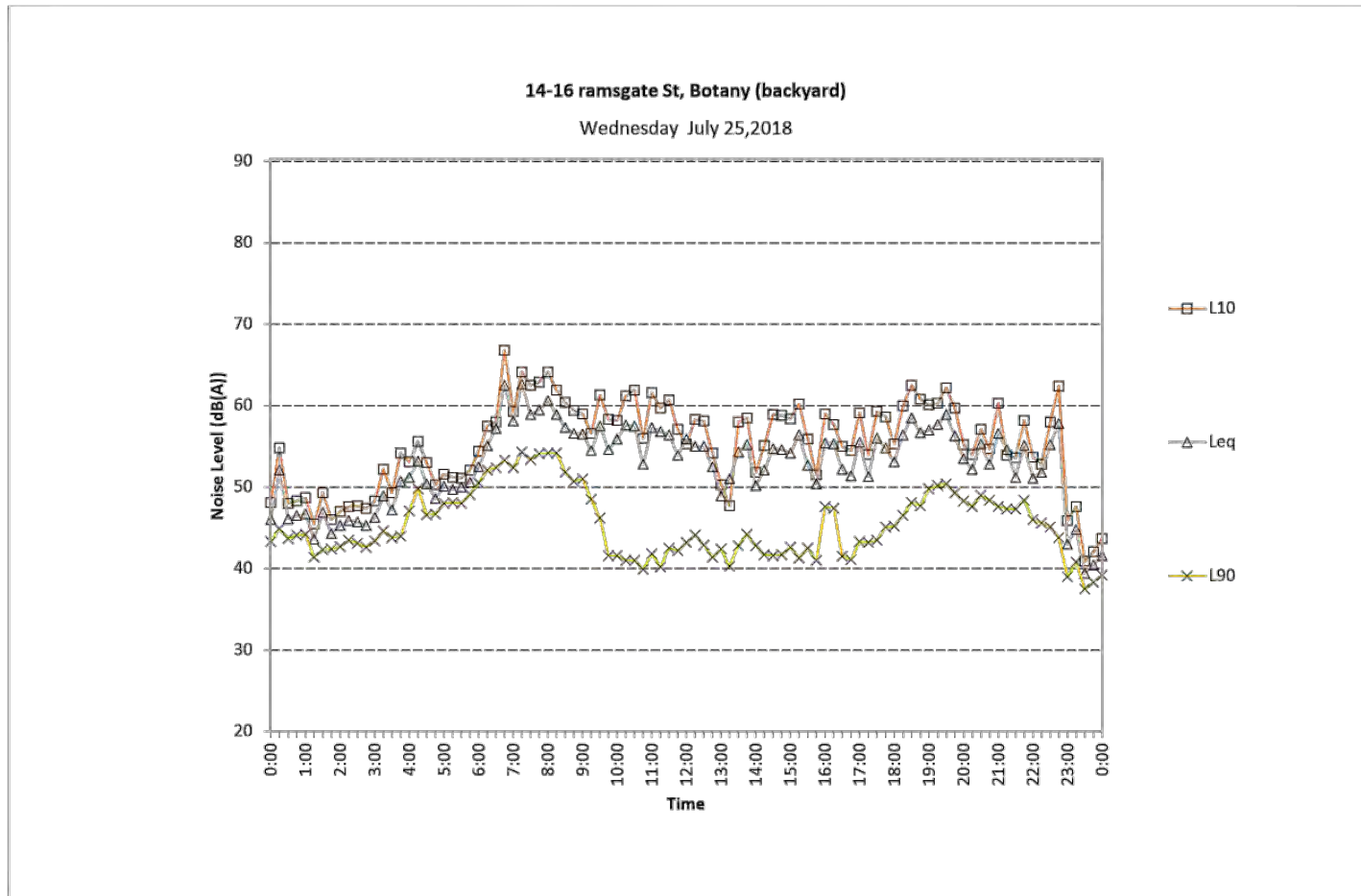
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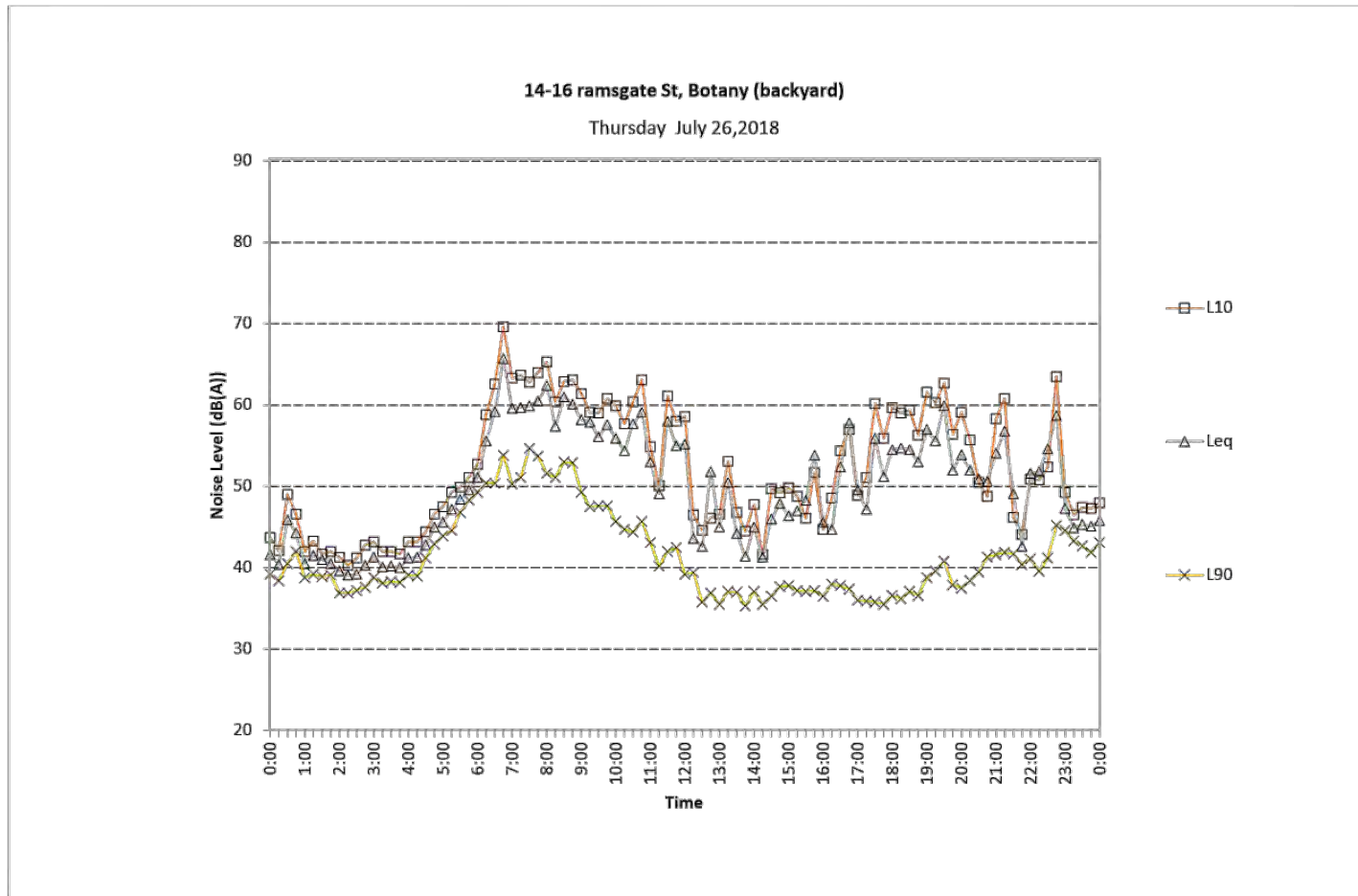
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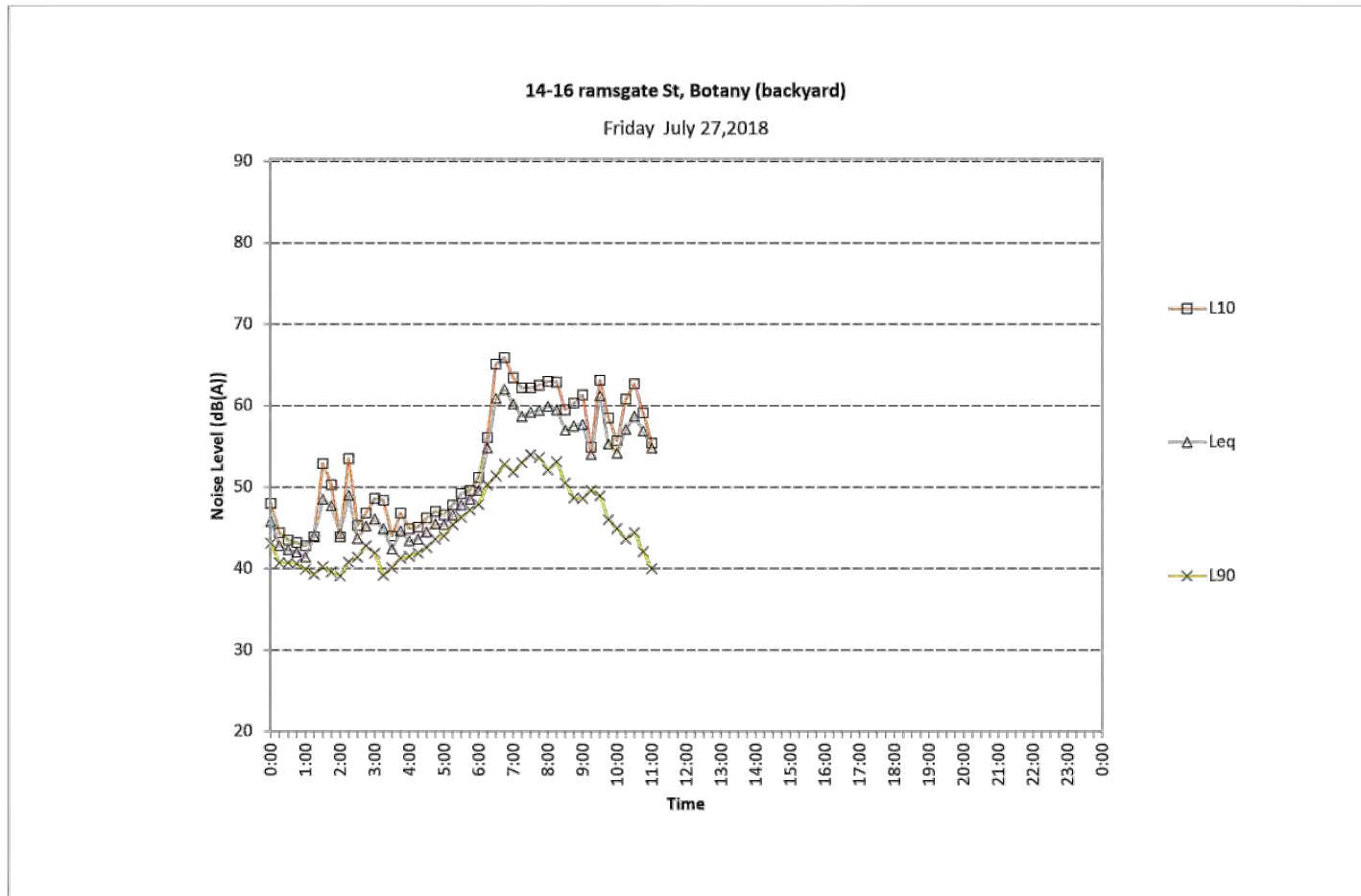
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Arborist's Report

(Preliminary Arboricultural Assessment and
Tree Management Plan)



14 -16 Ramsgate Street
Botany

By
Tony Lydon BSc

TLC Tree Solutions

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1st August 2018

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1. Introduction

The report has been commissioned by BKA Architects on behalf of the owners of a property at 14-16 Ramsgate Street, Botany. It provides assessments and advice relating to arboricultural components of a proposed development at the site.

An initial site inspection was carried out by Garry Clubley, Consulting Arborist, on behalf of TLC Tree Solutions Pty Ltd, on 30th July 2018. The arboricultural information provided in this report is the result of observations made at that time.

2. Scope of the Report

This report contains information in the form a preliminary tree assessment as per the guidelines of AS 4970-2009, The Australian Standard for Protection of Trees on Development Sites. In accordance with the standard, notes are provided on all assessable trees, including trees proposed for removal, and trees located on adjacent properties that might be affected by any proposed development.

The report also responds directly to the Architect's design for the site and incorporates an Arboricultural Impact Statement (as described in AS 4970 -2009) including both a tree protection plan and arboricultural method statement.

Relevant plans reviewed for this report are;

- Detail and Level Survey, by CitiServ Consulting Surveyors, (plot file 10984) dated 8/5/18.
- DA 101 B Gnd Fl Plan by BKA Architecture. Dated Draft 9/7/18.
- DA 102 B First Floor Plan by BKA Architecture. Dated Draft 9/7/18.
- DA 200 A Elevations by BKA Architecture. Dated Draft 9/7/18.

A copy of the relevant portion of the Survey Plan has been used in Section 6 of this report to indicate allocated tree numbers and each trees' ranked assessment value on a comparative scale.

Section 6 also serves as a tree protection plan (drawing) and indicates the approximate position for a proposed fence to enclose a combined tree protection zone (TPZ) at the rear of the site. The TPZ is to be installed and maintained as part of the implementation of the proposed Arboricultural Method Statement.

3. Method of Assessment

Advice contained in this report is based on observations relating to standard development site assessment criteria applied by TLC Tree Solutions, including a combination of the following:

3.1 Current tree health

Assessments of health are based on qualities such as; foliage cover, extension growth, flower quality and abundance, fruiting bodies, leaf colour, presence of epicormic shoots, observed pests, and diseases. Health encompasses an assessment of tree vigour, but makes allowance for both seasonal factors and growth stage.

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3.2 Tree structure and likely future condition

Observations of tree condition relate to mechanical qualities and a visual assessment of factors influencing wood strength. These include previous pruning/injury, physical form, and external indications of likely internal structure such as wood fractures, cavities, or decay pockets. Extensive, large, or abnormal deadwood may adversely affect a tree's assessed condition rating.

Observations of tree form (habit) such as lean, past windthrow, twist, or bow, may influence an assessment of tree structure where they predispose a tree to future failure or will require ongoing intervention to safely maintain the canopy.

3.3 Tolerance to development impacts

Trees have been assessed in respect of likely tolerance to potential development impacts. Assessments are based on on-site observations of prevailing soil conditions and the physical characteristics of each tree. Soil conditions may include; general soil properties, existing or past structures, site topography, impacts of likely root competition, and location of likely water sources. Allowance has also been made for apparent root morphology, tree age, tree species, opportunity for ongoing canopy management, and the species' anticipated tolerance to root loss.

3.4 Possible future hazard potential

Hazard potential is based on a determination of the likelihood of failure, the nature of current and possible future targets, and any associated risk of injury to either people or property.

3.5 General amenity value

Assessments of amenity may incorporate aspects of each tree's observed features such as; canopy size, site screening, provision of shade, contribution to streetscape, habitat, or influence as a windbreak. Comments are provided where the arborist believes they will be of assistance in the planning / decision-making process.

Unless otherwise stated, all assessments are based on a visual inspection from ground level.

TLC Tree Solutions' assessment methodology incorporates all pertinent principles of AS 4970 - 2009 The Australian Standard for Protection of Trees on Development Sites.

4. Observations

The following notes provide information regarding the terms used in the Summary Table of Trees Assessed (Section 5).

4.1 Tree Name

Common and scientific names are given. Identification is based on a field assessment. Confirmation or identification of specific species or cultivars may be undertaken if required.

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4.2 Dimensions

DBH (Diameter at Breast Height) - Trunk diameter measurement at 1.4m from ground level. This measurement provides a guide to tree size and may also be used to assist in determining required root area protection zones for retained trees. Where multiple trunks occur, then either the size of the largest trunk(s) is indicated or the description 'Multi' trunked is given.

Canopy Spread - the indicative spread of the canopy in metres. This measurement allows likely conflict with proposed building lines to be recognised. Where trees are asymmetrical, canopy measurements may be made in cardinal directions to provide further assessment detail.

Height - An estimate of tree height is provided in metres.

4.3 Tree Health / Condition

The criteria used for assessments of Health and Condition have been described in sections 3.1 and 3.2. Categories used in the tabulated data are Good, Fair, and Poor.

4.4 Ranked Class

A ranking system has been applied to identify, on a comparative basis, those trees that are most suitable or valued for retention based on an individual tree's observed characteristics. The ranking system has been applied to all trees equally, and is applied irrespective of any specific or likely future development of the site.

Comparative values assigned to each tree range from 1 to 5 as follows.

1 = High

Assigned to trees most highly valued for retention on a comparative basis. Trees are of good condition and form, likely to be tolerant of the impacts of redevelopment if retained within an appropriate Tree Protection Zone, and generally are of mature size or otherwise prominent within the landscape.

It is recommended that, where possible, future development impacts are moderated for the benefit of these trees.

2 = Medium

Assigned to trees less valued for retention on a comparative basis. Trees are generally observed to be in good condition, or can be safely managed to improve their condition through arboricultural intervention or remedial pruning. Trees are mainly of mature size or located in a position that allows room for future healthy growth to mature size and are likely to be tolerant of development impacts if retained within an appropriate Tree Protection Zone.

Whilst of lower relative rank in comparison to those trees designated as Rank 1 it is recommended that, where possible, future development impacts are moderated for the benefit of these trees.

3 = Low

These trees are considered worthy of retention if convenient within the context of the redevelopment / landscape design process. They will add value in the short to medium-term,

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or until suitable replacement trees have been established, but are not considered of sufficient significance to warrant extensive efforts for their retention.

If these trees are retained, normal protection measures including Tree Protection Zones should be applied in accordance with arboricultural guidelines.

4 = Removal Recommended

The effort required to retain Rank 4 trees may not be considered justified by the site managers in the context of likely development impacts or future site usage. More suitable, healthier, and longer lived trees, or trees conferring greater amenity can be retained or introduced as part of an integrated landscape plan.

Despite poor form and structure, or terminal decline, Rank 4 trees may be retained at the preference of interested parties for features such as site screening or habitat. In such a case, a management plan may need to be provided to allow for their future safe retention.

5 = Unsuitable for Retention.

Rank five trees may be near or already dead or absent from the surveyed area. If present these trees are weed species, likely to be considered immediately hazardous, or otherwise unsuitable for retention.

4.5 Indicative Tree Preservation Zone

The Tree Protection Zones (TPZ) indicated are the optimum set-back distances for safe long-term tree retention and are the closest distances recommended that any development impacts be allowed without further specific assessment and onsite arboricultural supervision.

Whilst specific works may be proposed within a nominated TPZ, detailed design, engineering, and proposed construction methodology must be discussed with the Project Arborist and are likely to require further site assessment. Such assessment may include examining possible opportunities for canopy management, identifying the nature and extent of roots through root mapping, and the further assessment of site features or conditions such as existing soil disturbance and soil profile.

4.6 Notes

Comments have been supplied to summarise relevant features of the trees assessed.






5. Summary Table of Trees Assessed (see section four for definition of terms)

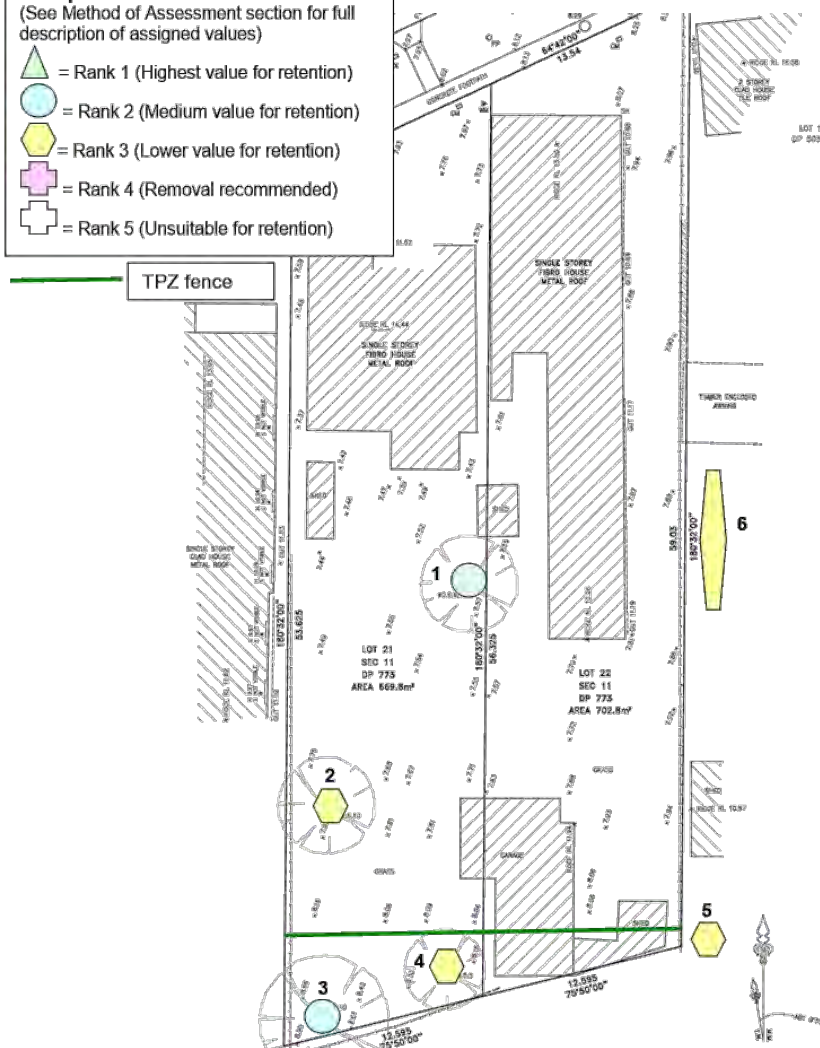
Tree No.	Name	Dimensions			Health	Condition	Rank 1=High 5=Low	Nominal TPZ Radius (m)	Notes
		DBH (cm)	Canopy Dia.(m)	Height (m)					
1.	<i>Araucaria heterophylla</i> Norfolk Is. Pine	46	10	18	Good	Good	2	6	Relatively young with good form. Sandy soil conditions suggest deep root system.
2.	<i>Phoenix canariensis</i> Canary Is. Date Palm	75	6	6	Fair	Fair	3	6	Small palm. Exhibits some nutrient deficiency that could explain stunted growth.
3.	<i>Eucalyptus botryoides</i> Bangalay	54	14	10	Good	Good	2	6	Compact form. Several old, large pruning wounds on lower trunk, no obvious signs of decay. Small size for species may reflect sandy soil conditions. High narrow crown with first scaffold branch at 8m above the ground at 1.7m out from the centre of the tree. Likely deeper roots due to sandy soil conditions.
4.	<i>Mangifera indica</i> Mango	15,15, 17	4.7	6	Good	Good	3	3	Small compact fruit tree. Three trunks. Not listed as exempt species.
5.	<i>Pterandra elegantissima</i> False Aralia	10 (est.)	2	4.5	Fair Good	Fair Good	3	-	Small tree located in adjacent property.
6.	<i>Dyopsis lutescens</i> Golden Cane Palm	Multi stemmed	2	Up to 5	Fair to Good	Fair to Good	3	-	Narrow clump located in adjacent property. Growing against boundary fence.

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Comparative Rank of Trees

(See Method of Assessment section for full description of assigned values)

	= Rank 1 (Highest value for retention)
	= Rank 2 (Medium value for retention)
	= Rank 3 (Lower value for retention)
	= Rank 4 (Removal recommended)
	= Rank 5 (Unsuitable for retention)



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Proposed development works will result in the removal of Tree 1 and Tree 2 whilst allowing the retention of Trees 3 and 4, as well as the retention Tree 5 and 6 (located on adjacent properties).

Tree 2 (Phoenix Palm) is of a species often considered for transplanting, however, in this circumstance, with a stunted specimen and poor site soil conditions the risk/benefit consideration means that removal is recommended.

The location of Tree 1, in the central 'developable' area of the site, results in its retention being impracticable. It is recommended that this tree be removed and replaced as part of an approved Landscape plan for the site.

Tree 3 is an ideal candidate for retention. It is an established native specimen in good health and condition and is located sufficiently to the rear of the site to allow space for construction works which need not impact the majority of its root zone.

Although Tree 4 is of a lower value for retention when compared with Tree 3 it may be conveniently retained within a combined TPZ and is therefore also nominated for retention.

Trees 5 and 6 are located on neighbouring properties and will also be retained

Appendix One to this report provides an Arboricultural Method Statement (AMS) setting out the measures that are recommended to ensure the safe retention of the nominated trees. It is suggested that this report and its appendix be adopted as a condition of development consent to facilitate a process of integrated tree management in accordance with the guidelines of Australian Standard for Protection of Trees on Development Sites.

If any part of this report is not clear to the reader, or if further information is required, please contact the arborist by email or via the office of TLC Tree Solutions.

Yours faithfully,



Tony Lydon BSc (Hons)

Consulting Arborist
Life Member International Society of Arboriculture
Founding and Life Member Arboriculture Australia

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Appendix One

Arboricultural Method Statement**Preface**

The following Arboricultural Method Statement (AMS) sets out the tree protection measures recommended for development approval at 14-16 Ramsgate Street. Botany.

The AMS provides advice regarding tree protection requirements for the safe retention of nominated trees at or adjacent to the site, and explains the reasons that those measures have been recommended. It details stages of construction that may require expert assistance such as the conduct of excavation, and provides a mechanism for advice regarding any necessary ongoing tree care. It also sets out details of proposed compliance certification required in relation to trees or tree management procedures.

1. Chronology and Implementation

- 1.1 Application of the **Arboricultural Method Statement** must be commenced **PRIOR** to commencement of any site works. "Site works" includes the formally approved commencement of demolition or excavation as well as any informal commencement, for example the entrance onto site of any machinery for landscaping works or vegetation removal. The following highlighted tasks are identified in their proposed sequence

Reason - To establish priorities for site management and to prevent accidental but avoidable damage to retained trees, whilst providing clear sequential guidelines to promote efficient workplace planning.

- 1.2 **Tree Protection Fencing** - must be erected and must be certified by the Project Arborist before commencement of any further site works. See item 1.4 below and further specifications in section 3 of this Tree Management Plan.

Reason - Fencing acts as a physical and visual reminder of sensitive areas

- 1.3 **Tree Removal and Pruning** - works directly supervised or otherwise specifically approved by the Project Arborist may commence prior to the installation of tree protection fencing.

Reason - In some cases pruning or removal of adjacent trees or vegetation might more conveniently be carried out before TPZ fences are installed.

- 1.4 **General Demolition** - No general demolition may commence until the installation of tree protection fencing has been certified by the Project Arborist. Where demolition or other works are to occur inside TPZ areas, works must be directly supervised or otherwise specifically approved by the Project Arborist.

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Reason - Use of machinery within TPZ areas may damage soil structure or roots in ways not desired under the guidelines of this Tree Management Plan

- 1.5 **Marking Out** - The line of excavation for the rear car park / driveway excavation should be "pegged" before commencement of further site works. This will avoid any future movement of the TPZ fence once established, and clearly indicates areas not available for excavation, parking, site storage etc.

Reason - Batter slopes or setbacks for excavation for may extend beyond distances indicated on plans and may not be shown on all architectural or site drawings.

- 1.6 **Root Pruning** – where necessary, root pruning may be carried out only under the supervision of the nominated Project Arborist, either prior to, or during initial excavation in areas adjacent to protected trees. See further general specifications in section 5 of this TMP.

Reason - To minimise damage to the roots of retained trees.

- 1.7 **Removal of Tree Protection Fencing** - Tree protection fencing must not be removed, moved, or modified unless specifically authorised by the Project Arborist.

Reason - Tree Protection Fencing is not effective in safeguarding trees if moved to allow unsupervised access by construction workers to Tree Protection Zones.

2. Arboricultural Reporting Procedures - Appointment of Project Arborist

- 2.1 A Project Arborist shall be appointed to monitor and advise in regard to all issues affecting tree health for all phases of construction. This will include supervision of tree protection measures for the duration of construction and provision of compliance certification on completion of works or as required by the development consent. This role is defined in AS 4970.

Reason - Experience has shown that implementation of tree protection measures requires specialist attention.

- 2.2 Notification of any nominated successor to the approved Project Arborist must be provided in writing, to the Principal Certifying Authority with relevant details, including the date of transfer of responsibility.

Reason - To ensure continuity of advice throughout the project period and to clarify a legally binding chain of responsibility in the event of future tree decline or failure.

- 2.3 The Project Arborist is to carry out independent inspections as required or on a bi-monthly basis during the construction period to monitor ongoing tree health. Reports will

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be provided, as necessary, following each inspection to the and Site Manager and Principle Certifying Authority in relation to all ongoing tree management issues.

Reason - To promote effective communication and allow timely remedial action to be taken if required.

3. Establishment of Areas for Tree Protection Zones

- 3.1 A Tree Protection Zone (TPZ) is to be established for each of the trees nominated for retention. Any desired variations to nominated root protection areas shall be approved by the Project Arborist following further site inspection and assessment.

Reason - Guidance as to effective TPZ distances is required to adequately protect nominated trees.

- 3.2 Amendments to standard tree protection measures may be authorised by the Project Arborist based on specific site assessments.

Reason - Specific amendments to TPZ arrangements may be based on additional or alternative measures such as trunk or ground area protection (surface walkways) which will adequately safeguard nominated trees.

4. Conduct of Tree Protection Zones

- 4.1 Tree protection fencing is to be installed at the boundary of each TPZ.

TPZ fencing must consist of posts set into the ground or supported by a freestanding base which itself is secured against sideways movement. This is particularly important in areas where site workers might be tempted to move posts for "temporary" access. Mesh or wire between posts must be durable, highly visible and at least one metre high. "Cyclone" type mesh 1.8m high is most appropriate for "high-pressure" areas.

Reason - To ensure that the boundaries of each TPZ are properly marked.

- 4.2 Unauthorised removal or disruption of the Tree Protection Zone fencing is to be considered a breach of the conditions of development consent.

Reason - To ensure that both site workers and the Principle Certifying Authority are informed of the serious nature of a breach.

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TLC Tree Solutions Head Office: 28 Smith St. Grafton. NSW. Tel: 0412 292777 tltreesolutions1@gmail.com**4.3 Prohibited within the TPZ are;**

- unauthorised access, including access for vehicles or pedestrian traffic.
- storage or stockpiling of materials
- excavation, leveling, soil removal, or work of any kind unless specifically approved or supervised by the Project Arborist,
- incursion of pollutants, solvents, excess water or other material harmful to the protected trees such as silt, concrete, paint, spray drift, or mortar mix
- location of site sheds, or other temporary structures unless specifically approved and supervised by the Project Arborist

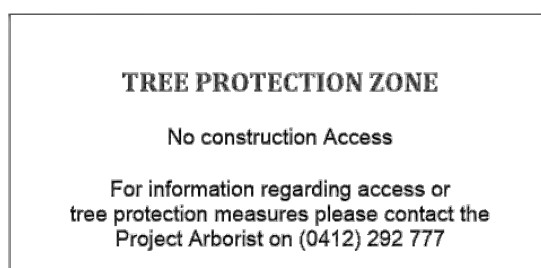
Reason - To ensure that the most significant causes of tree damage and future decline or hazard formation are prevented.

4.4 The TPZ fence is to remain in place until the end of construction when its removal is to be authorised by the Project Arborist.

Reason - To prevent 'last minute' damage to the tree or the tree's root zone.

4.5 Any access within the TPZ for required site works must be authorised and supervised by the Project Arborist.

Reason - To ensure that any works required, including any future landscape works, are carried out as anticipated by the Project Arborist and that all tree protection measures are properly applied.

4.6 The Tree Protection Fence is to display clear signs indicating the reason for the fence and action to be taken if access is desired. An example of such a sign follows;

Reason - Site workers need to be made aware of the protection measures in place and the reasons those measures are required.

5. Action Regarding Roots at Boundaries of the Tree Protection Zone**5.1 In any areas where existing tree roots may extend beyond the TPZ towards a line of proposed cut, trial excavation and manual root pruning of any roots encountered is to be**

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carried out as directed by the Project Arborist. Such pruning may be carried out at the time of site clearing and leveling, or of excavation for footings or services at the Project Arborist's discretion.

Reason - Poor root pruning or other root damage can cause long-term tree decline (and potential instability) due to incremental decay many years after project completion.

- 5.2 Cut roots shall be covered to prevent desiccation or otherwise treated as advised by the Project Arborist. Measures to prevent collapse or drying out of the soil profile may be required.

Reason – The health and stability of retained trees may be significantly impacted by poorly managed excavation.

6. Works within Tree Protection Zone(s)

- 6.1 Removal of any unwanted materials from within a TPZ including: rubbish, fill, or plant material, shall be carried out under the supervision of the Project Arborist. Such work is likely to require specialist equipment and/or be carried out by hand.

Reason - The use of heavy machinery within the Critical Root Zones of retained trees may have a significant detrimental effect on their health and stability.

- 6.2 Landscaping works within the Tree Protection Zone shall be monitored by the Project Arborist to ensure that site/soil conditions required to promote the health of both the existing tree and any future plantings are maintained.

Reason - Common landscape specifications such as the cultivation of subgrades should be avoided around trees.

- 6.3 Consideration must be given to the location of any new underground services so that, unless detailed arrangements are made proposed services are located outside the TPZ.

Reason - Technical solutions such as under-boring to allow the installation of services within the TPZ should be considered a last resort.

- 6.4 No excavation for any drainage pipes, pits, culverts or similar shall be carried out within the nominated TPZ unless specifically authorised and supervised by the Project Arborist.

Reason - Further excavation may substantially impact on roots within the tree's Critical Root Zone

- 6.5 Work on trees to be pruned shall be carried out by qualified tree workers in accordance with the guidelines of the Workcover NSW Code of Practice for the Amenity Tree Industry, and in accordance with any other Workplace Health and Safety conditions required by the Site Managers.

Reason - To ensure worker safety and compliance with current WHS legislation.

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- 6.6.1 Any necessary pruning works specified by the Project Arborist shall be deemed to be approved as a result of development consent and may include works to reduce overhanging limbs or those within 1.5 metres of a building line, improve tree health (Type G pruning), or reshape any portion of a tree's canopy. The maximum extent of canopy pruning shall not exceed 15% of the existing foliage. All pruning work must be carried out within the guidelines of AS4373 -The Australian Standard for Pruning of Amenity Trees, by appropriately qualified arborists.

Reason – Crown raising or reshaping of retained trees may be required to achieve desired landscape outcomes.

7. Additional Treatments within Tree Protection Zones

- 7.1 Application of a 75 - 100 mm layer of "no fines" tree mulch shall be applied within the TPZ as directed by the Project Arborist.

Reason - Mulch will assist in stabilising soil moisture and surface temperature conditions during a critical period of rhizosphere transition. Appropriate application of mulch is also beneficial for trees in the long term. Among other advantages it provides enhanced conditions for desirable soil organisms, may reduce compaction of surface soil layers, and acts as a slow release source of nutrients.

- 7.2 The Project Arborist shall monitor soil conditions and provide guidance to ensure adequate soil moisture for all retained trees. A watering regime shall be implemented or adjusted as part of the arboricultural reporting conditions. A drip irrigation system based on a dedicated water supply (ie not shared with other site users) is preferred.

Reason - Imposition of a new drainage and moisture regime on the root system of retained trees may cause significant stress, but may be moderated by supplementary irrigation.

- 7.3 Application of additional root or soil treatments such as root hormones, nutrients or fungal inoculants is to be carried out only as determined by the Project Arborist.

Reason - Additional measures to maintain the health of the retained tree may be required, unapproved measures including excessive application of nutrients may lead to increased stress.

If any part of the Tree Management Plan is not clear to the reader, or if any conflict arises between conditions outlined in this **Tree Management Plan** and the proposed completion of any other site works, including approved works, then **immediate clarification** or additional advice must be sought from the **Project Arborist**.

23 July 2019

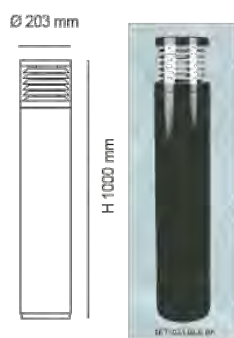
Bayside Council
PO BOX 21,
Rockdale NSW 2216

Attn: Adam Iskander

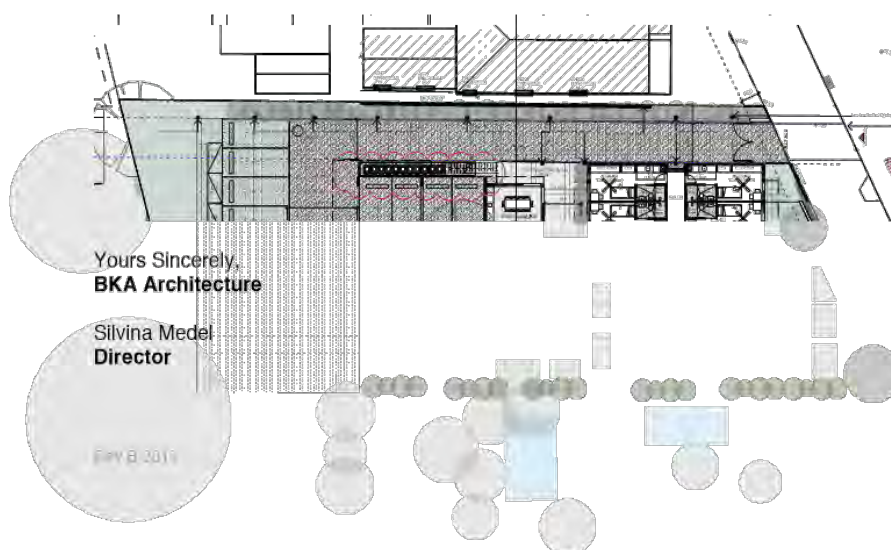
**Light Spill management
Re: 14-16 Ramsgate Street Botany**

We have selected a bollard light that is to be installed along the driveway entry to manage light spill onto the adjoining property.

The bollard light is a SAL lighting code SE7102/LGLS BOLLARD. The light is 1000 high with reflectors that point in downwards. This will ensure that there is no light spill into the neighbouring property yet still illuminating the driveway safely.



We have located these lights on the plan shown below;



architecture

BKA

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Newcastle / Hunter Valley Studio
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