

## **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 8 October 2019 at 6:00 pm.**

## **ON-SITE INSPECTIONS**

On-site inspection/s will precede the meeting.

## **AGENDA**

### **1 ACKNOWLEDGEMENT OF COUNTRY**

Bayside Council respects the traditional custodians of the land, elders past, present and emerging, 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 - 10 September 2019...3
- 4.2 Minutes of the Bayside Local Planning Panel Meeting - 17 September 2019.12
- 4.3 Minutes of the Bayside Local Planning Panel Meeting - 24 September 2019.20

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

Nil

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

- 6.1 DA-2019/272 - 139 Forest Road, Arncliffe .....26
- 6.2 S82-2019/7 - 511 Princes Highway, Rockdale .....45
- 6.3 DA-2019/271 - Temporary Use of Mascot Memorial Park for a Food and Wine Festival for Three days (including set up and pack up) During October 2019, and Installation of Associated Temporary Structures (Bayside Food and Wine Festival)..... 139

6.4	DA-2019/243 - 41 Gloucester Street, Rockdale .....	169
6.5	DA-18/1161 - 31 Albert Street, Botany .....	230
6.6	DA-2018/254 - 8-18 Stoney Creek Road, Bexley .....	340

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**



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## **Bayside Local Planning Panel**

**8/10/2019**

Item No	4.1
Subject	<b>Minutes of the Bayside Local Planning Panel Meeting - 10 September 2019</b>
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/3007

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### **Recommendation**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 10 September 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

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### **Present**

Robert Montgomery, Chairperson and Independent Expert Member  
Ross Bonthorne, Independent Expert Member  
Robert Furolo, Independent Expert Member  
Amber O'Connell, Community Representative

### **Also Present**

Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance & Risk  
Busola Martins, Coordinator Governance  
Marta Gonzalez-Valdes, Coordinator Development Assessment  
Christopher Mackay, Coordinator Development Assessment  
Ben Latta, Coordinator Development Assessment  
Fiona Prodromou, Senior Development Assessment Planner  
Patrick Nash, Senior Development Assessment Planner  
Christopher Lazaro, Development Assessment Planner  
Ben Tesoriero, Consultant from CPS Planning  
Suhradam Patel, IT Technical Support Officer  
Anne Suann, Governance Officer

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The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.03 pm.

## **1 Acknowledgement of Country**

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

## **2 Apologies**

There were no apologies received.

## **3 Disclosures of Interest**

Robert Furolo declared a Less than Significant Non-Pecuniary Interest in Item 6.3 on the basis that he has previously worked with one of the consultants on an unrelated project. The Chairperson agreed that it is not necessary for Mr Furolo to be excluded from participating as there is no actual conflict of interest.

## **4 Minutes of Previous Meetings**

### **4.1 Minutes of the Bayside Local Planning Panel Meeting - 15 August 2019**

#### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 15 August 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

### **4.2 Minutes of the Bayside Local Planning Panel Meeting - 27 August 2019**

#### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 27 August 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

## **5 Reports – Planning Proposals**

Nil

## **6 Reports – Development Applications**

### **6.1 DA-2018/293 - 65A Barton Street, Kogarah**

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

The following person spoke:

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

## Determination

- 1 That the Bayside Local Planning Panel, exercising its functions as the consent authority, REFUSE Development Application DA-2018/293 for the installation of thirty-six (36) x 8 metre high lighting towers at the Scarborough Park Tennis Courts, pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment act 1979* for the following reasons:

1. Insufficient information has been provided to enable proper assessment of the proposal with respect to Clause 6.8 Biodiversity protection under Rockdale Local Environmental Plan 2011 as a Flora and Fauna Impact Assessment has not been provided the Statement of Environmental Effects is inadequate with respect to the provisions of this clause.

The additional information requested has not been provided, and Council is unable to consider the adverse impact of the proposed development on the following – as required by clause 6.8(3):

- a) native ecological communities,
  - b) the habitat of any threatened species, populations or ecological community,
  - c) regionally significant species of fauna and flora or habitat,
  - d) habitat elements providing connectivity.
2. Insufficient information has been provided to enable proper assessment of the proposal with respect to Clause 2.3 Zone objectives and Land Use Table. The development application does not provide sufficient information to confirm whether the proposal can satisfy the third objective for the RE1 Public Recreation Zone in which the development is proposed to be carried out. That third objective being:
    - *To protect and enhance the natural environment for recreational purposes.*
  3. The proposed development is unsatisfactory, pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as it does not comply with the following objectives and controls of Rockdale Development Control Plan 2011:
    - a) Part 4.1.8 Biodiversity – Without the provision of a Flora and Fauna Impact Assessment and amended Statement of Environmental Effects, Council cannot be satisfied the proposal complies with the objectives and controls for biodiversity land prescribed under Part 4.1.8 of the *Rockdale Development Control Plan 2011*.
  4. Without the provision of a Flora and Fauna Impact Assessment and amended Statement of Environmental Effects, pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the impacts of the proposed development on the natural environment cannot

be confirmed.

5. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, it cannot be confirmed the proposed development is suitable for the site.
6. There is a public interest in ensuring development appropriately protects and enhances the natural environment, particularly native flora and fauna, habitats and ecological processes. There is also a public interest in ensuring the provisions of Council's planning controls are upheld. Having regard to the reasons for refusal outlined above, pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development is not in the public interest.

2 That the submitters be notified of the decision of the Panel.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<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 assessment of the application.
- The Panel notes that the consent authority is required to consider the impact of the proposal on the flora and fauna present on the site as required by Clause 6.8 Biodiversity Protection under Rockdale LEP 2011. In the absence of an appropriate biodiversity assessment the Panel is not in a position to determine the application other than by refusal.

#### 6.2 DA-2019/143 - 24 Albert Street, Botany

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

The following people spoke:

- Huss Chalich, affected neighbour, spoke for the officer's recommendation and responded to the Panel's questions.
- John O'Rourke, owner, spoke against the officer's recommendation and responded to the Panel's questions.
- George Vardas from Champion Homes, applicant, spoke against the officer's recommendation and responded to the Panel's questions.

### Determination

- 1 That the Development Application No. 2019/143 for the demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of two (2) semi-detached dwellings, be DEFERRED to allow the applicant an opportunity to consider an overall redesign of the proposal to address the following matters:
  - Impact on solar access and privacy to the private open space on land adjoining to the south.
  - A more appropriate streetscape presentation which may or may not include the provision of a single driveway but gives consideration to the established residential streetscape, particularly in terms of the balance of hard surfaces and landscaping.
  - Consider a revised internal layout to achieve improved amenity for future occupants of the buildings.
  - Provide a better urban design outcome considering the site constraints and the adjoining and surrounding residential development.
  - Resolution of the stormwater design for the site.
  - That the amended plans be notified in accordance with the DCP prior to the matter coming back to the Panel.
- 2 That the submitter be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Amber O'Connell	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Reasons for the Panel's Determination

- In its present form the Panel cannot support the application. The applicant has advised that they are prepared to consider some redesign to address the matters raised in the report and provide an amended application to Council.
- The Panel considers that there is an appropriate design response for a development such as that which is proposed, however further consideration must be given to the matters noted in the Panel's decision.

### 6.3 DA-2018/378 - 13A-17 Swinbourne Street, Botany

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

The following people spoke:

- Patrick Nicholas, Principal Architect from AN+A Architects Nicholas + Associates, spoke for the officer's recommendation and responded to the Panel's questions.
- Alison Davidson, Town Planner from Planning Ingenuity, spoke for the officer's recommendation and responded to the Panel's questions.

#### Determination

- 1 That Development Application No.2018/378 for demolition of existing structures and construction of a three (3) storey shop top housing development comprising one (1) ground floor commercial tenancies, 20 dwellings, basement and ground floor parking and strata subdivision be DEFERRED to give the applicant the opportunity to address the following matters raised by the Panel:
  - Resolution of the roof design over both the private and communal open space areas including access, weatherproofing as necessary and the bulk which is presented by the proposed solid roof.
  - Consideration of a light weight structure or structures for weather protection of rooftop courtyard / communal open space.
  - Consider incorporating passive communal open space within the deep soil area and providing access to the area for residents.
- 2 That the submitters be notified of the Bayside Local Planning Panel's decision.

Name	For	Against
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<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 assessment of the proposal and considers that a development such as proposed would be suitable subject to resolving the design matters as noted in the Panel's determination.
- The Panel acknowledges that some of the units are designed to be flexible so as to be occupied as three bedrooms. This flexibility satisfies the Panel's concerns in relation to diversity of housing.

- The provision of some rooftop private open space areas is supported by the Panel subject to resolution of the proposed roof structure, access and also providing passive communal space within the deep soil zone.

#### **6.4 S82-2019/6 - 3-5 Queen Street, Botany**

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

The following people spoke:

- Derek Raithby, Principal, from Derek Raithby Architecture, spoke for the officer's recommendation and responded to the Panel's questions.
- John Higgins, My Place Estate Agents, speaking for the applicant, spoke for the officer's recommendation and responded to the Panel's questions.
- Philip Tian, owner, spoke for the officer's recommendation and responded to the Panel's questions.
- Anthony Betros, town planner, from ABC Planning P/L, spoke for the officer's recommendation and responded to the Panel's questions.

#### **Determination**

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the Consent Authority, pursuant to Division 8.2, relating to Development Application S82-2019/5 for a review of determination, resolve to change the decision for Refusal of the Development Application DA-2018/1169, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
- 2 That the Bayside Local Planning Panel support the variation to the FSR development standard, as contained in Clause 4.4 – FSR of Botany Bay LEP 2013, in accordance with the request under clause 4.6 of BBLEP 2013 submitted by the applicant.
- 3 That development application S82-2019/6 for the demolition of existing structures and construction of four (4) semi-detached dwellings, two (2) swimming pools and Torrens title subdivision into 4 lots at 3-5 Queen Street, Botany is APPROVED pursuant to S4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report, and subject to conditions as amended below:
  - Condition 101 be amended to read:

101 *Prior to the issue of any Occupation Certificate, Council requires proof of lodgement of the 88B Instrument with the Land Titles Office that will create reciprocal rights of carriageway easements for proposed lot 02 and 03 (house 2 and house 3) to provide for vehicular access.*
  - Condition 103 be amended to read:

*103 Prior to the issue of an occupation certificate, certification from a licenced plumber shall be provided certifying the installation of the required minimum capacity 2000L 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 serving the pool (where applicable) and taps on-site. First flush device shall be installed & overflow from the rainwater tank shall connect to the proposed site drainage system.*

- Condition 111 – To be deleted
- Condition 25(c) – To be deleted

4 That the objector be notified of the Bayside Local Planning Panel decision.

<b>Name</b>	<b>For</b>	<b>Against</b>
Robert Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robert Furolo	<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 assessment and recommendation for approval.
- The Panel acknowledges that the application as amended through the Section 8.2 process has addressed the reasons for refusal of the application previously.

The Chairperson closed the meeting at 7:33 pm.

Certified as true and correct.

Robert Montgomery  
**Chairperson**





## **Bayside Local Planning Panel**

**8/10/2019**

Item No	4.2
Subject	<b>Minutes of the Bayside Local Planning Panel Meeting - 17 September 2019</b>
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/3007

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### **Recommendation**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 17 September 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

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### **Present**

Jan Murrell, Chairperson  
Robert Montgomery, Independent Expert Member  
Marcia Doheny, Independent Expert Member  
Patrick Ryan, Community Representative

### **Also Present**

Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance & Risk  
Marta Gonzalez-Valdes, Coordinator Development Assessment  
Ben Latta, Coordinator Development Assessment  
Pascal Van de Walle, Coordinator Development Assessment  
Michael Maloof, Senior Development Assessment Planner  
Eric Alessi, Development Assessment Planner  
Gary Choice, Development Assessment Planner  
Carol Vito Sula, Development Assessment Planner  
Wolfgang Gill, IT Technical Support Officer  
Anne Suann, Governance Officer

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The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6.14 pm.

## **1 Acknowledgement of Country**

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past, present and emerging, 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 - 10 September 2019**

##### **Decision**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 10 September 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

### **5 Reports – Planning Proposals**

Nil

### **6 Reports – Development Applications**

#### **6.1 S82-2019/10 - 47 Farr Street, Rockdale**

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

The Panel has considered the Officer's Assessment Report and also notes the further submission made by the applicant in making its determination.

##### **Determination**

That the Bayside Local Planning Panel, pursuant to Division 8.2 relating to development application S82-2019/10 for a review of determination for the conversion of the existing outbuilding to a secondary dwelling at 47 Farr Street Rockdale, resolve to confirm the previous decision for refusal of the development application DA-2018/296, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979, with modified reasons as follows:

- i 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 proposed development.
- ii Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with SEPP (Building Sustainability Index: Basix 2004) in that a BASIX certificate was not provided for the amended proposal.

- iii Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the applicant's request for variation to Cl4.4 Floor Space Ratio of the Rockdale Local Environmental Plan 2011 fails because the incorrect plans are referred to and not the amended plans the subject of this review.
- iv Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the objectives and requirements of cl.6.3 – *Development in areas subject to aircraft noise* of the Rockdale Local Environmental Plan 2011. The documentation submitted with the plans has not identified the necessary works required to be carried out to satisfy that the existing building can comply with the Australian Standard for Aircraft Noise.

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

### Reasons for the Panel's Determination

- The Panel confirms the refusal of the review application as the applicant has not provided the necessary information to demonstrate that the existing structure can be made capable for use as a secondary dwelling. This includes a report to identify works that would need to be carried out to enable the structure to be used as a dwelling to comply with: the Building Code of Australia; and the AS for Aircraft Noise, as the property is within the 25 to 30 ANEF. The plans referred to in the application must also be accompanied by a current BASIX Certificate because the structure is proposed for use as a dwelling and a revised Cl.4.6 request to vary the applicable FSR is necessary that refers to the relevant plans.
- By way of comment the applicant is advised that if he wishes to submit a new development application for a secondary dwelling then the plans must be accompanied by the information above to demonstrate the building is capable of being adapted to comply with the necessary standards for use as a dwelling.

## 6.2 DA-2018/326 - 96-102 Princes Highway, Arncliffe

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

The following people spoke:

- Stephen Kerr, town planning consultant from City Plan, spoke for the officer's recommendation and responded to the Panel's questions.

- Michael Grassi, on behalf of the applicant, Aidop No 1 Pty Limited, spoke for the officer's recommendation and responded to the Panel's questions.

### Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to the building height prescribed by cl.4.3 Height of Buildings of the Rockdale Local Environmental Plan 2011, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated in cl.4.6, and the proposed development would be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.
- 2 The Panel grants a DEFERRED COMMENCEMENT consent to development application DA-2018/326 for the demolition of the existing structures and construction of a nine (9) storey mixed-use development comprising eighty one (81) dwellings, ground floor commercial space, two (2) basement levels of car parking and roof-top communal open space at 96-102 Princes Highway Arncliffe, pursuant to s4.16(3) of the Environmental Planning and Assessment Act 1979.

### PART A – DEFERRED COMMENCEMENT CONDITIONS

- a A bin / waste collection area / loading bay shall be provided on the site, accessible from Kyle Street with the bin room being redesigned, including deletion or adjustment of apartment 1G if necessary. The new waste collection area / loading bay shall be designed to accommodate a Small Rigid Vehicle (SRV) for furniture delivery / removal and waste collection by a private waste contractor. The truck is permitted to reverse into the loading bay and exit in a forward direction. A minimum height clearance / headroom clearance of 3.5 m is required.
- b The existing proposed driveway shall be widened along Kyle Street to service the redesigned waste collection area, as necessary, and shall be incorporated with it to minimise impacts on on-street parking within Kyle Street.
- c The commercial / retail gross floor area (GFA) shall be increased in size by a minimum of 50 m<sup>2</sup>. This may require the deletion of some car parking spaces provided the minimum required number of spaces are provided. Some relaxation of the 6.7 m floor to ceiling height may be given at the rear of the premises which may be used for back of house and office functions. However the depth of the area must be a minimum of 10 m from the face of the glass.

The applicant is to submit amended plans within 30 days to the Council for the approval of the General Manager, or her nominee, to satisfy the above deferred commencement conditions. The consent will then become operational subject to the operational conditions in Part B.

### PART B – OPERATIONAL CONDITIONS

The Operational Conditions of consent are as recommended in the Council Officer's report with the addition of the two following conditions to be inserted:

- a A continuous pedestrian path shall be provided within the Princes Highway frontage of the site. In this regard, stairs shall be provided within the site linking the paved pedestrian path in front of the northern commercial tenancy (RL 16.3) with the upper level pedestrian area within the open forecourt area at the corner of Princes Highway and Kyle Street (RL 19.3). This is to satisfy the objectives and requirements of Part 7.7 RDCP 2011. (Note: the addition of glazing may be possible within the western elevation of the office for the northern commercial tenancy when stairs are provided)
- b An attached awning shall be erected over the footpath located in front of the northern commercial tenancy along the Princes Highway providing weather protection for pedestrians along the paved area adjacent to the glazed front elevation.

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

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

#### Reasons for the Panel's Determination

- The Panel has considered the planning framework, documentation, assessment reports and submissions made on behalf of the applicant and considers that the development application warrants approval on its merits. The architecture addresses the corner and provides an active street frontage and residential accommodation with appropriate amenity.
- The Panel notes the subject site is not in the designated road frontage area shown on the map accompanying the LEP. Nonetheless the design provides for activation of the street frontage with appropriate setbacks and landscaping as envisaged for this precinct.

#### 6.3 DA-2019/147 - 6 Culver Street, Monterey

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

The Panel has considered the submissions, both aural and written, and the Council officer's report.

The following people spoke:

- Brenton Romeo, architect from ArtMade Architects, spoke against the officer's recommendation and responded to the Panel's questions.
- Sherif Saad, architect from ArtMade Architects, spoke against the officer's recommendation and responded to the Panel's questions.

### Determination

The Panel has decided that this matter be deferred to allow amended plans to be submitted to Council to: reduce the size of the rooftop terrace area to a maximum of 24 m<sup>2</sup>; and reduce the footprint and height of the lift overrun and stair access. Access to the reduced roof top terrace is to be designed to present as a minimalist element and the area of the roof outside the 24m sq. area is to be finished with a non-trafficable material.

The amended plans must be accompanied by a new cl.4.6 written request to vary the height.

The necessary documentation is to be submitted to Council within four weeks to allow assessment and timely reporting back to the Panel.

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

### Reasons for the Panel's Determination

To allow the applicant the opportunity to submit amended plans to address the concerns raised in the Officer's report before the matter is determined.

## 6.4 DA-2018/346 - 29 Kurnell Street, Botany

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

The panel has considered the Officer's Report and submissions made both aural and written.

The following people spoke:

- Simon Hanson, architect from Bureau SRH Pty Limited, spoke for the officer's recommendation and responded to the Panel's questions.

- Eugene Kirkwood, architect from Bureau SRH Pty Limited, spoke for the officer's recommendation and responded to the Panel's questions.
- Chris Jarrett, owner, 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 cl.4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl.4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of the standard and the objectives of the zone.
- 2 The development application DA-2018/346 for Demolition of existing structures, Torrens title subdivision into two lots, construction of two semi-detached dwellings, and associated garaging and landscaping at 29 Kurnell Street, Botany is APPROVED subject to a Deferred Commencement condition below and the conditions of consent attached to the Council officer's report as amended below.

#### PART A – DEFERRED COMMENCEMENT CONDITION

1. The applicant is to submit amended plans within 30 days for the approval of the General Manager, or her nominee, to satisfy the following:
  - The deletion of the second storey studio with an appropriately designed roof to minimize overshadowing of the rear open space area for Lot 1.

On approval of plans to satisfy the above the consent then becomes operational subject to the following conditions.

#### PART B – OPERATIONAL CONDITIONS

The officer's recommended conditions with the following changes:

- replacing Condition 7 with the following:

The pergola is to remain open at all times.

- deleting Condition 9

- 3 That 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"/>
Marcia Doheny	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reasons for the Panel's Determination**

- The panel considers on a merits assessment the second storey loft element over the garage should be deleted because of the unnecessary overshadowing impact on the private rear open space for Lot 1. On balance the deletion of the loft improves the amenity for the adjoining dwelling and will provide for an improved streetscape.
- The panel considers with the deletion of the loft the development is worthy of approval and generally consistent with the planning framework.

The Chairperson closed the meeting at 8:35 pm.

Certified as true and correct.

Jan Murrell  
**Chairperson**

## **Bayside Local Planning Panel**

**8/10/2019**

Item No	4.3
Subject	<b>Minutes of the Bayside Local Planning Panel Meeting - 24 September 2019</b>
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/3007

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### **Recommendation**

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 24 September 2019 have been confirmed as a true record of proceedings by the Chairperson of that meeting.

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### **Present**

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

### **Also Present**

Luis Melim, Manager Development Services  
Fausto Sut, Manager Governance & Risk  
Marta Gonzalez-Valdes, Coordinator Development Assessment  
Christopher Mackay, Coordinator Development Assessment  
Pascal Van De Walle, Coordinator Development Assessment  
Andrew Ison, Senior Development Assessment Planner  
Helen Lai, Development Assessment Planner  
Ben Tesoriero, Director, Creative Planning Solutions Pty Limited  
Anne Suann, Governance Officer  
Taif George, IT Technical Support Officer

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

## **1 Acknowledgement of Country**

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past, present and emerging, 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**

Nil

### **6 Reports – Development Applications**

#### **6.1 DA-2018/329 - 1445-1447 Botany Road, Botany – Development Application**

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

The following people spoke:

- Troy Nicholson, affected neighbour, spoke for the officer's recommendation and responded to the Panel's questions.
- Richard Smolenski from the Botany Historical Trust spoke for the officer's recommendation and responded to the Panel's questions.
- Albert Becerra, architect from Architects Becerra, spoke against the officer's recommendation and responded to the Panel's questions.
- Stephen Kerr, town planning consultant from City Plan, spoke against the officer's recommendation and responded to the Panel's questions.
- Scott Murray, architect from Tropman & Tropman Architects, spoke against the officer's recommendation and responded to the Panel's questions.

#### **Determination**

- 1 That this application be deferred to allow the applicant to provide additional information, including amended plans, within a period of approximately one month from today. The assessment report is to consider all of the relevant information required to allow the Panel to determine the application and whether demolition of the heritage item is or is not appropriate.

The Council officers are to prepare an addendum to the report that addresses the additional information submitted by the applicant and those matters

outstanding in the current assessment report. This should be done in a timely manner for the matter to be determined by the Panel.

By way of comment, the Panel urges the applicant to reconsider, with amended plans, the juxtaposition of the development with the heritage item to the north.

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

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

#### Reason for the Panel's Deferral

The Panel should have all relevant information prior to a determination of this matter and at the same time the applicant has the opportunity to address the northern boundary presentation to the heritage item.

## 6.2 DA-2019/97 - 15-21 Bay Street, Rockdale – Development Application

### Determination

That Development Application DA-2019/97 for stratum subdivision of mixed use development (Building C) into 3 lots at 15-21 Bay Street, Rockdale, is APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, subject to the recommended conditions attached to the Council officer's report.

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

### Reason for the Panel's Determination

The Panel is satisfied the development application will not materially impact on the environment compared to the existing approval.

### 6.3 DA-2016/241/B - 15-21 Bay Street Rockdale Building C - S4.56 Modification

#### Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
  - 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(1A) of the Environmental Planning and Assessment Act 1979.
- 2 That modification application DA-2016/241/B seeking to modify development consent DA-2016/241 pursuant to Section 4.56 of the Environmental Planning and Assessment Act 1979 to amend carpark layouts in the basement, changes to pedestrian connectivity between Bay Street and Chapel Street, relocate public lift and associated changes at 15-21 Bay Street, Rockdale is APPROVED and the proposal be modified as follows:
  - a amend Condition No. 2 to reference the amended plans and indicate that the security door to the car park is not approved;
  - b amend Condition No. 3 to reflect the changes to parking and to the pedestrian link;
  - c amend Condition No. 11 to reflect the changes to parking;
  - d delete Condition No. 26 and replace with new Condition No. 26, to reflect the changes to the pedestrian link;
  - e amend Condition No. 110 to reflect the changes to parking.
- 3 That 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"/>
Robert Furolo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Reason for the Panel's Determination**

The modification will have no material impact on the development as proposed.

**6.4 DA-2017/224/G - 152-200 & 206 Rocky Point Road, Kogarah - Section 4.55 (1A) Application**

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.

**Determination**

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
  - 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(1A) of the Environmental Planning and Assessment Act 1979.
- 2 That the Panel take into account reasons for approval by the Sydney Eastern City Planning (SECPP) as provided in Section 4.55(3) of the Council officer's report.
- 3 That modification application, DA-2017/224/G, seeking to modify DA-2017/224 (as amended) to amend conditions 3 and 96 related to the Voluntary Planning Agreement to reflect the Deed of Variation at 152-200 & 206 Rocky Point Road, Kogarah, is APPROVED and the proposal modified to amend conditions 3 and 96 as recommended in the Council officer's report.

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

**Reason for the Panel's Determination**

The Panel supports the officer's recommendation and considers the modification warrants approval.

The Chairperson closed the meeting at 7:05 pm.

Certified as true and correct.

Jan Murrell  
**Chairperson**

## Bayside Local Planning Panel

8/10/2019

Item No	6.1
Application Type	Development Application
Application No	DA-2019/272
Lodgement Date	26/07/2019
Proposal	<b>139 Forest Road, Arncliffe - Construction of a patio roof at Arncliffe Preschool</b>
Ward	Ward 3
Owner	Bayside Council
Applicant	Furness & Co Pty Ltd
Property	139 Forest Road Arncliffe
No. of Submissions	Nil
Cost of Development	\$25,633
Report by	Michael McCabe, Director City Futures

## Officer Recommendation

That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2019/272 for the construction of a patio roof at Arncliffe Preschool at 139 Forest Road Arncliffe; 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.

## Location Plan





## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Elevation Plans [↓](#)
- 3 Perspective Plan [↓](#)
- 4 Site Plan [↓](#)
- 5 Draft Conditions of Consent [↓](#)

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Application Details

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<b>Application Number:</b>	DA-2019/272
<b>Report Date:</b>	16 September 2019
<b>Lodgement Date:</b>	26 July 2019
<b>Property:</b>	139 Forest Road, Arncliffe Lot 49 in DP 1919
<b>Owner:</b>	Bayside Council
<b>Applicant:</b>	Furness & Co Pty Ltd T/A Spanline Home Additions
<b>Proposal:</b>	Construction of a patio roof at the Arncliffe Preschool
<b>Submissions:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Author:</b>	James Arnold – Principal at Arnold Urban

#### Key Issues

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The key issues that were considered during the assessment process were as follows:

- **Heritage** – The subject site is a heritage item under the Rockdale LEP 2011. The proposed patio roof will not detract from the heritage item given it will be self-supporting, it will not be visible in the street, and it is well below the main ridge of the building. Council's Heritage Officer has reviewed the proposal and raised no objections subject to conditions relating to the colour of the patio roof and separation from the existing roof; and,
- **Independent Assessment and Determination** – As Bayside Council is the landowner of the subject site, an independent planning consultant was engaged to assess the application and prepare this report. Further, the development application is referred to the Bayside Local Planning Panel for determination under the 'conflict of interest' criteria of the ministerial directions for Local Planning Panels.

#### Recommendation

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That DA-2019/272 for the construction of a patio roof at the Arncliffe Preschool at 139 Forest Road, Arncliffe be **APPROVED** pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979*.

## Background

- 26 July 2019 – Development Application Lodgement – The subject DA-2019/272 was lodged with Council. The application was referred to Council's Heritage Officer, Building Surveyor and Development Engineer for review specialist matters.
- 31 July 2019 to 19 August 2019 – Public Notification – The application was publicly notified and advertised in accordance with the Rockdale Development Control Plan (RDCP) 2011. In response, no submissions were received.
- 5 August 2019 – Independent Assessor Engaged – Bayside Council is the landowner of the subject site and in accordance with Council policies, an independent planning consultant (James Arnold from Arnold Urban) was engaged to assess the application.

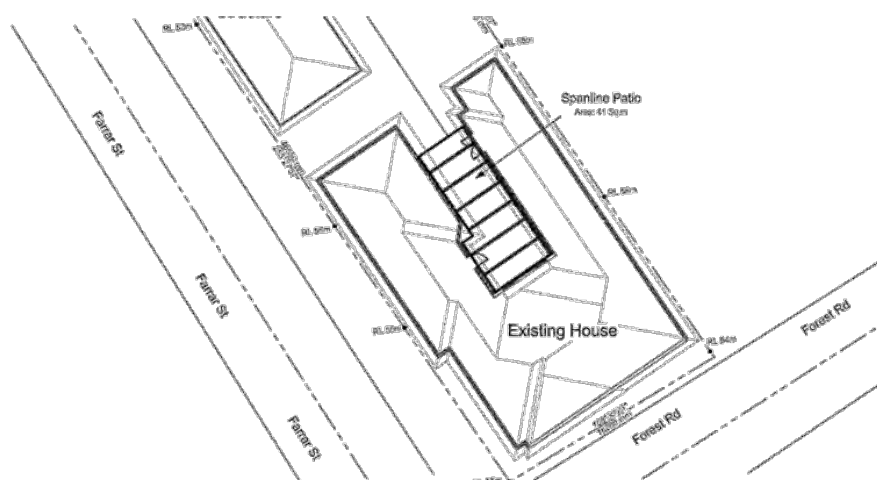
## Proposal

The proposal is for the construction of a patio roof at the Arncliffe Preschool at 139 Forest Road, Arncliffe.

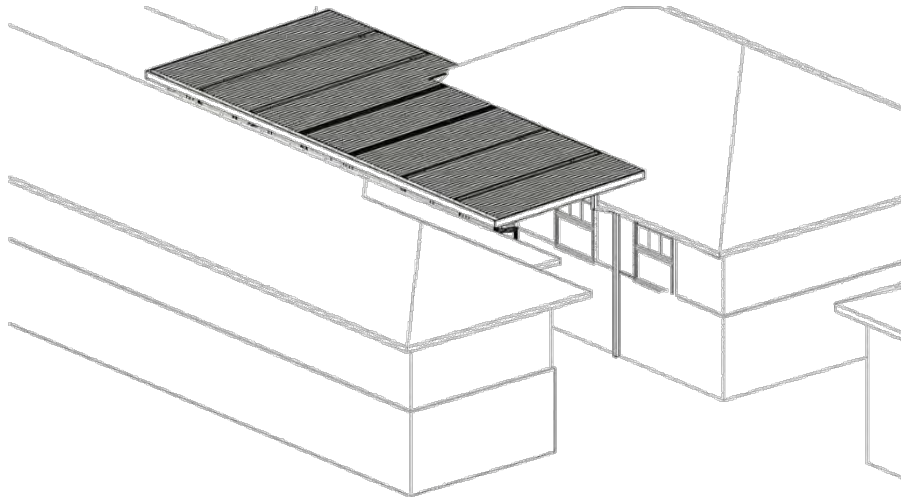
Details of the proposal are as follows:

- Construction of a 41m<sup>2</sup> roof over the existing internal courtyard;
- The roof will span from roof-to-roof across the courtyard however will be supported with free standing posts;
- Storm water from the new roof will drain to the existing system; and,
- The roof is to provide weather protection to the courtyard which is utilised for outdoor learning/play purposes for the pre-school.

The proposal and its location is shown in **Figures 1 to 3** below.



**Figure 1. Site Plan extract**  
**Source: Spanline Home Additions, 2019**



**Figure 2. Perspective**  
**Source: Spanline Home Additions, 2019**



**Figure 3. The courtyard over which the new roof is proposed.**  
**Source: Spanline, 2019**

## Site and Locality Description

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The subject site is known as 139 Forest Road, Arncliffe which is legally described as Lot 49 in DP 1919. The site is located on the northern eastern corner of Forest Road and Farrar Street. The site is generally rectangular in shape with a 15.545m frontage to Forest Road, 46.43m frontage to Farrar Street and area of 731m<sup>2</sup>. The site is zoned R2 Low Density Residential.

The site is used for the purposes of a preschool and is a local heritage item under the Rockdale LEP 2011. The site contains a U-shaped single storey brick and rendered building with a pitched tiled roof and a smaller single storey building at the rear. There is open space in the north-eastern rear quarter of the site and a courtyard within the U of the main building. The courtyard is covered over with a shade cloth. There are some small trees within the open space area at the rear.

The adjoining properties are as follows:

- Eastern side – 137 Forest Road – Two storey brick dwelling house with a pitched tiled roof. This building is attached to the main building on the subject site and is also heritage listed under the RLEP 2011 as Item No. 26.
- Northern rear – 3 Farrar Street – Single storey brick dwelling house with a pitched tiled roof.

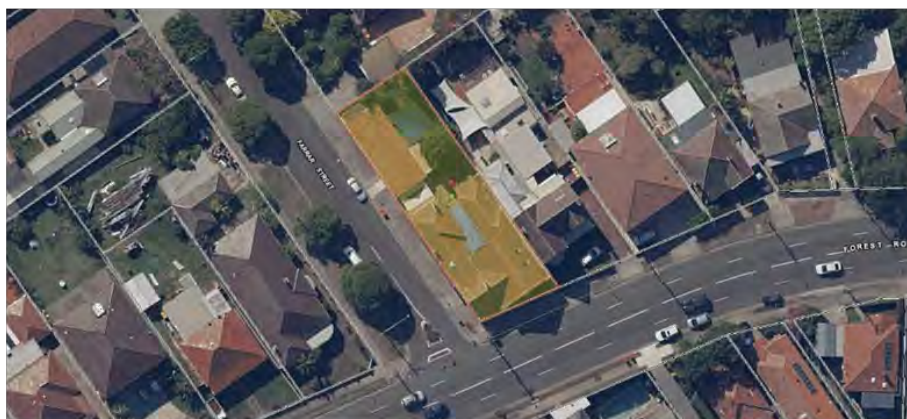


Figure 4. Aerial image of the subject site  
Source: Six Maps

## Referrals

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### Internal

The development application was referred to Council's Heritage Officer, Building Surveyor and Development Engineer. No objections were raised subject to conditions of consent.

### External

No external referrals were required.

## Statutory Considerations

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An assessment of the application has been undertaken in accordance with the matters for consideration under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

### **S4.15(1) – Matters for Consideration – General**

### **S4.15C(1)(a)(i) – Provisions of Environmental Planning Instruments**

#### **State Environmental Planning Policy (Infrastructure) 2007**

*State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) applies to the proposal as the subject site has a frontage to Forest Road which is a classified road. The relevant clauses have been considered below.

#### *Clause 101 – Development with frontage to a Classified Road*

Pursuant to Clause 101(2), a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *Where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *The design of the vehicular access to the land, or*
  - (ii) *The emission of smoke or dust from the development, or*
  - (iii) *The nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *The development is of a type that is not sensitive to traffic noise or vehicle emissions or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road*

The site has a frontage to a classified road being Forest Road and therefore this clause applies. The proposal relates only to the construction of a patio roof which will have no impact on the functioning of Forest Road and no change of use is proposed that would affect the sensitivity of the site to road noise. The proposal complies with this clause.

#### **State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017**

The aim of the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (herein referred to as the "Child Care SEPP"), is to facilitate the effective delivery of educational establishments and early education and care facilities across the State. The existing use of the site is characterised as a 'centre-based child care centre facility' as it is used for the education and care of children in a long day care format.

The proposal for a new patio roof within the Arncliffe preschool will not result in any non-compliance with the objectives and development standards of the SEPP. Clause 23 of the Child Care SEPP also requires the Child Care Planning Guideline to be taken into consideration which is considered below.





**State Environmental Planning Policy No. 55 – Remediation of Land**

Clause 7 requires the consent authority to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application. The proposal is for a roof which will involve negligible disturbance of soils which will nevertheless be covered over with paving. As such, soil investigations are not warranted and the site is considered suitable for the development.

**Rockdale Local Environmental Plan 2011**

An assessment of the proposal against the relevant clauses of the RLEP 2011 is provided in the table below.

<b>RLEP 2011 Clauses</b>	<b>Compliance</b>
2.3 Zoning – R2 Low Density Residential	Yes – See below discussion
4.3 Height of buildings	Yes – See below discussion
4.4 Floor space ratio	N/A – Patio roof does not create any additional gross floor area.
5.10 Heritage conservation	Yes – See below discussion
6.1 Acid Sulfate Soils	Yes – See below discussion
6.2 Earthworks	N/A – No earthworks proposed.
6.3 Aircraft noise	N/A – The development is for a roof only which is not sensitive to aircraft noise.
6.4 Airspace operations	Yes – The proposal does not penetrate the Limitations or Operations Surface of Sydney Airport.
6.7 Stormwater	Yes – see below discussion.

**2.3 Permissibility and Zone Objectives**

The subject site is zoned R2 Low Density Residential pursuant to the RLEP 2011. The proposal is for the construction of a patio roof which is ancillary to the existing use of the land for a 'centre-based child care facility' which is permitted with consent.

The proposal is consistent with the objectives of the R2 zone as it will improve the amenity of the preschool which is a service that provides for the day to day needs of residents in the zone.





Figure 5. RLEP 2011 zoning map extract with the site outlined in red  
Source: NSW Legislation / Marked: Arnold Urban, 2019

### 4.3 Height of Buildings

The maximum height of buildings on the subject site is 8.5 metres.

The proposed patio roof has a maximum height sitting just above the adjacent roof eaves at approximately 4 metres which complies with the height limit.

### 5.10 Heritage

The subject site contains a heritage item (No. I27) of local significance which it is known as the 'Arncliffe Preschool and Kindergarten'. Council's Heritage Officer has reviewed the proposal and raised no objections subject to the below conditions. The following comments and conditions were provided:

*The proposed development is the construction of a more rigid shade structure than the existing shade cloth. The structure is proposed to be a 'Spanline' product which is aesthetically very different to the character of the original, Arts and Crafts style building. The structure is entirely independent of the building and has been raised above the eaves to ensure gutters, windows and doors and the rest of the original building can be maintained. Being a completely separate structure, it will have no physical impact upon the existing building and will be entirely reversible, the structure can be removed at any time with no damage to the building.*

*The proposed shade structure will have a negative impact upon the aesthetic qualities of the place however this is mitigated against by the following factors:*

- *The structure will not be visible from the public domain;*
- *The height of the structure will allow the rear wings to be read clearly and will not obscure any fenestration or detailing;*
- *The length of the shade structure roof has been set back to be no further than the ridge of the smaller wing to prevent the structure being visually intrusive;*
- *The structure can be removed when the current use ceases.*

*The colour scheme of the proposed structure is currently paler than the colour palette of the original building which will make the structure stand out. It is therefore recommended the*

structure be darker colours to match the building. Structural elements such as columns and beams should match the brick colour or similar.

**Conditions:**

- The columns and beams shall be painted Manor Red (Colorbond registered colour) or the equivalent.
- No part of the structure shall touch the existing building. There must be a minimum of 100mm separation from all parts of the existing building. This condition is imposed to ensure there is no damage to the heritage item.

Given the above commentary provided by the Heritage Officer, it is considered that subject to the conditions provided, the proposal will have minimal adverse impact on the heritage item which is consistent with the requirements of Clause 5.10.



Figure 6. RLEP 2011 heritage map extract with the site outlined in red  
Source: NSW Legislation / Marked: Arnold Urban, 2019

#### 6.1 Acid Sulfate Soils

The site is identified as Class 5 Acid Sulfate Soils however is not within 500m of a higher class of land and minimal soil disturbance is proposed. Accordingly, an Acid Sulfate Soils Management Plan is not required and the proposal satisfies this clause.

#### 6.7 Stormwater

The proposed patio roof has a 1.5 degree skillion which drains into gutter and downpipes connecting into the existing stormwater system on site. Council's Development Engineer has reviewed the proposal and raised no objection subject to a standard condition of consent.

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

No draft environmental planning instruments are of relevance in the assessment of the proposed development.

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

The following development control plan is relevant to this application:

**Rockdale Development Control Plan 2011**

The proposal has been assessed against the relevant provisions of the RDCP 2011 and a summary is provided below.

<b>RDCP 2011 Provisions</b>	<b>Compliance</b>
4.2 Streetscape and Site Context	Yes – see discussion below
4.4 Sustainable Building Design	Yes – see discussion below
6.1 Child Care Centres	Yes – see discussion below.

**RDCP 2011 Part 4 – General Principles for Development***Streetscape and Site Context*

Assessment: The proposed patio roof will not be visible in the street.

*Sustainable Building Design*

Assessment: The proposed patio roof will provide shade to the internal courtyard which will assist in reducing energy consumption associated with cooling.

**RDCP 2011 Part 6.1 – Child Care Centres**

Part 6.1 of the RDCP 2011 provides controls for Child Care Centres. The controls relate to children ages, ratios, locations, building design, privacy, space requirements, parking, and hours of operation. In accordance with clause 26 of the Child Care SEPP and the provisions of the Guidelines, these provisions do not apply. The only provisions which remain applicable are controls relating to building height, rear and side setbacks and car parking rates. The proposed patio roof is well under the main ridge height of the building and is well away from the boundaries. Accordingly, the proposal satisfies the relevant provisions of Part 6.1.

**S4.15C(1)(a)(iv) – Provisions of the Regulations**

The *Environmental Planning and Assessment Regulation 2000* (the Regulations) have been considered in the assessment and no issues have been identified.

**S4.15C(1)(b) – Likely Impacts of Development**

The likely impacts of the development have been considered throughout the preceding assessment against the relevant Environmental Planning Instruments and Development Control Plans. No significant adverse impacts have been identified. Potential impacts during construction will be mitigated and managed through standard conditions of consent and relevant standards. The development will improve the amenity of the Arncliffe preschool by providing shade and shelter to an existing outdoor play space.

**S4.15C(1)(c) – Suitability of the Site**

The site is considered suitable for the proposed development as it is ancillary to a permissible land use, it is located and design such that it will have no impact on the street, adjoining properties or the heritage item, and there no site constraints such as contamination that would make the site unsuitable for its construction.

**S4.15C(1)(d) – Submissions**

The application was publicly notified in accordance with the RDCP 2011. In response, no submissions were received.

**S4.15C(1)(e) – Public Interest**

The proposed development is considered to be in the public interest as it will improve the amenity of the Arncliffe preschool which is a service for the local community.

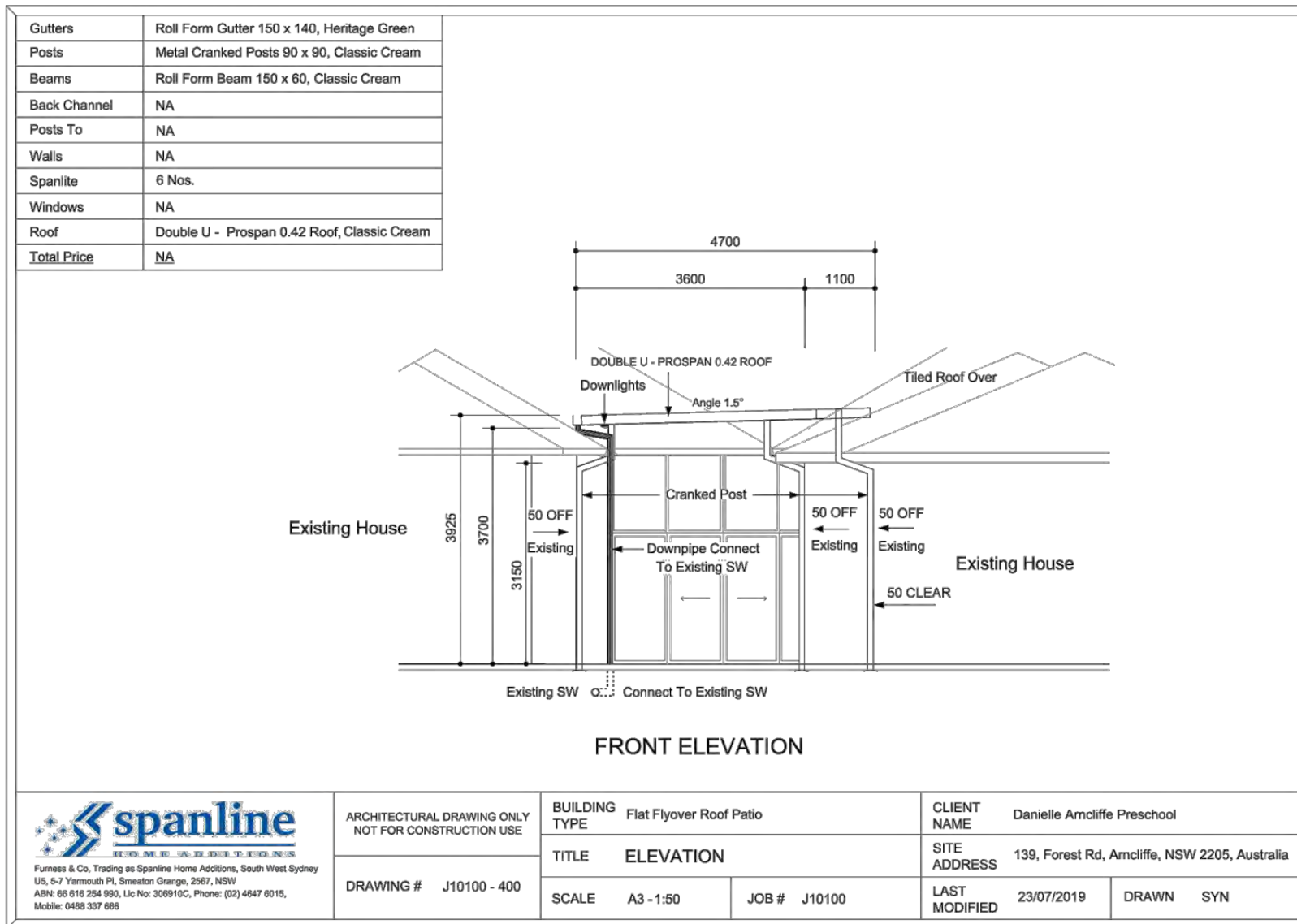
**Conclusion**

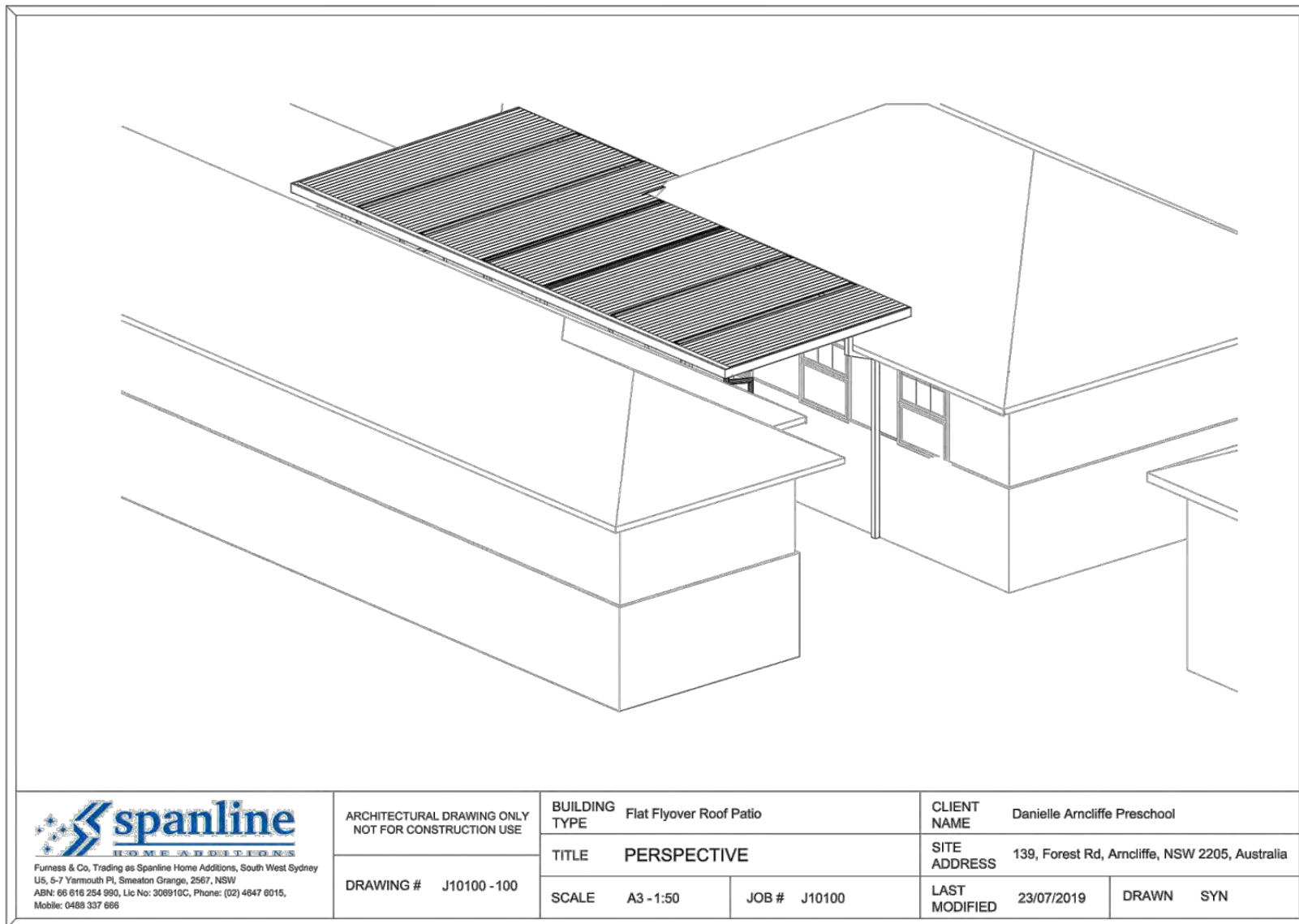
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The proposal is for the construction of a patio roof at the Arncliffe Preschool. The proposal is considered to be consistent with the key planning provisions contained within the Child Care SEPP, the Child Care Guidelines, RLEP 2011 and the RDCP 2011.

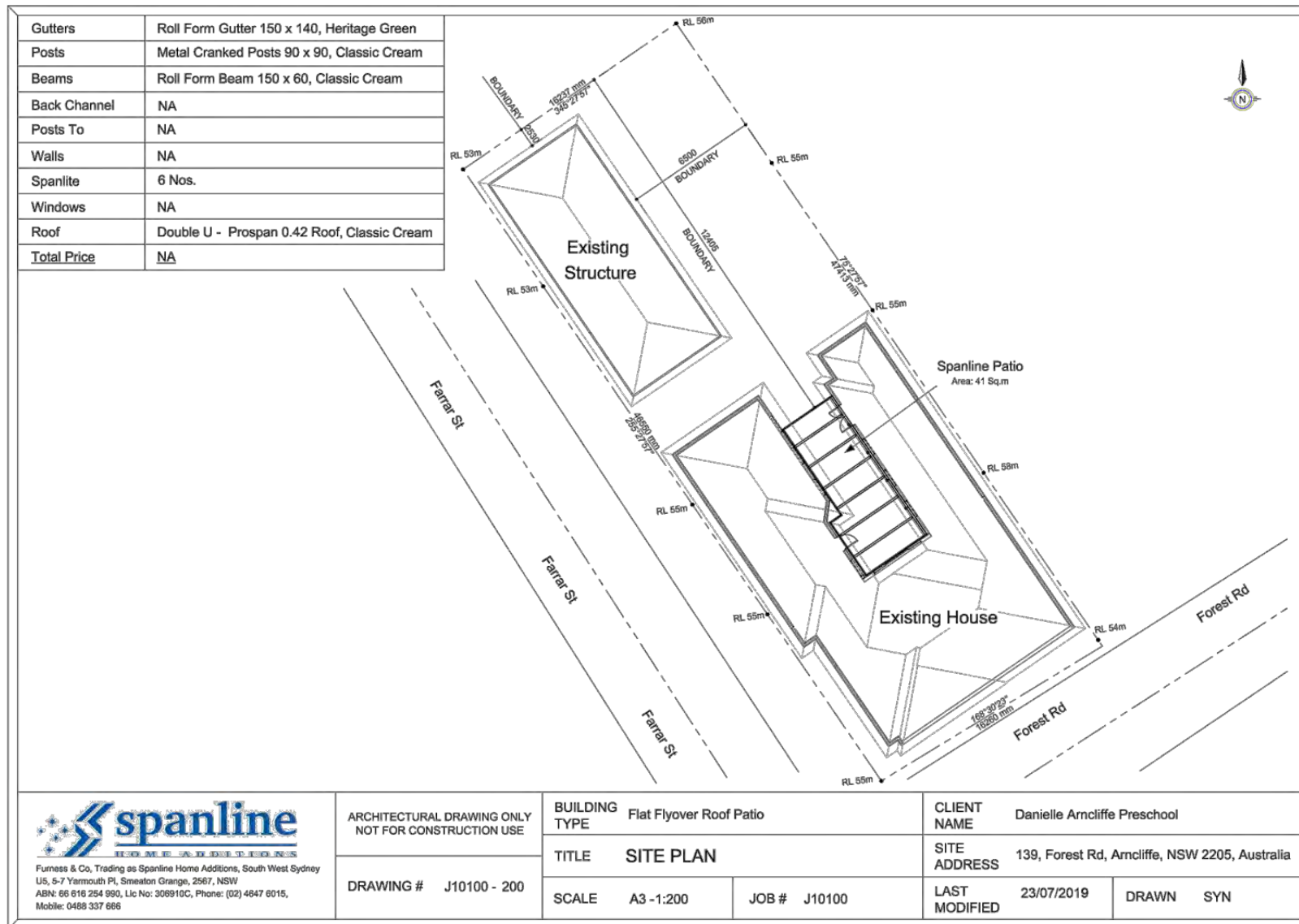
The roof will have little or no adverse impacts as it will not be visible in the street, the height is well below the existing roof height, and the structure is self-supported which will not affect the heritage item. The roof will improve the amenity of the preschool by providing shade and shelter to the existing courtyard play area.

For these reasons, the development application is recommended for approval subject to conditions of consent.









## Bayside Council Conditions Summary

### General Conditions

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
Site Plan / J10100-200	Spanline Home Additions	23/07/2019	26/07/2019
Plan View / J10100-300	Spanline Home Additions	23/07/2019	26/07/2019
Elevation / J10100-400	Spanline Home Additions	23/07/2019	26/07/2019

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The roofed area shall not be enclosed at any future time without prior development consent.
6. To protect the heritage item, no part of the structure shall touch the existing building. A minimum of 100mm separation from all parts of the existing building is to be maintained. Details shall be submitted in the construction certificate documentation prior to the issue of the Construction Certificate.
7. The columns and beams shall be painted Manor Red (Colorbond registered colour) or the equivalent. This should be reflected in the construction certificate drawings.

### Prior to issue of the construction certificate

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

8. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
  - i. A Footpath Reserve Restoration Deposit of \$3,254.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may



be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.

- ii. An environmental enforcement fee of 0.25% of the cost of the works.
- iii. A Soil and Water Management Sign of \$19.00.

### **Prior to commencement of works**

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

- 9. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

- 10. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.

### **During demolition / excavation / construction**

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

- 11. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
- 12. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
- 13. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
- 14. Existing site and/or street trees shall be adequately protected from damage during operations.

### **Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

15. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
16. Prior to issue of any Occupation Certificate a registered plumber or other suitably qualified professional is to check the existing stormwater system for the building and shall provide a certificate stating that the system is satisfactory and in good working condition. If the existing system or any element of the system cannot be certified as being satisfactory and in good working condition then the substandard section of the existing system is to be renewed.

### **Development consent advice**

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

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

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

**Bayside Local Planning Panel**

**8/10/2019**

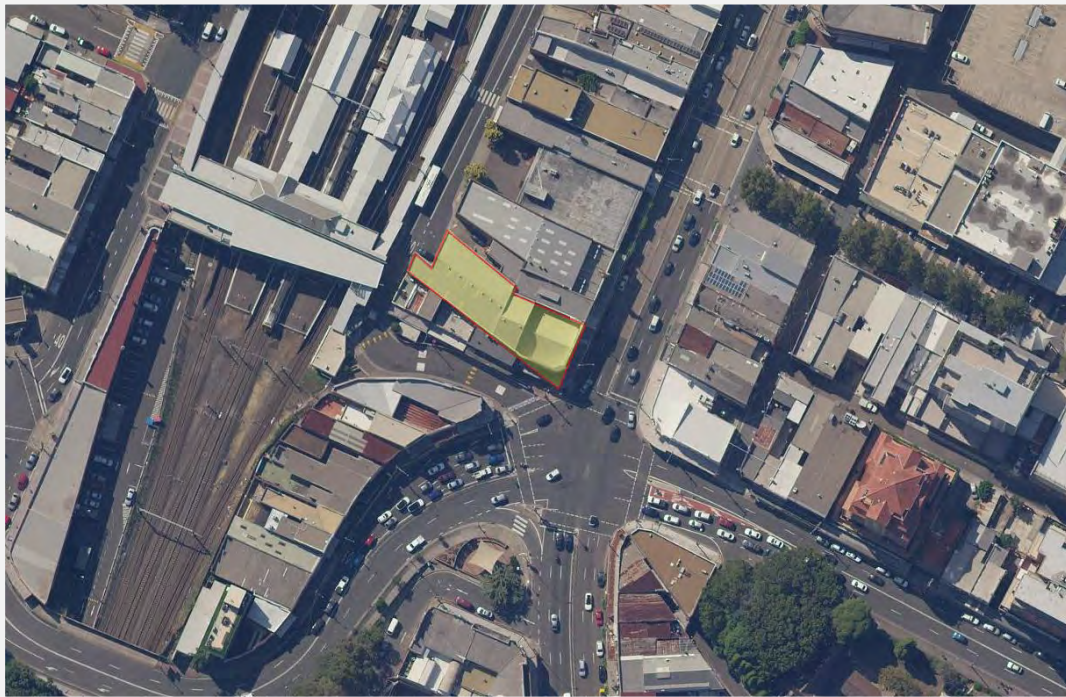
Item No	6.2
Application Type	Signage
Application No	S82-2019/7
Lodgement Date	02/07/2019
Proposal	<b>511 Princes Highway, Rockdale - Replacement of existing advertising signage with LED digital display</b>
Ward	Ward 5
Owner	513-517 PRINCES HIGHWAY PTY LIMITED
Applicant	Hones Lawyers
Property	511 Princes Highway, Rockdale
No. of Submissions	Nil
Cost of Development	\$150,000
Report by	Michael McCabe, Director City Futures

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**Officer Recommendation**

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Division 8.2 relating to development application S82-2019/7 for a review of determination, resolve to change the previous decision for refusal of the development application DA-2018/94, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
  - 2 That development application DA-2018/94 for the replacement of existing advertising signage with an LED digital display on the corner of Princes Highway, Tramway Arcade and The Seven Ways be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
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## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Site Plan [↓](#)
- 3 Plan [↓](#)
- 4 Existing East Elevation [↓](#)
- 5 Existing South Elevation [↓](#)
- 6 Proposed East Elevation [↓](#)
- 7 Proposed South Elevation [↓](#)
- 8 Signage Detail [↓](#)
- 9 Updated Lighting Impact Assessment [↓](#)
- 10 Applicant Planning Consultant Letter of Support [↓](#)
- 11 Draft Planning Agreement [↓](#)

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Application Details

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<b>Application Number:</b>	S82-2019/7
<b>Date of Receipt:</b>	2 July 2019
<b>Property:</b>	511 Princes Highway, Rockdale
<b>Lot &amp; DP/SP No:</b>	Lot 11 in DP 1188474, 511 Princes Highway, Rockdale
<b>Owner:</b>	513-517 Princes Highway Pty Ltd
<b>Applicant:</b>	Legge & Legge Architects P/L
<b>Proposal:</b>	Erection of illuminated general advertising sign with an integrated digital LED screen
<b>Value:</b>	\$150,000
<b>Recommendation:</b>	Approval
<b>No. of submissions:</b>	Nil
<b>Author:</b>	Brendon Clendenning, Creative Planning Solutions Pty Limited
<b>Date of Report</b>	24 September 2019

## Key Issues

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Council received Development Application No. 2018/94 on 24 April 2018 to erect an illuminated general advertising sign with an integrated digital LED screen. The proposed sign was to replace an existing sign located partially on the building facade and partially above the parapet of the building on the site and to have the similar dimensions and location as the existing sign.

On 15 April 2019, the application was refused under delegated authority. On 2 July 2019, the subject application requested that Council review its determination, pursuant to S8.2 of the *Environmental Planning and Assessment Act 1979*.

The key issues identified in the assessment of the application relate to the visual impact upon the future character of the area and the suitability of the site for a large scale digitally illuminated general purpose advertising sign. A number of issues which informed reasons for refusal under DA 2018/94 have been addressed and resolved to varying degrees, these are discussed further throughout this report.

## Recommendation

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1. That the Bayside Local Planning Panel, exercising the functions of the Council as the Consent Authority, pursuant to Division 8.2, relating to Section 8.2 Review application S82-2019/7 for a review of determination, resolve to change the decision for refusal of the Development Application DA-2018/94, pursuant to Section 8.4 of the *Environmental Planning and Assessment Act 1979*.
2. That Section 8.2 Review application S82-2019/7 to erect an illuminated general advertising sign with an integrated digital LED screen at 511 Princes Highway, Rockdale be APPROVED pursuant to S4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.



## Background

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### History

#### DA 2002/804

Alterations to the building on the subject site, including provision of a first floor office at the frontage of the site, and advertising signs were granted consent pursuant to DA 2002/804 on 11 November 2002. The approval, at Condition 11, required separate development consent for the form and content of the advertising sign and Condition 12 required that the use of the sign for general advertising was prohibited.

On 18 January 2006 Council issued a Notice of Intention to give an Order pursuant to the former Section 121H (now contained within Schedule 5) of the Act in relation to the unauthorised use of the sign for general advertising.

#### DA 2006/378

On 9 February 2007 DA 2006/378 for the use of the sign for general advertising was refused, it being prohibited under the provisions of the now repealed *Rockdale Local Environmental Plan 2000* (RLEP 2000).

On 3 August 2007 Council issued a second Notice of Intention to Give an Order. The Order itself was not subsequently issued.

On 15 August 2007 a third Notice of Intention requiring removal of the advertising sign content was issued.

#### DA 2008/182

Development Consent DA 2008/182 was granted on 12 February 2008 for "content for existing sign structure". At Condition 6, the consent required that the advertising content for the sign could only relate to the subject site or another site within 400m of the location of the sign, as per clause 22(6)(d). As such the consent did not permit a general purpose advertising sign, it being noted that RLEP 2000 still prohibited a general purpose advertising sign at that time.

As such the sign existing on the site has not been approved as a general purpose advertising sign, but rather is limited to advertising businesses within a 400m radius of the subject site as per the RLEP 2000. Further, no consent has been granted for the illumination of the sign. It is noted that the lighting assessment report which accompanied DA 2018/94 was prepared on the basis that the sign is currently illuminated and a site inspection confirms that the sign is illuminated by spotlights located on top of the awning over the footpath.

The existing sign is located largely on the southern side of the existing building, wraps around the splay corner of the building and projects forward of the façade of the building at the splay corner. The sign is illuminated by spot lights located on the awning over the

footpath. Finally, the sign has a separate, internally lit illuminated logo sign of the advertising company located on the splay of the building. The sign is currently operating as a general purpose advertising sign.

As such, the current signage, whilst having approval for erection (other than the lighting and separate logo sign), is operating without consent as a general purpose advertising sign.

#### DA 2018/94

Development Application No. 2018/94 was lodged on a 24 April 2018 seeking to erect an illuminated general advertising sign with an integrated digital LED screen. The proposed sign was to replace the existing sign described above.

The proposed LED digital screen was to have dimensions of 3.42m x 12.468m, with a display area of 42.64m<sup>2</sup>. The sign was to comprise 3 sections to allow the sign to wrap around the splay corner of the building. Whilst the largest section was proposed to be constructed, in part, flush with the southern wall (projecting approximately 200mm), the two smaller sections that were to wrap around the splay corner of the building, would project up to 734mm from the face of the building and also encroach in the order of 250mm into the road reserve. The sign was also to project 1.39m above the parapet of the building upon which it is located.

The sign was proposed to operate 24 hours a day, seven days a week, with a digital screen that would display static images only and would not involve scrolling, flashing or motion pictures.

RMS had reviewed this proposal subject to *State Environmental Planning Policy No 64 (Advertising and Signage)* (SEPP 64) and has provided concurrence with the inclusion of conditions, including a trial period for 30 second minimum dwell period for advertisements. It is noted that concurrence was granted under DA-2018/94 and not referred under S82/2019/7. Further, concurrence was not sought under Clause 138(2) of *The Roads Act 1993*. Notwithstanding, Council deem concurrence granted for DA-2018/94 under SEPP 64 is sufficient and appropriate for application to S82-2019/7.

The Development Application was refused on 15 April 2019, pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:

1. The design of the proposed advertising sign was deemed inappropriate in the context of the building upon which it is to be located, being excessive in size, projecting forward of the front façade and projecting above the parapet of the building.
2. The design and location of the proposed 24 hour illuminated general purpose advertising sign was deemed inappropriate given the area is undergoing transition and will include high density residential (in the form of mixed use) development. It was also foreseen the sign would have unacceptable impacts upon the



streetscape and amenity of the area and surrounding future residents and be inconsistent with the desired future character of the area.

3. Inadequate information was been provided in the Lighting Assessment Report to assess the impact of illumination glare upon future residences likely to be constructed in close proximity to the proposed sign.
4. The application was not accompanied by an offer to provide an appropriate public benefit in conjunction with the sign.
5. Approval of the sign was not deemed to be in the public interest given the proposed sign is not suitable for the site and is inconsistent with Section 14.15(1)(d) and (e) of the Environmental Planning and Assessment Act.

Given the above reasons for refusal, the application was therefore deemed inconsistent with the provisions of State Environmental Planning Policy No. 64 Advertising and Signage, Transport Corridor Outdoor Advertising and Signage Guidelines 2017 and Rockdale Development Control Plan 2011.

### **Description of Proposal**

#### S82 2019/7

A Section 8.2 Review application was lodged on 2 July 2019, seeking for Council to review its previous determination of refusal. The application contained amendments to the signage structure proposed under DA 2018/94, being an illuminated advertising sign with an integrated digital LED screen. For the purposes of this review, the applicant has supplied amended Architectural Plans prepared by Legge & Legge Architects and an updated Lighting Impact Assessment prepared by Electro Light.

The proposed digital signage will be located on the upper facade of the commercial building at 511 Princes Hwy, Rockdale (refer **Figure 1**). The signage consists of two adjoining displays; 10.71m<sup>2</sup> at eastern frontage to Princes Hwy; and 29.46m<sup>2</sup> at the southern frontage to Tramway Arcade for a combined illuminated display area of 40.17m<sup>2</sup> (2.47m<sup>2</sup> smaller than the previously proposed 42.64m<sup>2</sup> sign).

The proposal also seeks to infill and raise portions of the parapet to match the maximum height of the signage. This will result in a uniform height (inclusive of the signage) of 25.45m across the entirety of the building façade.

The signage is proposed to operate from 6am to 11pm daily, with the illuminated LEDs controlled to upper and lower thresholds as required as well as automatically via a local light sensor to adjust to ambient lighting conditions.



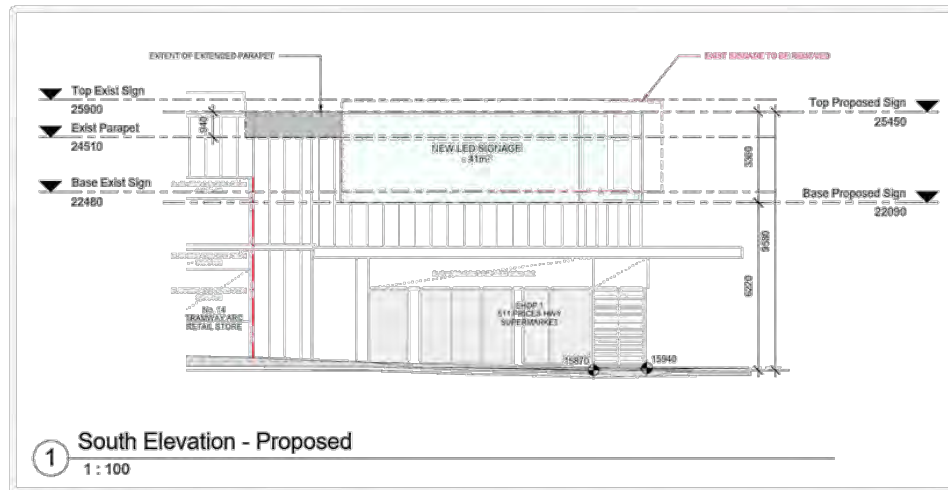
**Figure 1:** Proposed signage shown in blue and existing signage shown in red.  
(Source: Legge & Legge Architects)

### **Applicant Response to Reasons for Refusal**

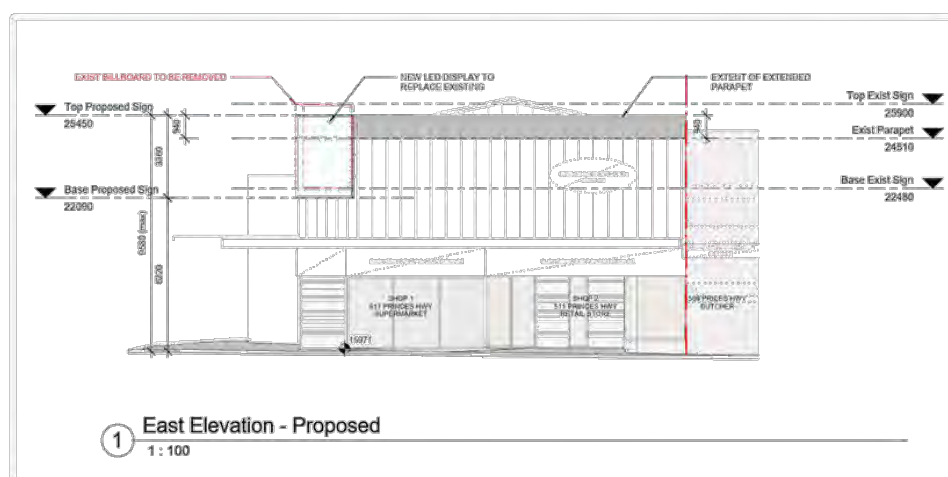
#### **Design and Streetscape**

A key issue informing the refusal of DA 2018/94 was the inappropriate design response to the context of the site, including the overall size of the signage and its relationship with the existing building parapet and façade. In response, the proposal seeks to infill and raise the height of the parapet to 25.45m, matching the maximum height of the signage (refer to **Figure 1**).

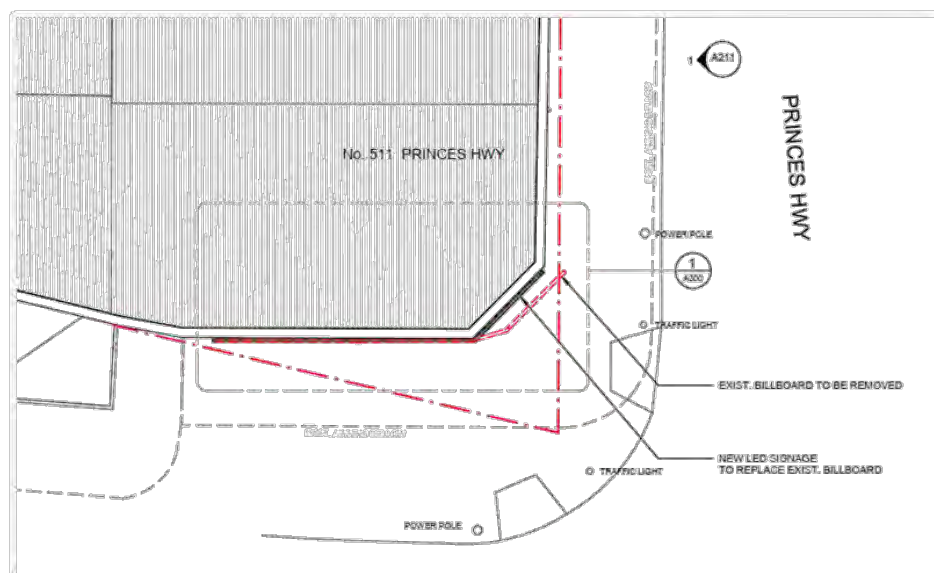
The sign is now proposed to sit flush against the building façade and will no longer project forward of the building at the splay corner. As such, the amendments will result in a uniform parapet height, with the sign sited appropriately in relation to the façade thus providing a design more compatible with the visual character of the area (refer to **Figures 2, 3 and 4**).



**Figure 2:** South elevation indicating alterations to parapet and amended siting of signage  
(Source: Legge & Legge Architects)



**Figure 3:** East elevation indicating alterations to parapet and amended siting of signage  
(Source: Legge & Legge Architects)



**Figure 4:** East elevation indicating alterations to parapet and amended siting of signage  
(Source: Legge & Legge Architects)

#### Curfew

According to the updated Lighting Impact Assessment prepared by Electro Light, the sign is proposed to operate for a reduced period of time during each day, being 6am to 11pm, rather than a 24-hour period as originally proposed. This reduction in operation time reduces the potential negative impacts on existing and future residents located in the vicinity of the site.

#### Lighting Impact Assessment

Information provided in the original Lighting Impact Assessment was deemed inadequate in assessing the impact of illumination glare upon future residences likely to be constructed in close proximity to the proposed sign (refer **Figure 5**). The updated Assessment now addresses sites within the locality which exhibit residential development potential, specifically those in B2 and R4 zones (refer **Figure 6**).



**Figure 5:** Obtrusive Lighting Calculations contained in original Lighting Impact Assessment  
(Source: Electro Light)



**Figure 6:** Obtrusive Lighting Calculations contained in updated Lighting Impact Assessment  
(Source: Electro Light)

The Lighting Impact Assessment states that the proposed digital signage complies with all relevant requirements of AS 4282-1997 *Control of the Obtrusive Effects of Outdoor Lighting* and will not result in unacceptable glare, nor adversely impact the safety of pedestrians, residents or vehicular traffic. The Lighting Impact Assessment also states that the proposed digital signage will not cause any reduction in visual amenity to nearby residences or accommodation.

### Site Description

The site is 511 Princes Highway, Rockdale and is legally described as Lot 11 in DP 1188474. The site is an elongated irregular shaped lot with a primary frontage to the Princes Highway, a rear frontage to Geeves Avenue and a partial side frontage to Tramway Arcade. The site is currently occupied by a part one (at the primary frontage) and part two (at the eastern end) storey building. The building appears to have a low pitched roof behind the parapet at the front of the site (refer **Figure 7**)





**Figure 7: Map indicating subject site and surrounds**  
(Source: SIX Maps)

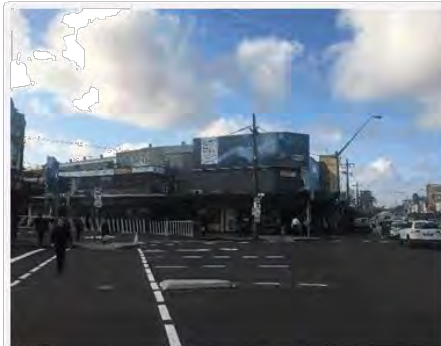
The site is located at the Seven Ways intersection and is in close proximity to Rockdale Railway Station. The locality is undergoing change from a low scale shopping strip to a relatively high density mixed use area with retail and commercial premises at ground level and residential uses above within recent developments. The changing character of the area reflects the B2 Local Centre zone and the planning controls for the site which include a 22m height limit and 2:1 FSR control.

The site is also located in Area A, which is an area where consolidation of allotments is encouraged by provisions which permit an additional 12m height and 1:1 FSR if a site is amalgamated to a minimum of 1,500m<sup>2</sup>. Currently none of the immediately adjoining properties have been redeveloped under the higher density planning controls and as such their built forms do not reflect the desired future character of the area.

The existing surrounding buildings are largely one and two storey and contain traditional strip commercial/retail uses and shop top housing. Properties further to the south, along the Princes Highway, contain recently constructed multi-level mixed use developments, and those recently constructed along Bay Street contain are multilevel residential flat buildings. Construction has also recently commenced on a significant mixed use development containing multiple buildings along the southern side of Bay Street and within surrounding streets, also on the southern side of Bay Street.



**Figure 8:** View to signage location from The Seven Ways (Source: CPS)



**Figure 9:** View to signage location from Princes Highway (Source: CPS)



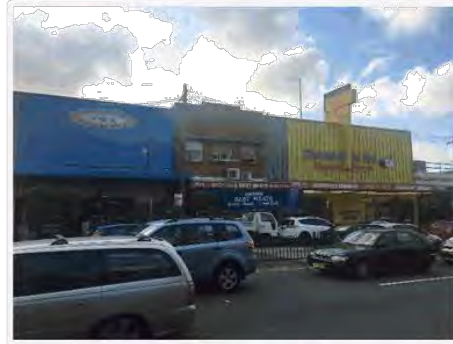
**Figure 8:** View towards Princes Highway from signage location (Source: CPS)



**Figure 9:** View to signage location from The Seven Ways (Source: CPS)



**Figure 10:** View toward southern corner of Bay Street and Princes Highway (Source: CPS)



**Figure 11:** Facades facing Princes Highway directly adjacent of the subject site (Source: CPS)



**Figure 12:** View toward northern corner of Bay Street and Princes Highway (Source: CPS)



**Figure 13:** Signage present along shopfronts located on Princes Highway, opposite subject site (Source: CPS)



## **Statutory Considerations**

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### **Environmental Planning and Assessment Act, 1979**

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

### **Section 8.2 Determinations and decisions subject to review**

#### **S.8.3 - Application for and Conduct of Review**

Pursuant to Section 8.2(1(a) of the EP&A Act, the determination of an application for development consent by a council can be subject to review under Division 8.2. Since the application is not for complying development, designated development or Crown development, it can be reviewed under this Division.

This Review Application is lodged pursuant to Section 8.3(1) of the EP&A Act. The applicant may amend the proposal but only if the consent authority is satisfied that it is substantially the same development (S8.3(3) of the EP&A Act). It is considered that the proposal as outlined in the Review Application is substantially the same development as that proposed within the original application, which was also for electronic signage of a similar size and location to the current proposal.

The time within which the review must be made is six (6) months pursuant to Section 8.10 and 8.3(2)(a) of the EP&A Act. Since the development application was refused on 15 April 2019, a decision on whether or not to review the determination must be made by Council/the Panel within 6 months of the date of the original decision. The review application was received on 2 July 2019, providing Council with sufficient time to make such a determination prior to the expiry of the 6 month period on 15 October 2019.

#### **S.8.4 – Outcome of Review**

The application has been assessed, with particular regard to the changes made to the original proposal, and it is recommended that the initial refusal decision is reviewed and that the application be approved, subject to conditions.

#### **8.5 – Miscellaneous Provisions Relating to Reviews**

The miscellaneous provisions have been considered and noted. No further comments are made in this regard.

### **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 No. 64 – Advertising and Signage (SEPP 64)

The application is for signage that is visible from a public place and which is permissible with consent and is not signage that is exempt development, and as such, pursuant to clause 6, SEPP 64 is applicable to the assessment of the application.

### Part 2 Signage Generally

Clause 8 of SEPP 64 states that the consent authority must not grant consent to an application for signage unless it is satisfied:

- (a) *that the signage is consistent with the objectives of this Policy as set out in clause 3(1)(a), and*

#### Objectives

The objectives stipulated under Clause 3(1)(a) are:

- (a) *to ensure that signage (including advertising):*
- (i) *is compatible with the desired amenity and visual character of an area, and*
  - (ii) *provides effective communication in suitable locations, and*
  - (iii) *is of high-quality design and finish, and*

- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

Accordingly, the proposed signage has been assessed against Clause 8 which requires Council to determine consistency with the objectives stipulated under Clause 3(1)(a) of the SEPP and to assess the proposed signage against the assessment criteria of Schedule 1.

### Schedule 1

Schedule 1 of SEPP 64 provides assessment criteria for the provision of new signage. The proposed signage is considered against these criteria within the table below:

Matters for Consideration	Comment	Complies
<b>1 Character of the area</b>		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	As previously noted, amended plans now seek to create a uniform parapet height (inclusive of the signage) across the entirety of the building façade with a design that no longer projects forward or above the building façade (refer to <b>Figures 1, 2 and 3</b> ). As such, these amendments will result in a	Yes

	design more compatible with the character of the area.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	No particular theme for outdoor advertising exists for the area, however substantial visual clutter is present on the majority of façades facing the Seven Ways intersection.	<b>N/A</b>
<b>2 Special Area</b>		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	<p>The signage is not located in an environmentally sensitive area, heritage area, natural or other conservation area, open space area, waterway or rural landscape.</p> <p>While the site is in the vicinity of existing and future residential dwellings, the amended Lighting Impact Assessment by Electro Light states that the proposed digital signage will not detract from the visual amenity of residential development in the immediate locality (refer <b>Figure 4</b> and <b>5</b>).</p>	<b>Yes</b>
<b>3 Views and Vistas</b>		
Does the proposal obscure or compromise important views?	The signage will not obscure or compromise important views.	<b>Yes</b>
Does the proposal dominate the skyline and reduce the quality of vistas?	The signage will be the most prominent piece of advertising located at this intersection, however amended siting and design reduce its level of dominance on the skyline. Further, the proposed sign replaces one of comparable prominence and is therefore not unexpected, given its location.	<b>Yes</b>
Does the proposal respect the viewing rights of other advertisers?	The proposed signage will not obscure any future signage and will respect the viewing rights of other advertisers.	<b>Yes</b>
<b>4 Streetscape, setting or landscape</b>		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	As previously noted, amended plans propose a design that is more appropriate to the streetscape by improving its siting in relation to the building façade and resolving issues of protrusion.	<b>Yes</b>
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The sign will continue to operate as a point of interest in the streetscape.	<b>Yes</b>
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	As previously noted, amended plans propose a design that is more rationalised and simplified owing to improved siting in relation to the building façade and absence of signage protrusion.	<b>Yes</b>
Does the proposal screen unsightliness?	The proposal will result in a more uniform building height, improving the uneven roof form which currently exists.	<b>Yes</b>

Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The signage will no longer protrude above the attached building.	Yes
Does the proposal require ongoing vegetation management?	No	N/A
<b>5 Site and building</b>		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	As previously noted, amended plans propose signage that is more appropriate to the streetscape by improving its siting in relation to the building façade and resolving issues of protrusion.  Further, the prominent location of the sign on the Princes Highway is currently characterised by signage, meaning the relationship with the building is acceptable on a relative basis.	Yes
Does the proposal respect important features of the site or building, or both?	As above	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposed sign is more responsive to the building than the existing sign, with its design and siting influenced by the form of the building.	No
<b>6 Associated devices and logos with advertisements and advertising structures</b>		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	According to the amended plans, the existing Ooh! Logo is to be removed.	Yes
<b>7 Illumination</b>		
Would illumination result in unacceptable glare?	Refer to commentary on Lighting Impact Assessment noted previously in this report.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	As above.	Yes
Would illumination detract from the amenity of any residence or other form of accommodation?	As above.	Yes
Can the intensity of the illumination be adjusted, if necessary?	As above.	Yes
Is the illumination subject to a curfew?	Yes, the proposed signage will operate between 6am – 11pm.	Yes

<b>8 Safety</b>		
Would the proposal reduce the safety for any public road?	RMS raise no object to the proposal subject to a minimum dwell time of 24 hours, but has proposed conditions allowing an 18 month trial period where the sign operates with a minimum dwell time of 30 seconds. These conditions are recommended to be included within any consent.	<b>Yes</b>
Would the proposal reduce the safety for pedestrians or bicyclists?	As above.	<b>Yes</b>
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	As above.	<b>Yes</b>

### **Part 3 Advertisements**

This part applies to all signage other than business identification and building identification signs or signage that is exempt or on vehicles and as such applies to the assessment of the application.

#### Division 2 Control of Advertisements

Division 2 also applies to advertisements and identifies Council as the consent authority and indicates that applications for advertisements also need to satisfy other relevant requirements of the Policy.

Clause 13 indicates that if clause 18 or 24 applies, the consent authority must not grant consent unless arrangements that are consistent with the *Transport Corridor Outdoor Advertising and Signage Guidelines 2017* (the Guidelines) have been entered into for the provision of the public benefits to be provided in connection with the display of the advertisement (refer to section below discussing the Guidelines).

The application is subject to Clause 18, as such, a draft planning agreement has been proposed by the applicant for the provision of public benefits. A Draft Planning Agreement has been prepared and is currently on public exhibition from 26 September 2019 to 23 October 2019. Accordingly, a condition has been imposed requiring that prior to the issue of any Construction Certificate, a planning agreement (PA) between Council and 513-517 Princes Highway Pty Limited must be entered into that is consistent with the *Transport Corridor Outdoor Advertising and Signage Guidelines* for the provision of public benefits to be provided in connection with this development consent pursuant to *State Environmental Planning Policy 64 (Advertising and Signage)*.

### Division 3 Particular Advertisements

Clause 16 indicates that the display of an advertisement on transport corridor land is permissible with development consent on land that is within 250 metres of a classified road. The Princes Highway is scheduled as a classified road under the *Roads Act 1993*, as such this clause applies to the site.

Clause 18 indicates that if the proposed signage is greater than 20m<sup>2</sup> and within 250 metres of, and visible from, a classified road, consent must not be granted without the concurrence of RMS. The application was referred to the RMS and concurrence has been granted under this clause subject to conditions subject to conditions, including an 18-month trial period where the sign would operate with a 30 second dwell period.

Council relies on the road safety expertise of RMS and acknowledges the granting of concurrence in this instance, with the restrictions imposed.

Clause 21 indicates that a consent granted under this Part ceases to be in force on the expiration of 10 years after the date on which the consent becomes effective, or a lesser period as specified by the consent authority.

### **Transport Corridor Outdoor Advertising and Signage Guidelines 2017 (the Guidelines)**

As noted above, clause 18 of SEPP 64 applies to the proposal, as such, consideration of the Guidelines is required.

The relevant provisions of the guidelines have been considered as part of the assessment. The proposal has been assessed under each relevant provision of SEPP 64 (above), and has taken into consideration design issues, illumination impacts and road safety, public benefit and RMS requirements. In addition to the matters addressed in the table above (Schedule 1 SEPP 64) the Guidelines raise the following matters:

Matters for Consideration	Comment	Complies
<b>Section 2: Design Issues</b>		
This section proposes three levels of design assessment criteria for advertising in transport corridors: <ul style="list-style-type: none"> <li>• macro-scale planning principles</li> <li>• sign clutter controls</li> <li>• site-specific and structural criteria</li> </ul>	As discussed within Schedule 1 of SEPP 64 assessment above, amended plans for the proposed signage satisfy the criteria of the macro-scale planning principles, reduce clutter given only one sign is proposed, and are more compatible with the building upon which it is located.	Yes
<b>Section 3: Advertisements and road safety</b>		

<p>This section proposes three levels of road safety assessment criteria:</p> <ol style="list-style-type: none"> <li>1. Would the proposal reduce the safety for any public road?</li> <li>2. Would the proposal reduce the safety for pedestrians or bicyclists?</li> <li>3. Would the proposal reduce the safety for pedestrians by obscuring sightlines from public areas?</li> </ol>	<p>The assessment of these sections has been deferred to the RMS given the location of the sign on a classified road.</p> <p>RMS has granted concurrence and is satisfied that the proposal can be supported subject to conditions which should be applied to any consent issued.</p>	<p><b>Yes</b></p>
<p><b>Section 4: Public benefit test for advertisement proposals</b></p>		
<p>The public benefit test is an assessment of how the local community will benefit as a result of the display of the advertisement, and must be applied to an advertising proposal if the advertisement requires RMS concurrence under SEPP 64.</p>		
<p>The public benefit can be provided as a monetary contribution or as an 'in-kind' contribution. Both monetary and in-kind contributions must be linked to improvements in local community services and facilities.</p>	<p>Under section 4.2.3 '<i>Advertising approved by councils</i>', the applicant is advised to liaise with Council to determine the acceptable public benefit requirements for the proposal.</p> <p>The application is subject to Clause 18, as such, a draft planning agreement has been proposed by the applicant for the provision of public benefits. A Draft Planning Agreement has been prepared and is currently on public exhibition from 26 September 2019 to 23 October 2019. Accordingly, a condition has been imposed requiring that prior to the issue of any Construction Certificate, a planning agreement (PA) between Council and 513-517 Princes Highway Pty Limited must be entered into that is consistent with the <i>Transport Corridor Outdoor Advertising and Signage Guidelines</i> for the provision of public benefits to be provided in connection with this development consent pursuant to <i>State Environmental Planning Policy 64 (Advertising and Signage)</i>.</p>	<p><b>Yes</b></p>

### Rockdale Local Environmental Plan 2011

A summary of the assessment of relevant provisions of the RLEP 2011 is provided in the table below. The objectives and provisions of the RLEP 2011 have been considered in relation to the subject development application. The proposal is satisfactory in terms of the provisions of RLEP 2011.

Principal Provisions of RLEP 2011	Complies	Comment
2.3 Land use zone	Yes	The site is zoned B2 Local Centre
Is the proposed use/works permitted with development consent?	Yes	The proposal is for an advertisement and advertisements are an innominate permissible use with consent. It is also permitted with consent under clause 16 of SEPP 64.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposal is not inconsistent with the objectives of the zone.
4.3 Height of buildings	Yes	The maximum permissible height is 22m and the proposed advertisement and increased building parapet have a maximum height of 9.58m.
5.10 Heritage conservation	Yes	The signage is not located in a conservation area, is not identified as an item or heritage, but is in the vicinity of heritage items, including the Rockdale Railway Station and Rockdale Uniting Church. The proposed signage is not considered to result in an unacceptable impact upon the heritage significance of the items in the vicinity of the site.
6.1 Acid Sulfate Soil	Yes	Class 5, but as no disturbance of the soil occurs no further assessment is required.
6.7 Stormwater	N/A	The proposed advertising structure will not impact stormwater management in the area.

#### **S4.15(1)(a)(ii) – Provisions of any Draft EPI's**

There are no draft planning instruments that will affect the proposed development.

#### **S4.15(1)(a)(iii) – Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

#### **Rockdale Development Control Plan 2011**

It is noted that SEPP 64 prevails in the case of this review and significant overlap exists between RDCP 2011 and SEPP 64. Notwithstanding, an assessment against the controls of the RDCP 2011 has been included below.

#### **Part 4.2 Streetscape and Site Context**

This Part pertains to the streetscape and the interrelationship between buildings, the public domain including the road and footpath, landscape elements and vegetation.

Control 6 required buildings on corner sites to be articulated to address each street frontage and are to define prominent corners. The proposed signage addresses the east



and south elevations of the building and assists in defining the corner location of the site at a prominent intersection.

### **Part 5.3 Mixed Use**

This Part encourages a range of uses within commercial and local centres, given the site is located within the Rockdale Town Centre, this part applies.

Control 33 requires corner sites to have greater visual prominence and be designed to respond to street geometry, topography and sightlines. The proposed alterations to parapet height will assist in establishing a more consistent building form that responds to the street geometry of the Princes highway, and Tramway Arcade corner junction.

Control 34 required the massing of a building on a corner site to be distributed to enhance the street corner. This will be achieved through parapet height alterations and the resulting uniform building height.

### **Part 6.4 – Advertising and Signage**

The Part of the DCP addressing advertising and signage has the following objectives:

- A. To ensure that design of all signage is of a high quality and that it relates to building architecture and streetscape character
- B. To convey advertisers' messages and images while complementing and conforming to both the development on which it is displayed and the character of the surrounding locality
- C. To prevent inappropriately designed and uncoordinated advertising which will detract from an area's visual character

As previously noted, amended plans now seek to create a uniform parapet height (inclusive of the signage) across the entirety of the building façade with a design that no longer projects above, or forward of the building façade (refer to **Figures 1, 2 and 3**). As such, these amendments will result in a design more compatible with the character of the area.

The original design was identified in Control 1 as being not permitted as it protruded above the parapet of the building and over 300mm horizontally. The amended design has resolved these issues. This has been discussed previously.

Control 4 addresses light glare from advertisements. This has been discussed previously.

Control 6 requires that advertising not dominate the streetscape. The size and siting of the proposed sign has been amended to better fit with the streetscape. This has been discussed previously.

Control 10 requires that signage in commercial zones be no larger than 0.5m<sup>2</sup> per 1m of shopfront. The site has 14.2m shopfront to Tramway Arcade and 15.3m to Princes Highway, a total of 29.5m, permitting a maximum of 14.75m<sup>2</sup> of signage. The proposed sign has an area of 40.17m<sup>2</sup>, 25.42m<sup>2</sup> larger than permitted. While the proposal does not meet the requirements of this control, as noted previously, the sign is of a smaller size than that which is existing, and will be sited more appropriately on the attached building creating a design that is acceptable in relative terms.

Control 11 requires a sign to be of a size and proportion which complements the scale and proportions of the existing façade. Amendments addressing this control have been previously discussed.

Control 16 requires advertising structure to form an integrated part of the façade of a building and to reinforce the architectural elements and design. Amendments addressing this control have been previously discussed.

Control 22 addresses safety and has been addressed previously.

#### **Part 7.5 – Rockdale Town Centre**

The site is located within Rockdale Town Centre Special Precinct identified under the DCP. Within the Precinct, the portion of Princes Highway fronting the site is identified as having a Primary Retail role, with Tramway Arcade and Geeves Avenue identified as having an Active Laneway role. The site is identified as being located in a Key Precinct. None of the controls related to the role of the road frontages address signage.

The building form and character section identifies appropriate setbacks for development in the Precinct based on street character, with the Princes Highway frontage of the site identified as Arterial Core and the Tramway Arcade and Geeves Avenue frontage identified as Laneway. None of the controls relate to signage.

#### **S.4.15 (iia) – Any planning agreement that has been entered into or any draft planning agreement that a developer has offered to enter into.**

The application is subject to Clause 18, as such, a draft planning agreement has been proposed by the applicant for the provision of public benefits. A Draft Planning Agreement has been prepared and is currently on public exhibition from 26 September 2019 to 23 October 2019. Accordingly, a condition has been imposed requiring that prior to the issue of any Construction Certificate, a planning agreement (PA) between Council and 513-517 Princes Highway Pty Limited must be entered into that is consistent with the *Transport Corridor Outdoor Advertising and Signage Guidelines* for the provision of public benefits to be provided in connection with this development consent pursuant to *State Environmental Planning Policy 64 (Advertising and Signage)*.

#### **S.4.15(1)(a)(iv) – Provisions of regulations**

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

#### **S.4.15(1)(b) – Likely Impacts of Development**

Potential impacts associated with the proposed development have been discussed in detail within this report.

#### **S.4.15(1) – Suitability of the site**

The subject site is located in a highly prominent location at the intersection of the Princes highway and Bay Street/The Seven Ways within the Rockdale town centre. As discussed throughout this report, the size and siting of the proposed signage has been satisfactorily improved with regard to its relationship to the building and locality. Further, the signage is proposed to replace an existing sign of a similar size at a prominent intersection where a multitude of signage types, treatments and sizes are present. For these reasons and those discussed throughout this report, the site is deemed suitable for the development.

#### **S.4.15(1)(–) - Public interest**

The proposed development meets the principles of SEPP No. 64, the Transport Corridor Outdoor Advertising and Signage Guidelines 2017, and is considered to be satisfactory having regard to the objectives and requirements of the Rockdale Development Control Plan 2011.

Impacts from the proposed signage have been considered and addressed throughout this report. It is considered that the proposed development is in the public interest.

#### **Developer Contributions**

Any Planning Agreement entered into with regard to this application excludes the payment of contributions under S7.11 and S7.12 of the Act. Any developer contributions would therefore be made exclusively under the terms of the PA.

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#### **Conclusion**

Development Application No. 2018/94 for the erection of an illuminated general advertising sign with an integrated digital LED screen at 511 Princes Highway, Rockdale, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions.

This Section 8.2 Review 2019/7 of DA-2019/94 concludes the determination should be overturned in accordance with Clause 8.4 of the *Environmental Planning and Assessment Act 1979*.

Premises: 511 Princes Highway, Rockdale

DA No: 2018/94

**SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS****Development in Accordance with Plans**

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
Sheet List A000, Issue C	Legge & Legge Architects	19 June 2019
Site Plan A001, Issue C	Legge & Legge Architects	19 June 2019
Plan A100, Issue C	Legge & Legge Architects	19 June 2019
Existing South Elevation A200, Issue C	Legge & Legge Architects	19 June 2019
Existing East Elevation A201, Issue C	Legge & Legge Architects	19 June 2019
Proposed South Elevation A210, Issue C	Legge & Legge Architects	19 June 2019
Proposed East Elevation A211, Issue C	Legge & Legge Architects	19 June 2019
Signage Detail A300, Issue C	Legge & Legge Architects	19 June 2019

Reference Documents	Author	Dated
Lighting Impact Statement, Revision A	Elecolight Australia Pty Ltd	21 June 2019
Survey Plan, Ref No. 15601, Sheet 1	Sydney Surveyors	12 February 2018

**Limits of approval**

2. This consent will lapse five years from the date of this consent unless the building works associated with the approval have physically commenced.

**Duration of Consent**

3. This development consent is issued for a limited period of 10 years. The consent will cease to be in force/expire 10 years after the date of consent.

*Note: A new development application must be submitted prior to that date for assessment and determination if it is intended to continue the use beyond the cessation date.*

**Advertisements - Dwell Time**

4. Static digital advertisements are to be displayed on the digital LED screen for a minimum dwell time of 24 hours. Note Refer to Condition 5.
5. The display change shall occur in the early hours of the morning (prior to network peak hours).

**Trial Period****6. Trial period:**

- a) Notwithstanding conditions 4 and 5 (the dwell time), the advertising sign is permitted to operate with a minimum dwell time of 30 seconds for a trial period of 18 continuous months (Trial Period).
- b) Within 4 weeks of the trial period commencing, the applicant shall provide Roads and Maritime with a written notice of the date upon which the trial period commenced;
- c) During the trial period, and any period thereafter, during which the dwell time operates at a duration of less than 24 hours as provided in Condition 4, the applicant must comply with all other conditions of RMS, and the following:
  - i) Message sequencing designed to make a driver anticipate the next message is prohibited;
  - ii) The amount of text and information supplied on a sign should be kept to a minimum, for example no more than a driver can read at a short glance;
  - iii) Each sign should be restricted to 6 units of information calculated as follows:
    - 1 Words of up to 8 letters, inclusive = 1 unit
    - 2 Numbers up to 4 digits, inclusive = 0.5 unit
    - 3 Numbers of 5-8 digits = 1 unit
    - 4 Symbol, picture, logo or abbreviation = 0.5 unit; and
  - iv) All advertisements displayed must be in accordance with Table 5 of the Department of Planning and Environment's Transport Corridor Outdoor Advertising and Signage Guidelines, dated November 2017 and as amended.
  - v) An electronic log of the sign's activity must be maintained by the operator for the duration of the development consent and be available to Council and/or Roads and Maritime to allow a review of the sign's activity for any reason, including where a complaint has been made.
- d) Not less than 4 weeks before the conclusion of the trial period, the applicant may seek Roads and Maritime's written concurrence to continue to operate the advertising sign with a minimum dwell time of 60 seconds and the conditions specified in condition 6(c) (i-v) above.
- e) When seeking Roads and Maritime concurrence in condition 6(d), the applicant must provide to Roads and Maritime a road safety audit report which considers the effects of the placement and operation of the sign during the trial period on road safety (the report). The report must:

- i) Be prepared in accordance with Part 3 of the Roads and Maritime Guidelines for Road Safety Audit Practices;
  - ii) Be prepared by an independent accredited road safety auditor; and
  - iii) Assess the operation of the advertising sign during the trial period for a continual period of at least 12 months.
- f) If Roads and Maritime:
  - i) Issues its written concurrence in accordance with condition 6(d), the applicant is to notify the Council of the Roads and Maritime written concurrence and may continue to operate the advertising sign with a dwell time of 30 seconds for the unexpired duration of the consent:
  - ii) Indicates in writing that it refuses to issue its written concurrence in accordance with Condition 6(d), the operation of the advertising sign must revert to the requirements of conditions 4 and 5 of this consent.
  - iii) Indicates in writing that it refuses to issue a written concurrence because of recommendations made in the report for conditions or changes that address any road safety concerns, the applicant may lodge a modification application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* for the operation of the sign in accordance with those recommendations and during the period from receipt of the Roads and Maritime refusal in writing in accordance with this paragraph until the approval of such modification, if any, the operation of the advertising sign must revert to the requirements of conditions 4 and 5 of this consent.
- g) In considering whether or not to grant concurrence, Roads and Maritime will take into consideration any information provided by the applicant regarding the operation of the advertising sign during the trial period, as well as the relevant adopted signage guidelines and any other matter considered relevant to Roads and Maritime, including complaints received and changes in circumstances which has an impact on the operation of the road environment.

**Number of Advertisements**

- 7. This approval only permits the display of one advertising sign over the entire advertising area at one time.

**RMS Conditions**

- 8. Each advertisement shall be displayed in a completely static manner, without any motion, for a dwell time of 24 hours.
- 9. The display change shall occur in the early hours of the morning (prior to network peak hours).
- 10. Advertisements displayed shall not contain/use:
  - a) Flashing lights.

- b) Animated display, moving parts or simulated movement.
  - c) A method of illumination that unreasonably distracts or dazzles.
  - d) Images that may imitate a prescribed traffic control device, for example red, amber or green circles, octagons or other shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device.
  - e) Text providing driving instructions to drivers.
- 11. Luminance levels for the sign must comply with the requirements at Attachment A.
  - 12. The transition time between messages shall be no longer than 0.1 seconds.
  - 13. Construction and maintenance activities shall be undertaken wholly within the private property.
  - 14. All works associated with the proposed sign, including maintenance activities, shall be at no cost to Roads and Maritime.
  - 15. All works and signage structures are to be wholly within the freehold property (unlimited in height or depth) along the Princes Highway boundary.

**Advertisements Transition Time**

- 16. The transition time between different messages must be no longer than 0.1 second.

**Advertisements Generally**

- 17. Advertisements displayed on the LED advertising screen must be in accordance with the guidelines for sign content outlined in Section 3.3.2 of the Transport Corridor Outdoor Advertising and Signage Guidelines, dated November 2017.

**Advertisements – Static Advertisements**

- 18. Advertisements must be displayed on the LED advertising screen in a completely static manner, without any motion, for the approved dwell time in Condition 4.

**Advertisements – Message Sequencing**

- 19. Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.

**Advertisements – Traffic Control Device or Driving Instructions**

- 20. Advertisements displayed on the LED advertising screen must not be capable of being mistaken:
  - a) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device; or
  - b) As text providing driving instructions to drivers.

27 of 38

**Advertisements – Dazzle or Distract Drivers**

21. Advertisements displayed on the LED advertising screen must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.

**Advertisement Text**

22. Advertisements displayed on the LED advertising screen must minimise the amount of text and information displayed (for example no more than a driver can read at a short glance). Text shall be displayed in the same font and size.

**Permitted Luminance Levels**

23. The luminance levels of the LED advertising screen must comply with *Australian Standards AS 4282-1997 Control of obtrusive effects of outdoor lighting*, and the below table:

Lighting Conditions	Permitted Luminance Zone 1	Permitted Luminance Zones 2 and 3	Permitted Luminance Zone 4
Full Sun on Face of Signage	No limit	No limit	No limit
Daytime Luminance	No limit	6000cd/m <sup>2</sup>	6000cd/m <sup>2</sup>
Morning and Evening, Twilight and Inclement Weather	700cd/m <sup>2</sup>	700cd/m <sup>2</sup>	500cd/m <sup>2</sup>
Night Time	350cd/m <sup>2</sup>	350cd/m <sup>2</sup>	200cd/m <sup>2</sup>

**Road Safety Check**

24. A road safety check which focuses on the effects of the placement and operation of the signs must be carried out in accordance with Part 3 of the RMS Guidelines for Road Safety Audit Practices after a 12 month period of operation but within 18 months of the signs installation. The road safety check must be carried out by an independent RMS accredited road safety auditor. A copy of the report is to be provided to the RMS and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the Applicant.

**Electronic Log**

25. An electronic log of the sign's activities must be maintained by the operator for the duration of the development consent and be available to the consent authority and RMS to allow a review of the signs activities in case of a complaint.

**Development Near Busy Roads**

26. The development must comply with all requirements of the NSW Department of Planning Development Near Rail Corridors and Busy Roads – Interim Guidelines, December 2008.



**Wind Loading**

27. The approved sign must meet wind loading requirements as specified in Australian Standards AS 1170.1: Structural Design Actions – Permanent, Imposed and Other Actions and AS1170.2 – Structural Design Actions – Wind Actions.

**Reflectivity**

28. The visible light reflectivity from the proposed LED screen ad materials used on the signage structure shall not exceed 20 percent and shall be designed so as to minimise glare.

**Prescribed Conditions**

29. The Applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulations.
30. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

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

31. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
  - b) The name and permit number of the 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.

**Certification**

32. 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.

**Demolition Works**

33. The demolisher shall ensure that all demolition work complies with *Australian Standard 2601-2001 "Demolition of Structures"* and the requirements of Safework NSW.

34. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work (due to the potential impact on Council's infrastructure):

- i) Written notice, indicating the date when demolition of the building is to commence,
- ii) This person's full name and address.
- iii) Details of Public Liability Insurance.

35.

a) Prior to the commencement of demolition work a licensed demolisher who is registered with Safework NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to Safework NSW. The statement must be in compliance with AS2601:1991 – 'Demolition of Structures', the requirements of Safework NSW and conditions of the Development Approval, and shall include provisions for:

- i) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- ii) Induction training for on-site personnel;
- iii) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- iv) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- v) Disconnection of Gas and Electrical Supply;
- vi) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- vii) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- viii) Waterproofing of any exposed surfaces of adjoining buildings;
- ix) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";

30 of 38

- x) Working hours, in accordance with this Development Consent;
- xi) Confinement of demolished materials in transit;
- xii) Proposed truck routes, in accordance with this Development Consent;
- xiii) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995;
- xiv) Sewer – common sewerage system ad08.

#### **Other Approvals and Permits**

36. 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.

(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)).

#### **Photographic Survey**

37. The applicant shall submit to Council a full photographic survey showing the existing conditions of Council's infrastructure. The survey shall identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and in the vicinity of the development. Failure to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

#### **Public Liability**

38. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence

of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with Bayside Council as principal, and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

**Site Fencing**

39. The works area on the site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.

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

40. Prior to the issue of any Construction Certificate, a planning agreement (PA) between Council and 513-517 Princes Highway Pty Limited must be entered into that is consistent with the *Transport Corridor Outdoor Advertising and Signage Guidelines* for the provision of public benefits to be provided in connection with this development consent pursuant to *State Environmental Planning Policy 64 (Advertising and Signage)*.

**Payment of Fees**

41. Prior to the issue of any Construction Certificate, the applicant must pay the following fees:
- |                        |           |
|------------------------|-----------|
| a) Development Control | \$926.00. |
|------------------------|-----------|

**Payment of Levy Fee**

42. 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.

**Structural Details**

43. Prior to the issue of any Construction Certificate, the applicant shall submit to the satisfaction of the Certifying Authority structural drawings and accompanying design certification prepared by a suitably qualified practicing Structural Engineer, verifying that the design complies with:
- |   |
|---|
| a) The relevant clauses of the Building Code of Australia/National Construction Code; and |
|---|

- b) The relevant Australian Standards.

#### **Construction Management Plan**

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

#### **Services**

45. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services;

- b) Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
  - i) The additional load on the system; and
  - ii) The relocation and/or adjustment of the services affected by the construction.

Any costs in the relocation, adjustment or support of services as requested by the service authorities, beneficiaries and Council are to be the responsibility of the developer.

#### **DURING WORKS**

##### **During Demolition**

46. Hazardous, special or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of Safework NSW and the Department of Environment and Climate Change and Water and with the provisions of:
  - a) New South Wales Occupational Health and Safety Act, 2000;
  - b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
  - c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
  - d) Protection Of the Environment Operations Act 1997 (NSW); and
  - e) Department of Environment and Climate Change Waste Classification Guidelines (2008).
47. Precautions to be taken shall include compliance with the requirements of the Safework 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; and
  - e) The disposal of refuse is to be to an approved waste disposal depot.
48. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with "AS2601-2001 The demolition of structures". The disposal of lead-based paint shall conform with relevant EPA guidelines. Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work shall be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition shall not be performed during high winds, which may cause dust to spread beyond the site boundaries.
49. 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

**Construction Vibration**

50. The construction of the premises shall not give rise to the transmission of vibration to any affected residential premises that exceeds the acceptable vibration dose values for intermittent vibration set out in Table 2.4 vibration of the DEC's "Assessing Vibration: a technical guideline" dated February 2006.

**Hoarding Requirements**

51. The land to which this consent relates must be fenced and enclosed to protect the entry or access to the land and demolition site by unlawful persons.
- a) The fencing must be in place before the demolition commences, and
  - b) Must remain in place during the construction of the development.

**Construction Noise**

52. The following shall be complied with:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection of the proposed development is being carried out:
    - i) Stating the unauthorised entry to the work site is prohibited;
    - ii) Showing that unauthorised entry to the work site is prohibited;
    - iii) The Development Approval number; and
    - iv) The name of the Principal Certifying Authority including an after hours contact telephone number; and
  - b) Any such sign is to be removed when the work has been completed.
53. The following shall be complied with during construction:
- a) Construction Noise
    - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
  - b) Level Restrictions
    - i) Construction period of 4 weeks and under:
      - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(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

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

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

- 54. An occupation certificate must be obtained prior to the use of the digital signage for advertising purposes.

**Public Asset Damage**

- 55. Prior to the issue of any Occupation Certificate, any damage not shown in the photographic survey submitted to Council before site works commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the applicant's expense.

**Maintenance Plan**

- 56. Prior to commencement of use and prior to the issue of any Occupation Certificate, a Maintenance Plan detailing the process for maintenance and changing sign content is to be prepared and submitted to Council. The Plan shall address, but not be limited to, the following matters, where relevant:
  - a) Environmental and safety risk assessment;
  - b) Hours of work/inspections of sign (to ensure minimal disruption of any surrounding residential amenity and traffic operation);
  - c) Contact details of site manager;
  - d) Safety, including preparation of a safe work method statement;
  - e) Traffic management, including details for the location of parking for vehicles associated with the operation (ie. parked vehicles shall not impede the movement of traffic or pedestrians in and around the site);
  - f) External lighting in compliance with *AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting*;
  - g) Removal of graffiti;
  - h) Retention and maintenance of existing vegetation surrounding the advertising structure;
  - i) Maintenance of the required dark grey painted colour of the support structure.

**Structural Inspection Certificate**

- 57. At the completion of works the applicant shall submit certification prepared by a suitably qualified practicing structural engineer, verifying that the structure:
  - a) Has been inspected and installed in accordance with the approved structural design drawings;



- b) Complies with the relevant clauses of the Building Code of Australia/National Construction Code; and
- c) The relevant Australian Standards.

**No issue of Occupation Certificate if breach of Planning Agreement**

58. No occupation certificate can be issued if any obligations imposed by a Planning Agreement (PA) have been breached.

NOTE: the Principal Certifying Authority (if not Council) is to liaise with the Council to ensure that all obligations imposed by the PA have been complied with prior to the issue of any Occupation Certificate. For example, monetary contributions must be paid to Council pursuant to Schedule 2 of the PA, commencing 14 days from the date of issue of the required Construction Certificate.

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

59. Regular maintenance of the approved advertising structures shall be undertaken in accordance with the Maintenance Plan under Condition 56. Signs are to be inspected regularly to identify any damage from storms, graffiti or the like.

**Removal of Graffiti**

60. Should the signage be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.

**Advertising Signage Content**

61. The approved advertising structure must not have or use:
- a) Flashing lights;
  - b) Animated display or simulated movement;
  - c) Complex displays that hold a drivers attention beyond "glance appreciation";
  - d) Displays resembling traffic signs or signals, or giving instructions to traffic by using words such as "halt" or "stop"; or
  - e) A method of illumination that distracts or dazzles.

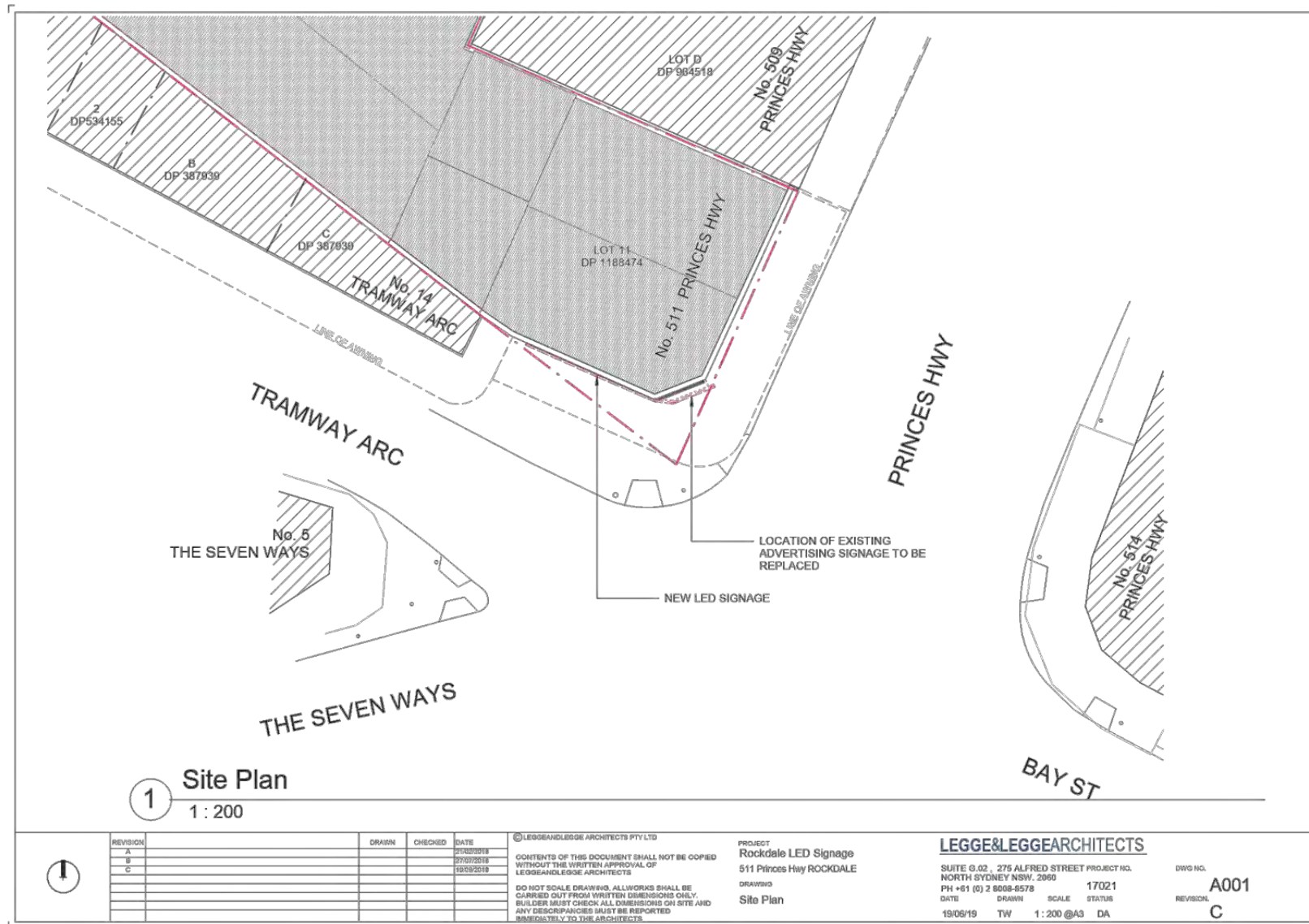
**Location of Certain Names and Logos**

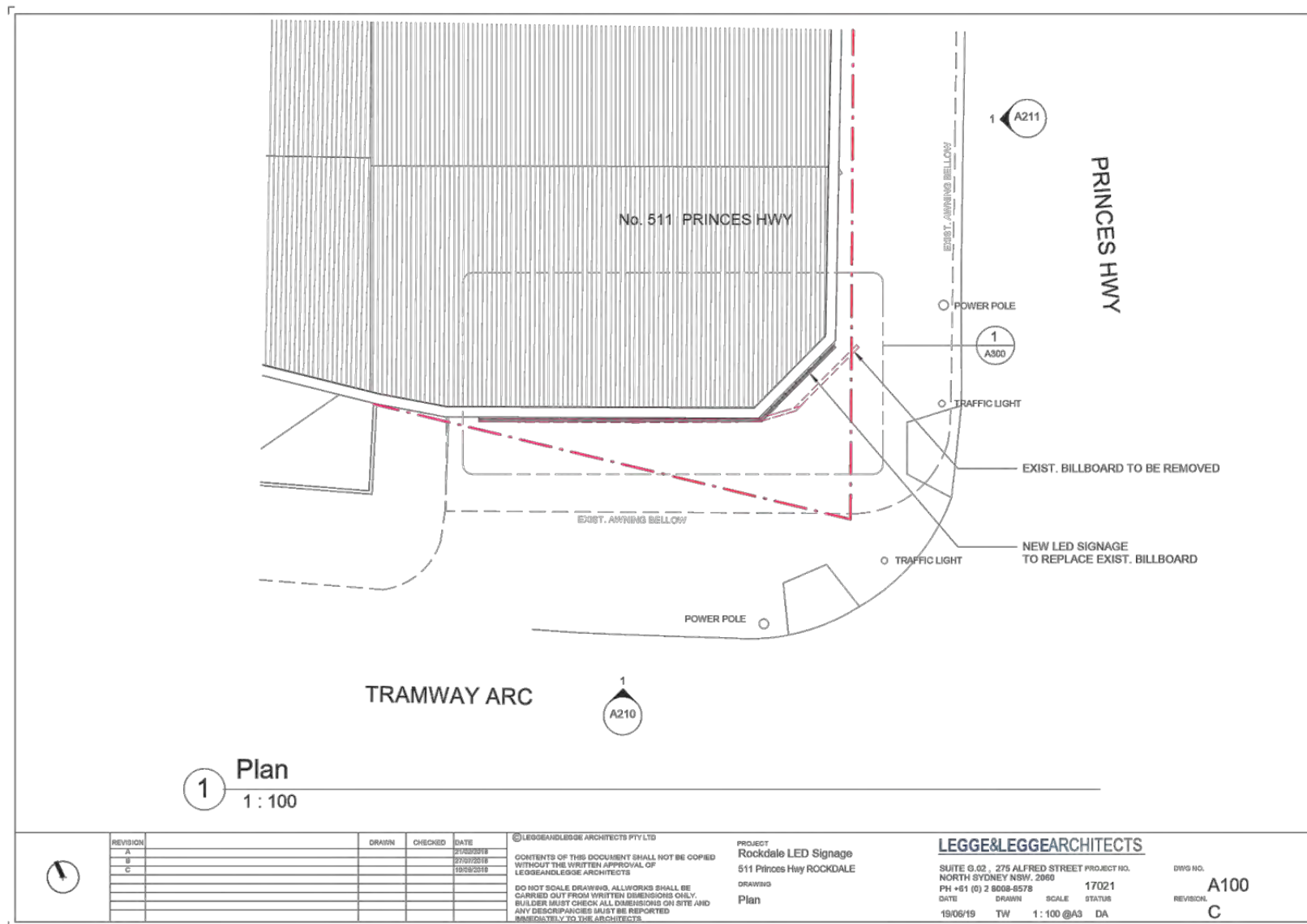
62. The name or logo of the person who owns or leases the approved advertisement may appear only in the bottom right hand corner of the advertising structure and must be no greater than 0.25m<sup>2</sup> in size.

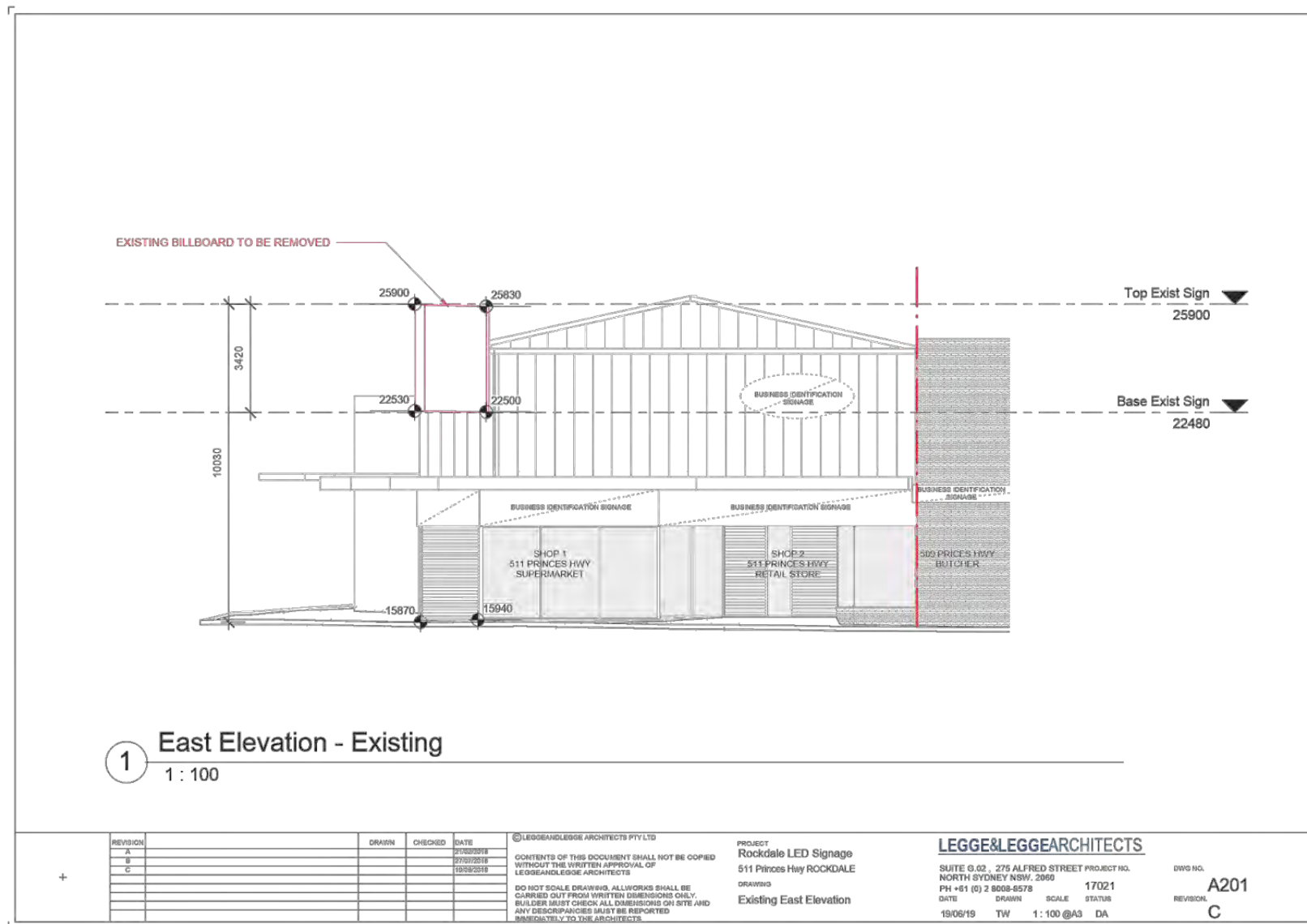
**Planning Agreement**

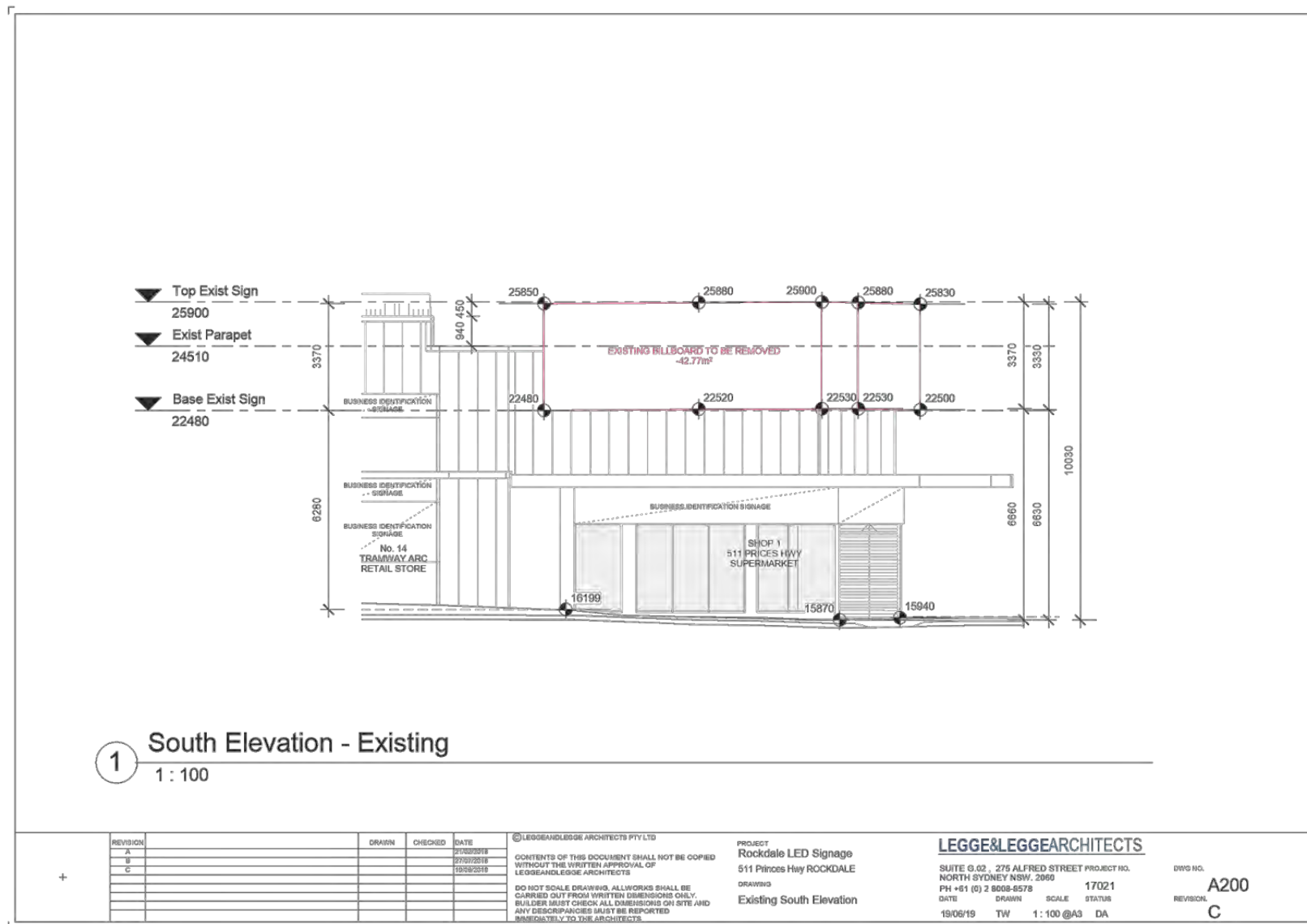
37 of 38

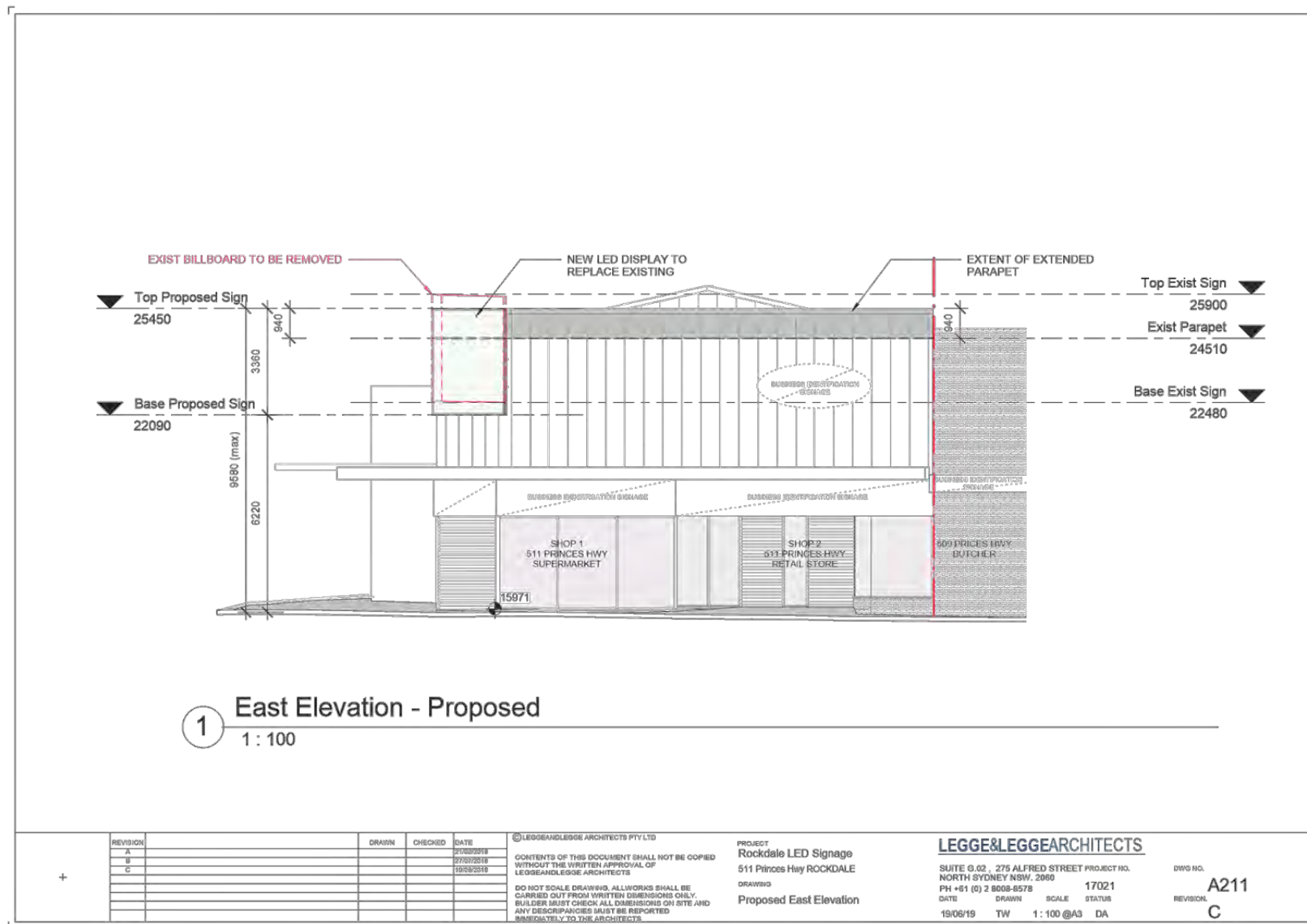
63. A planning agreement (**PA**) between Council and 513-517 Princes Highway Pty Limited is to be entered into in connection with the development application which is the subject of this development consent. The PA among other things makes provision for public benefits in connection with this development consent pursuant to *State Environmental Planning Policy 64 (Advertising and Signage)*. All obligations imposed by the PA on the applicant/ developer must be complied with prior to consent operating.

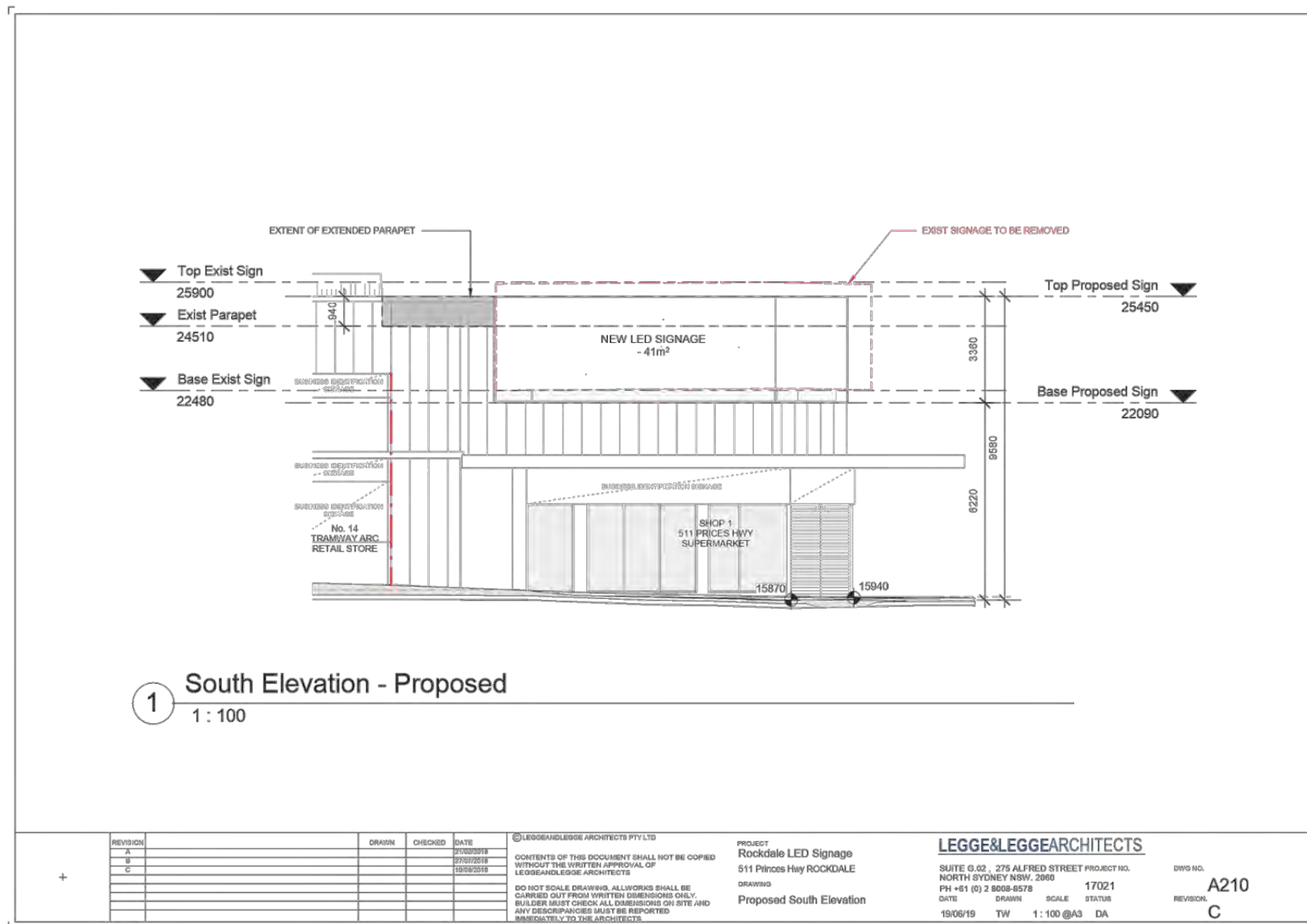




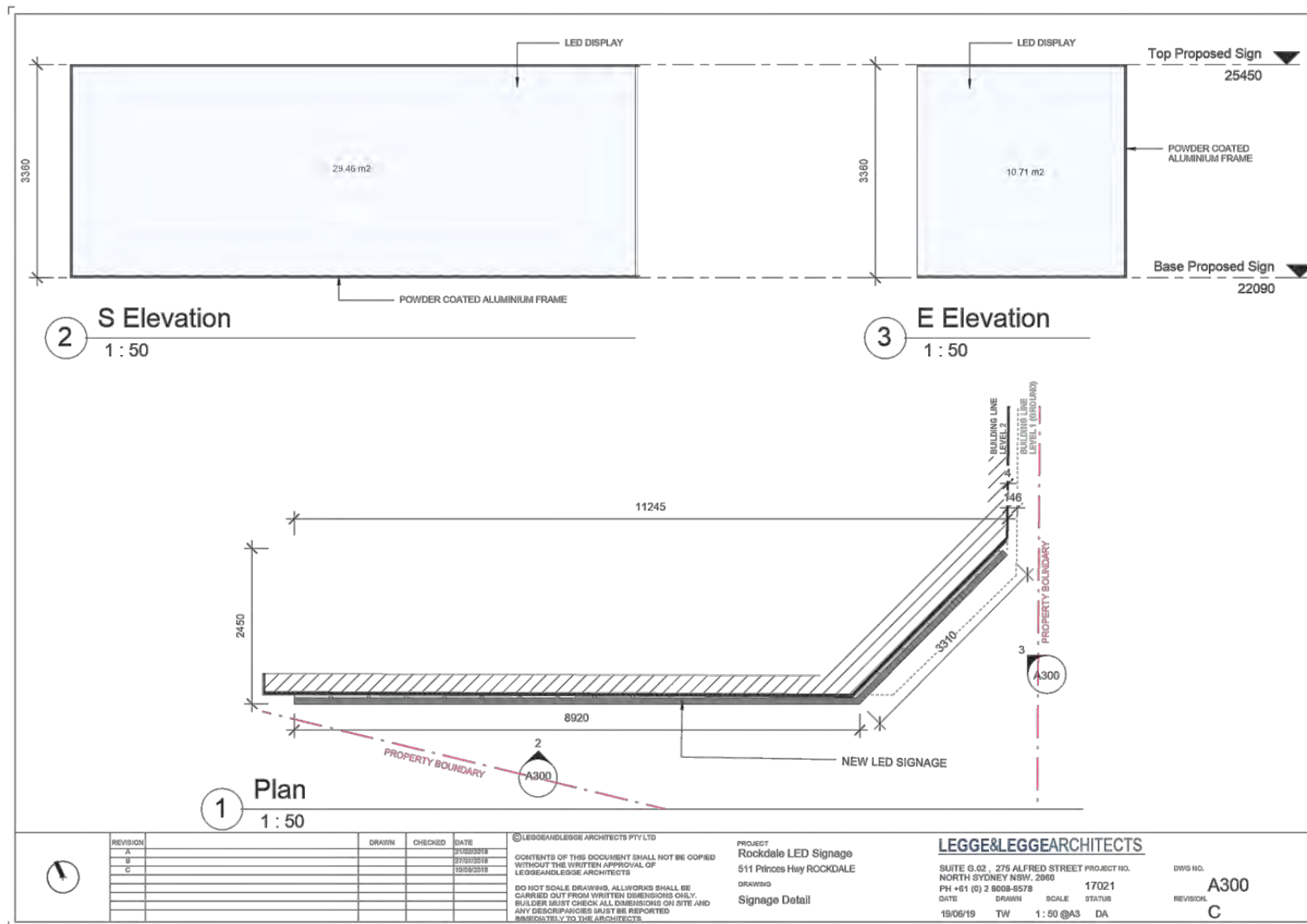


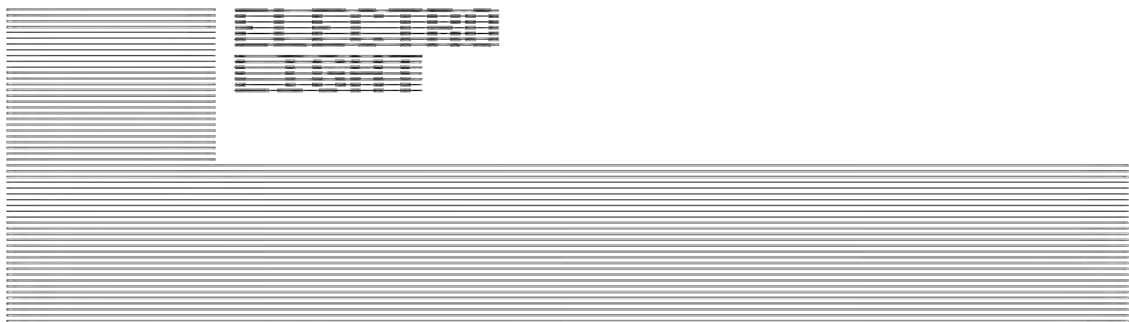












FiveX Property Group

21st June 2019  
Ref: 2150.2

LIGHTING IMPACT ASSESSMENT

OUTDOOR SIGNAGE AT 511 PRINCES HIGHWAY, ROCKDALE, NSW

**Lighting Impact Assessment**

**Signage at 511 Princes Highway, Rockdale, NSW**

Electrolight Australia Pty Ltd  
ABN: 44 600 067 392

info@electrolight.com  
www.electrolight.com

Suite 3.00  
35-39 Liverpool Street  
Sydney NSW 2000  
T + 612 9267 4777

DATE	REV	COMMENT	PREPARED BY	CHECKED BY
21/06/19	REV A	For Information	DSM	RS

## CONTENTS

1. INTRODUCTION	3
2. DEFINITIONS	3
2.1 Illuminance	3
2.2 Luminance	3
2.3 Luminous Intensity	3
2.4 Obtrusive Light	3
2.5 Threshold Increment	3
2.6 AGI32 Light Simulation Software	3
3. SITE DESCRIPTION AND SCOPE	4
4. DESIGN GUIDELINES AND STANDARDS	4
5. LUMINANCE ASSESSMENT	5
6. AS4282 ASSESSMENT	6
7. SUMMARY	7
8. DESIGN CERTIFICATION	8
APPENDIX A	9
APPENDIX B	14
APPENDIX C	15

## 1. INTRODUCTION

Electrolight have been appointed by FiveX Property Group to undertake a Lighting Impact Assessment on the proposed digital signage to be installed at 511 Princes Hwy, Rockdale.

The objective of the assessment is to report on compliance with the State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64), AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting, the NSW Transport Corridor Outdoor Advertising and the Signage Guidelines (2017).

## 2. DEFINITIONS

### 2.1 Illuminance

The physical measure of illumination is illuminance. It is the luminous flux arriving at a surface divided by the area of the illuminated surface. Unit: lux (lx); 1 lx = 1 lm/m<sup>2</sup>.

(a) Horizontal illuminance (E<sub>h</sub>) The value of illuminance on a designated horizontal plane

(b) Vertical illuminance (E<sub>v</sub>) The value of illuminance on a designated vertical plane

Where the vertical illuminance is considered in the situation of potentially obtrusive light at a property boundary it is referred to as environmental vertical illuminance (E<sub>ve</sub>).

### 2.2 Luminance

The physical quantity corresponding to the brightness of a surface (e.g. a lamp, luminaire or reflecting material such as the road surface) when viewed from a specified direction. SI Unit: candela per square metre (cd/m<sup>2</sup>) – also referred to as “nits”.

### 2.3 Luminous Intensity

The concentration of luminous flux emitted in a specified direction. Unit: candela (cd).

### 2.4 Obtrusive Light

Spill Light which, because of quantitative, directional or spectral attributes in a given context, gives rise to annoyance, discomfort, distraction or a reduction in the ability to see essential information.

### 2.5 Threshold Increment

The measure of disability glare expressed as the percentage increase in contrast required between a standard object and its background (the carriageway) for it to be seen equally as well with the source of glare present as with it absent, derived in the specified manner. This metric is directly related to Veiling Luminance.

NOTE: The required value is a maximum for compliance of the lighting scheme.

### 2.6 AGI32 Light Simulation Software

AGI32 (by U.S. company Lighting Analysts) is an industry standard lighting simulation software

package that can accurately model and predict the amount of light reaching a designated surface or workplane. AGI32 is a has been independently tested against the International Commission On Illumination (CIE) benchmark, CIE 171:2006, Test Cases to Assess the Accuracy of Lighting Computer Programs.

### 3. SITE DESCRIPTION AND SCOPE

The location of the proposed digital signage is on the facade of the building located at 511 Princes Hwy, Rockdale. The signage will replace an existing externally illuminated sign, and consists of three adjoining displays, having frontages to Princes Hwy and Tramway Arcade. The digital displays have a combined active display (illuminated) area of 42.64m<sup>2</sup>. The signage is to be operated from 6am to 11pm daily. Refer to Appendix A for the proposed signage location plan and site image.

The digital signage is illuminated using LEDs installed within the front face. The brightness of the LEDs can be controlled to provide upper and lower thresholds as required as well as automatically via a local light sensor to adjust to ambient lighting conditions.

For the purpose of this report the proposed manufacturer of the digital sign is noted as Daktronics, model type DVX-1500-13HD with performance parameters as outlined in Appendix B. An alternative digital signage manufacturer may be used for this installation as long as they have equivalent lighting and performance characteristics and are commissioned as described in this report.

### 4. DESIGN GUIDELINES AND STANDARDS

The Lighting Impact Assessment will review the proposed signage against the follow Criteria, Design Guidelines and Standards.

- State Environmental Planning Policy No. 64 – Advertising & Signage SEPP 64 (Refer Appendix C).
- Transport Corridor Outdoor Advertising & Signage Guidelines (2017).
- AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting. \*

\* Although AS 4282-1997 specifically excludes internally illuminated advertising signs/displays in Section 1.1 Scope (b) the Transport Corridor Outdoor Advertising and Signage Guideline (2017) in NSW references AS4282 and requires compliance to this standard.

### 5.1. LUMINANCE ASSESSMENT

Based on an assessment of the surrounding area, the sign is classified as being within a Zone 3 Area under the Transport Corridor Outdoor Advertising & Signage Guidelines. Zone 3 is described as an area with generally medium off-street ambient lighting e.g. small to medium shopping/commercial centres.

The proposed digital signage has a maximum brightness of 8500 cd/m<sup>2</sup> meaning the maximum allowable day time and night time dimming levels to comply with the guideline's luminance requirements for Zone 3 are:

LUMINANCE LEVELS FOR DIGITAL ADVERTISEMENTS			
Lighting Condition	Max Dimming Level to achieve compliance #	Max. Permissible Luminance (cd/m <sup>2</sup> )	Compliant
Full Sun on face of Signage	100 %	No Limit	✓
Day Time Luminance (typical sunny day)	70.6 %	6000	✓
Morning and Evening Twilight and Overcast Weather	8.2%	700	✓
Night Time (11pm to 6am)	4.1%	350	✓

# The dimming % is based on a maximum calibrated screen brightness of 8500 cd/m<sup>2</sup>. For the basis of this Report, it is assumed that the dimming level is directly related to the luminance level via a linear relationship.

It is our opinion that a digital advertising sign that is illuminated to the maximum luminances outlined above would be visually consistent with the existing ambient lighting and suitable for the local area. A more detailed night time lighting assessment is provided in Section 6.0.

The operator of the screen must not exceed the maximum dimming levels above to comply with the Transport Corridor Outdoor Advertising & Signage Guidelines. To maintain constant visibility of the signage, the dimming value may increase to the maximum level at certain times of the day (such as in direct sunlight as noted above). This is to compensate for high levels of light striking the front the face of the sign, which would otherwise dull the image and make it difficult to view.

## 6. AS4282 ASSESSMENT

The proposed digital signage has been assessed against AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting as outlined in Section 4.

As it is intended that the signage will be illuminated from 6am to 11pm daily, the requirements for pre-curfewed operation under the standard will be applied. The signage is located in a mixed residential and commercial area, therefore the maximum illuminance in the vertical plane of habitable windows is limited to 25 lux (as outlined in Table 2.1 of AS4282 for pre-curfewed operation). Under the standard, a value of less than 25 lux is deemed to not affect the visual amenity of local residents.

The nearest properties which are zoned either B2 or R4 and could in future be redeveloped into high-density residential properties, are at the following locations (Refer to Appendix D for plan):

Zone R4 (The Seven Ways to King Edward St)	Zone B2 (The Seven Ways to Illawarra Train Line)
Zone B2 (Illawarra Train Line to Railway St)	Zone B2 (Princes Hwy to Chapel Ln)
Zone B2 (Princes Hwy to Keats Ave)	Zone B2 (Princes Hwy & Kings Ln)

The properties above will form the focus of the obtrusive lighting assessment.

Additionally there is mature vegetation surrounding some properties which effectively obstructs the spill light from the signage. However the proposed signage (and surrounding environment) were modeled in lighting calculation program AGI32 to determine the effect (if any) of the light spill from the proposed signage assuming that there was no vegetation present.

Photometric data for the screen was based on a diffused light panel (approximating a lambertian emitter) with a luminance corresponding to the night time limits outlined in Section 5. Appendix C shows the lighting model and the results of the calculations.

It can be seen that the maximum vertical illuminance on habitable windows is 19.4 lux at Zone B2 (The Seven Ways to Illawarra Train Line), which is below the allowable maximum of 25 lux.

The Threshold Increment was also calculated for the traffic approach on Bay St, The Seven Ways, Tramway Arcade, Princes Hwy (northbound), Princes Hwy (southbound), and Princes Hwy (northbound slipplane). The calculation grid was located at 1.5m above ground level, with an approach viewing distance from 10 m up to 200 m from the signage. The calculation results show that the Threshold Increment does not exceed 8.83% along the Princes Hwy (northbound) approach (the allowable maximum under the standard is 20%).

The luminous intensity limits nominated in the standard are only applicable to high intensity point sources such as floodlights and are therefore not relevant for illuminated signage.

It can therefore be seen that the proposed digital signage complies with all relevant requirements of AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.

In complying with these requirements, the proposed digital signage will not result in unacceptable glare nor will it adversely impact the safety of pedestrians, residents or vehicular traffic. The proposed digital signage will also not cause any reduction in visual amenity to nearby residences or accommodation.

## 7. SUMMARY

- The proposed digital signage to be installed at 511 Princes Hwy, Rockdale, has been assessed as being located in a Zone 3 area under the Transport Corridor Outdoor Advertising & Signage Guidelines (2017)
- The maximum luminance and dimming levels of the lighting to the proposed digital signage is as follows:

LUMINANCE LEVELS FOR DIGITAL ADVERTISEMENTS			
Lighting Condition	Max Dimming Level to achieve compliance #	Max Permissible Luminance (cd/m2)	Compliant
Full Sun on face of Signage	100 %	No Limit	✓
Day Time Luminance (typical sunny day)	70.6 %	6000	✓
Morning and Evening Twilight and Overcast Weather	8.2%	700	✓
Night Time (11pm to 6am)	4.1%	350	✓

# The dimming % is based on a maximum calibrated screen brightness of 8500 cd/m2. For the basis of this Report, it is assumed that the dimming level is directly related to the luminance level via a linear relationship.

- When commissioned to the maximum dimming levels above, the proposed digital signage will comply with the Transport Corridor Outdoor Advertising & Signage Guidelines (2017).
- The proposed digital signage complies with all relevant requirements of AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting. In complying with these requirements, the proposed digital signage will not result in unacceptable glare nor will it adversely impact the safety of pedestrians, residents or vehicular traffic. The proposed digital signage will also not cause any reduction in visual amenity to nearby residences or accommodation.



## 8. DESIGN CERTIFICATION

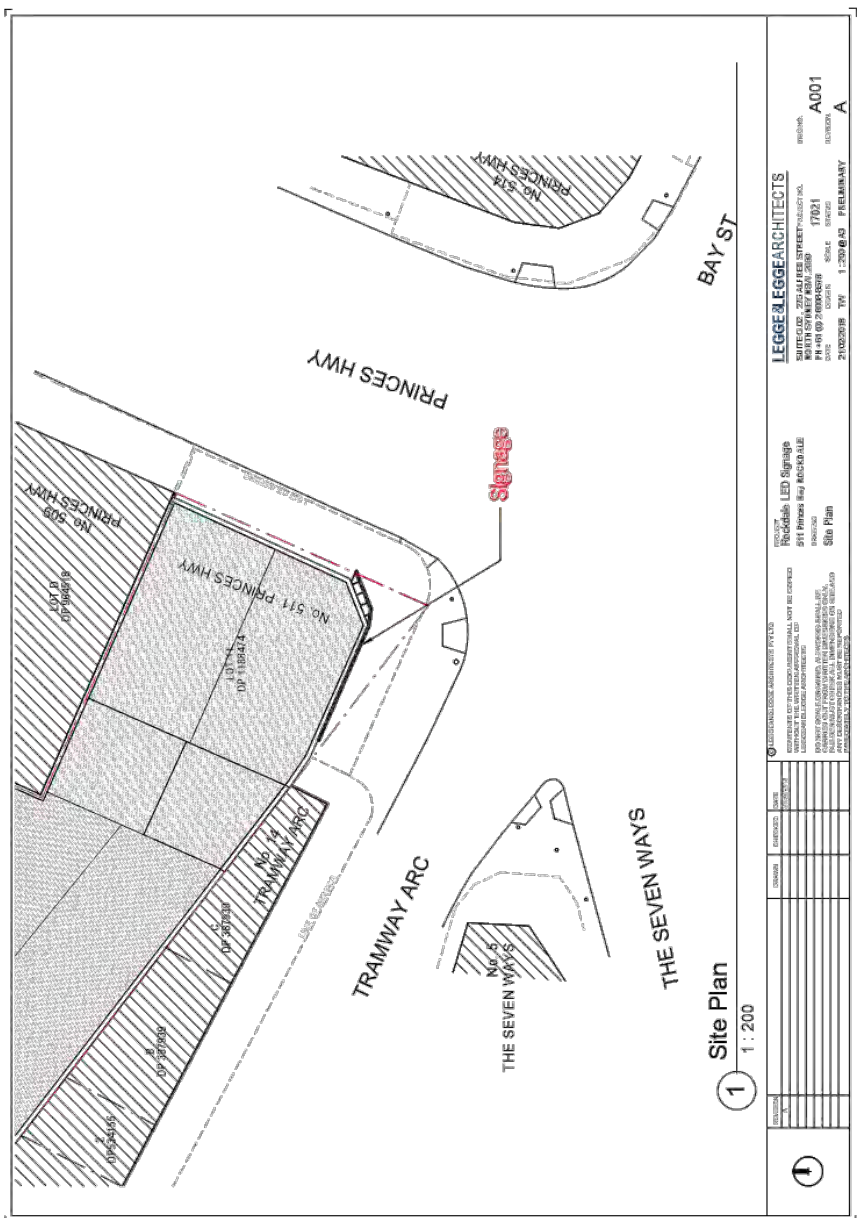
The proposed digital signage to be installed at 511 Princes Hwy, Rockdale, NSW, if commissioned according to this report, complies with the following criteria, guidelines and standards:

- State Environmental Planning Policy No. 64 – Advertising & Signage SEPP 64 (Refer Appendix C).
- Transport Corridor Outdoor Advertising & Signage Guidelines (2017) - Section 3.3.3.
- AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.

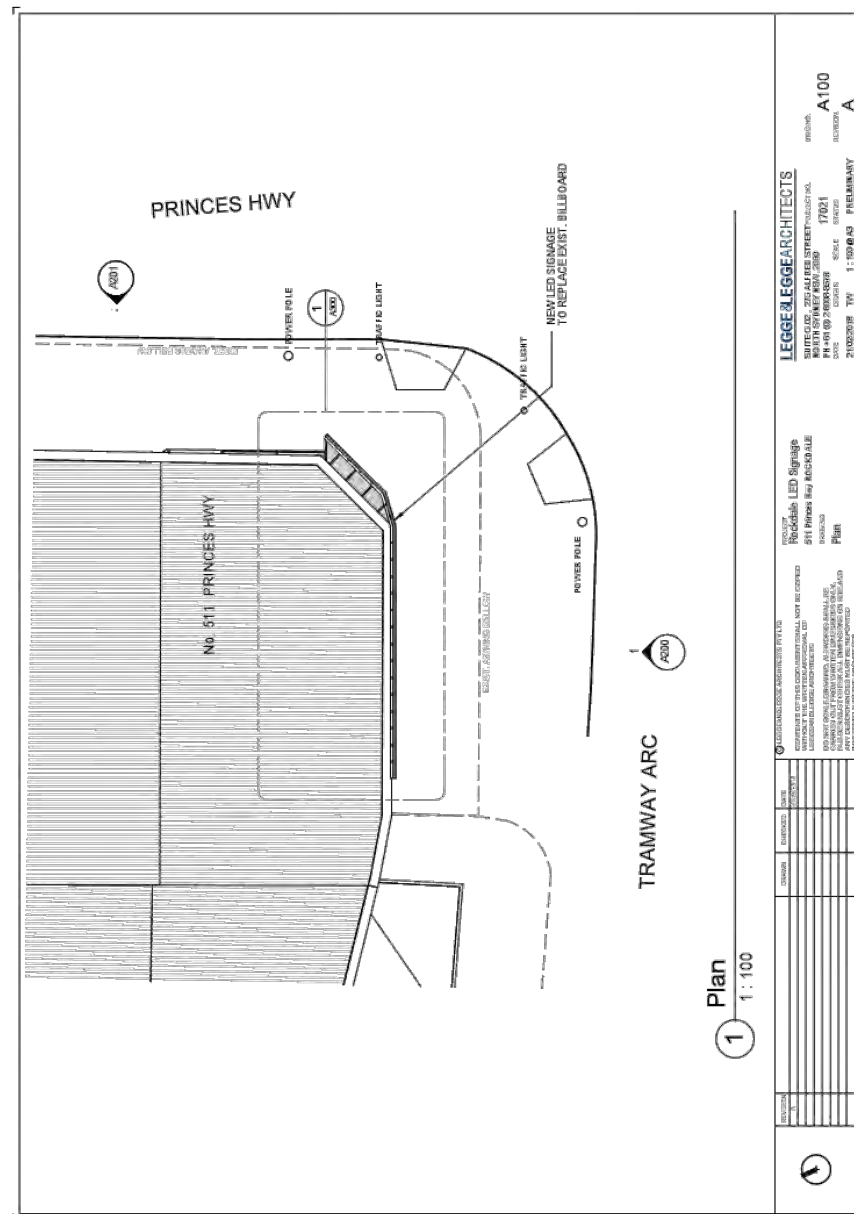


Ryan Shamler MIES  
Senior Lighting Designer  
Electrolight Sydney  
21/06/19

APPENDIX A  
SIGNAGE LOCATION PLAN AND SITE IMAGE

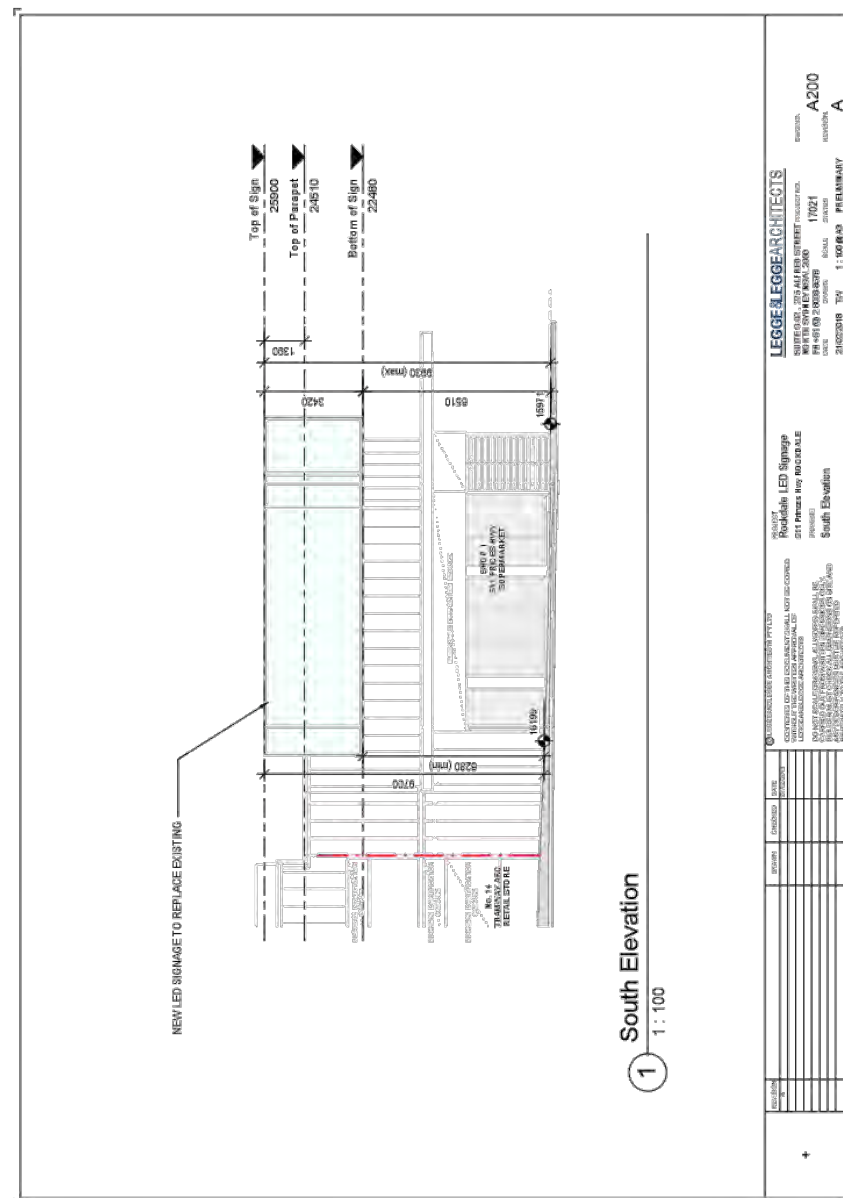


APPENDIX A  
SIGNAGE LOCATION PLAN AND SITE IMAGE



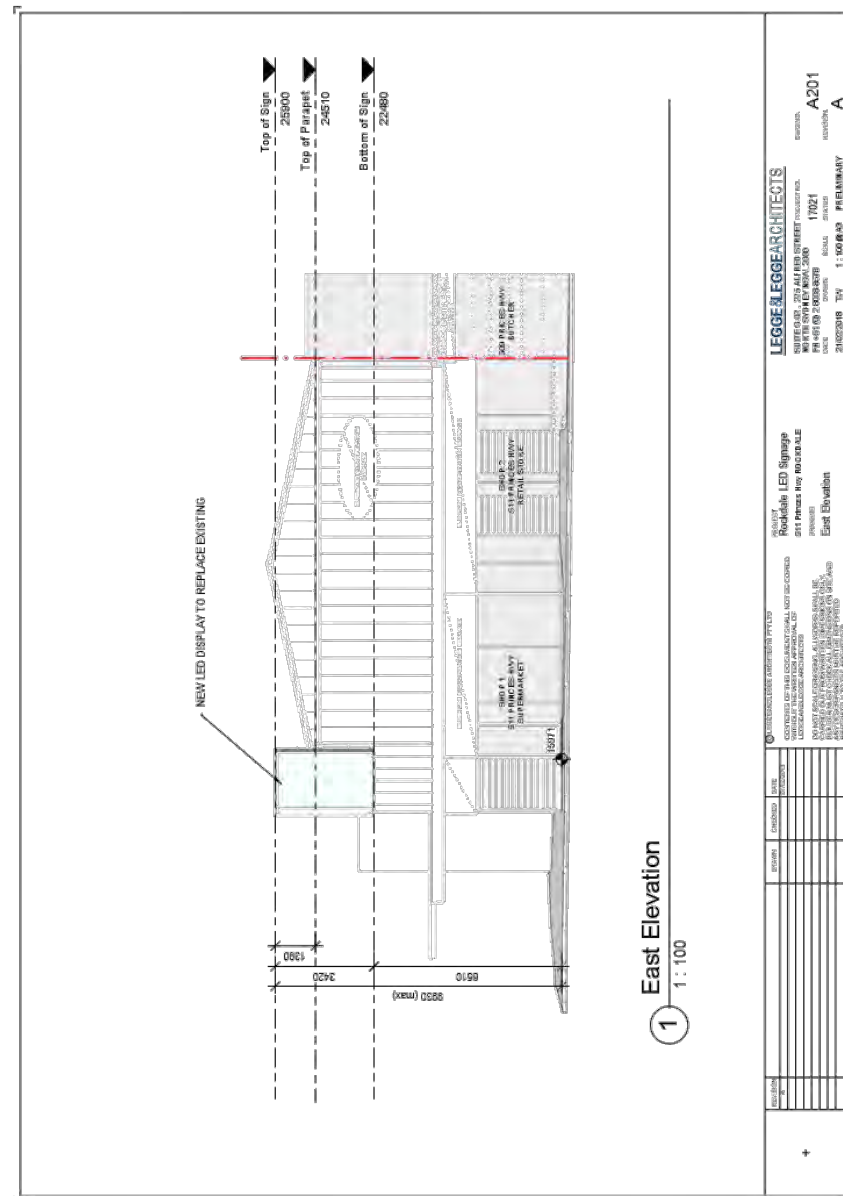
## APPENDIX A

### SIGNAGE LOCATION PLAN AND SITE IMAGE

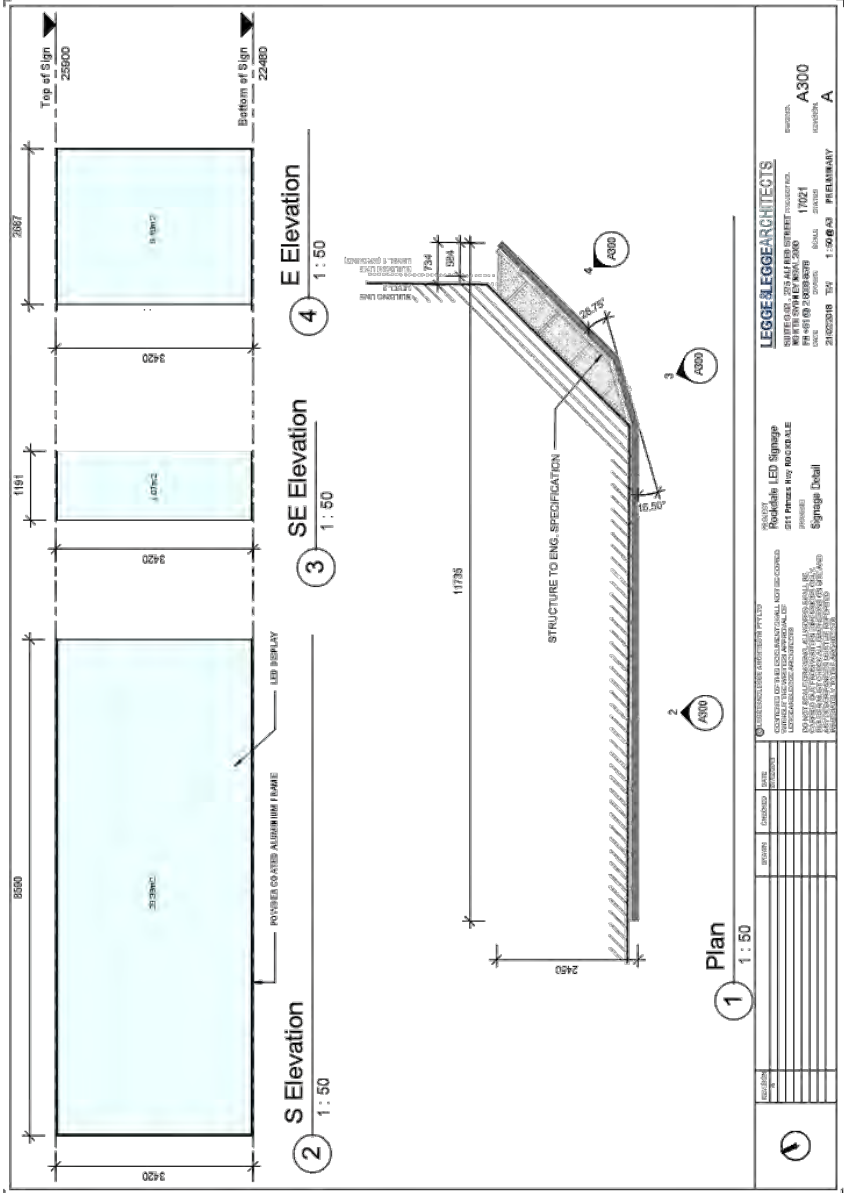


## APPENDIX A

### SIGNAGE LOCATION PLAN AND SITE IMAGE



APPENDIX A  
SIGNAGE LOCATION PLAN AND SITE IMAGE



## APPENDIX B

### DIGITAL SIGNAGE SPECIFICATION

## DAKTRONICS PRODUCT SPECIFICATION

### SERIES SPECIFICATION

#### DVX-1500-13HD

Pixel Configuration	1R, 1G, 1B LED
Line and Column Spacing	0.514 inches - 13.06 millimeters
Module Configuration - Pixels (RxC)	28 x 28 pixels
Module Dimensions (HxW)	14.4 x 14.4 inches - 366.76 x 366.76 mm
Maximum Power per Module <sup>1</sup>	29,635.2 Watts
Average Power per Module <sup>1</sup>	8 Watts
Display Weight per Module <sup>2</sup>	15.6 pounds - 7.08 kilograms
Processing	22 bit Distributed
Color Capacity	16 bit (261 Trillion Colors)
Dimming	256 levels
Color Temperature	3,000°-10,000° kelvin (adjustable)
Calibration	Full depth, LED to LED
LED Refresh Rate	4800 hertz
LED Lifetime	100,000 hrs
Calibrated Intensity - Typical Nits	8600 nits (cd/m)
Horizontal Viewing Angle	140°
Vertical Viewing Angle (Up/Down)	+25/-40°
Contrast Ratio	1200:1
Service Access	Front or Rear
Cabinet Depth	8.884 inches - 226.862 millimeters
Cabinet Construction	Steel and Aluminum (corrosion resistant)
Ingress Protection Rating	IP-66 Components
Working Temperature Rating <sup>3</sup>	-40° to 113° F - -40° to 45° C
Ventilation	Fan, Vent Panel
Data Transmission to Display	Direct: Fiberoptic Cable Remote: Internet/Network (IP)

Note 1: Power consumption varies depending on display ventilation.

Note 2: Display Weight per Module factors in cabinet, but not the structure.

Note 3: Temperature range is based on typical usage (100% daytime brightness, 80% ambient, 200W/m² solar, no wind).

Display will operate above listed temp range but will see greater rates of dimming. Range is based on low temp configuration.

Note 4: Ventilation solution may require external supplemental A/C in some areas of the world. Please consult your Distributor representative regarding your area.

Note 5: Consistent with Daktronics policy of continuing product improvement, specifications shown on this document are subject to change without notice.

### DISPLAY SPECIFICATION

#### DVX-1500-13HD-252x952-230LT-MR-CNTLRM

Active Screen Size (HxW)	10.8 feet x 40.8 feet - 3.29 meters x 12.44 meters
Active Screen Size (Square Dimensions)	440.64 square feet - 40.83 square meters
Number of Modules (HxW)	9 modules x 34 modules
Total Modules	306 modules
Matrix Size (HxW)	252 pixels x 952 pixels
Aspect Ratio	0.2847 (Reference - 16:9 = .5625 and 4:3 = .75)
Display Weight	4773.8 lb - 2166.48 kg
Display Weight per Square Dimension	11 lbs/sq. ft - 53 kg/sq. m
Total Average Power Consumed	2448 Watts
Total Maximum Power Consumed	6086 Watts
Maximum Power Consumption per Square Dimension	20.6 W/sq. ft - 221.8W/sq. m
Current Draw	41.2 amps @ 220v 1P - 13.1 amps @ 380/415v 3P - 37.8 amps @ 120/240v - 26.2 amps @ 208V/120v 3P
Control Method	Rack Mount Control System

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APPENDIX C  
OBTRUSIVE LIGHTING CALCULATIONS



Image: Light Model - Plan showing light spill calculation to the closest residential windows.

Land Zone Legend:

- B2
- R4



# APPENDIX C OBTRUSIVE LIGHTING CALCULATIONS

Calculation Summary				
Label	CalcType	Units	Max	
Zone R4 (The Seven Ways to King Edward St) T11 Seg4	Obtrusive Light - T11	Lux	0.0	
Zone R4 (The Seven Ways to King Edward St) T11 Seg3	Obtrusive Light - T11	Lux	0.0	
Zone R4 (The Seven Ways to King Edward St) T11 Seg2	Obtrusive Light - T11	Lux	0.0	
Zone R4 (The Seven Ways to King Edward St) T11 Seg1	Obtrusive Light - T11	Lux	0.0	
Zone B2 (The Seven Ways to Illawarra Train Line) T11 Se	Obtrusive Light - T11	Lux	16.8	
Zone B2 (The Seven Ways to Illawarra Train Line) T11 Se	Obtrusive Light - T11	Lux	0.0	
Zone B2 (The Seven Ways to Illawarra Train Line) T11 Se	Obtrusive Light - T11	Lux	0.4	
Zone B2 (The Seven Ways to Illawarra Train Line) T11 Se	Obtrusive Light - T11	Lux	18.4	
Zone B2 (The Seven Ways to Illawarra Train Line) T11 Se	Obtrusive Light - T11	Lux	1.1	
Zone B2 (Princes Hwy to Chapel Ln) T11 Seg6	Obtrusive Light - T11	Lux	1.61	
Zone B2 (Princes Hwy to Chapel Ln) T11 Seg5	Obtrusive Light - T11	Lux	3.18	
Zone B2 (Princes Hwy to Chapel Ln) T11 Seg4	Obtrusive Light - T11	Lux	4.08	
Zone B2 (Princes Hwy to Chapel Ln) T11 Seg3	Obtrusive Light - T11	Lux	3.08	
Zone B2 (Princes Hwy to Chapel Ln) T11 Seg2	Obtrusive Light - T11	Lux	1.87	
Zone B2 (Princes Hwy to Chapel Ln) T11 Seg1	Obtrusive Light - T11	Lux	0.00	
Zone B2 (Princes Hwy & Kings Ln) T11 Seg2	Obtrusive Light - T11	Lux	4.6	
Zone B2 (Princes Hwy & Kings Ln) T11 Seg1	Obtrusive Light - T11	Lux	3.8	
Zone B2 (Illawarra Train Line to Railway St) T11 Seg1	Obtrusive Light - T11	Lux	0.3	
Zone B2 (Princes Hwy to Heales Ave) T11 Seg3	Obtrusive Light - T11	Lux	0.0	
Zone B2 (Princes Hwy to Heales Ave) T11 Seg2	Obtrusive Light - T11	Lux	1.7	
Zone B2 (Princes Hwy to Heales Ave) T11 Seg1	Obtrusive Light - T11	Lux	3.4	
Zone R4 (The Seven Ways to King Edward St) Cd Seg4	Obtrusive Light - Cd	N.A.	0	
Zone R4 (The Seven Ways to King Edward St) Cd Seg3	Obtrusive Light - Cd	N.A.	0	
Zone R4 (The Seven Ways to King Edward St) Cd Seg1	Obtrusive Light - Cd	N.A.	0	
Zone R4 (The Seven Ways to King Edward St) Cd Seg2	Obtrusive Light - Cd	N.A.	0	
Zone B2 (Seven Ways to Illawarra Train Line) Cd Seg1	Obtrusive Light - Cd	N.A.	48	
Zone B2 (Seven Ways to Illawarra Train Line) Cd Seg6	Obtrusive Light - Cd	N.A.	0	
Zone B2 (Seven Ways to Illawarra Train Line) Cd Seg4	Obtrusive Light - Cd	N.A.	28	
Zone B2 (Seven Ways to Illawarra Train Line) Cd Seg3	Obtrusive Light - Cd	N.A.	35	
Zone B2 (Seven Ways to Illawarra Train Line) Cd Seg2	Obtrusive Light - Cd	N.A.	63	
Zone B2 (Princes Hwy to Chapel Ln) Cd Seg6	Obtrusive Light - Cd	N.A.	50	
Zone B2 (Princes Hwy to Chapel Ln) Cd Seg5	Obtrusive Light - Cd	N.A.	50	
Zone B2 (Princes Hwy to Chapel Ln) Cd Seg4	Obtrusive Light - Cd	N.A.	50	
Zone B2 (Princes Hwy to Chapel Ln) Cd Seg3	Obtrusive Light - Cd	N.A.	48	
Zone B2 (Princes Hwy to Chapel Ln) Cd Seg2	Obtrusive Light - Cd	N.A.	48	
Zone B2 (Princes Hwy to Chapel Ln) Cd Seg1	Obtrusive Light - Cd	N.A.	0	
Zone B2 (Princes Hwy & Kings Ln) Cd Seg2	Obtrusive Light - Cd	N.A.	64	
Zone B2 (Princes Hwy & Kings Ln) Cd Seg1	Obtrusive Light - Cd	N.A.	47	
Zone B2 (Illawarra Train Line to Railway St) Cd Seg1	Obtrusive Light - Cd	N.A.	28	
Zone B2 (Princes Hwy to Heales Ave) Cd Seg3	Obtrusive Light - Cd	N.A.	0	
Zone B2 (Princes Hwy to Heales Ave) Cd Seg2	Obtrusive Light - Cd	N.A.	50	
Zone B2 (Princes Hwy to Heales Ave) Cd Seg1	Obtrusive Light - Cd	N.A.	51	

# APPENDIX C THRESHOLD INCREMENT CALCULATIONS

Calculation Summary			
Label	CalcType	Units	Max
Bay St	Obtrusive Light - TI	%	0.73
Princes Hwy (northbound)	Obtrusive Light - TI	%	5.83
Princes Hwy (n'thbound sliplane)	Obtrusive Light - TI	%	4.83
Princes Hwy (southbound)	Obtrusive Light - TI	%	0.02
The Seven Ways	Obtrusive Light - TI	%	7.50
Tramway Arcade	Obtrusive Light - TI	%	1.38



## APPENDIX C

## OBTRUSIVE LIGHTING AND THRESHOLD INCREMENT CALCULATIONS

**Obtrusive Light - Compliance Report**

AS 4282-1997, Pre-Curfew, Commercial  
 Filename: 190613\_2150\_2\_511 Princes Highway  
 14/06/2019 10:23:48 AM

**Illuminance**

Maximum Allowable Value: 25 Lux

Calculations Tested (21):

Calculation Label	Test Results	Max. Illum.
Zone B2 (Princes Hwy & Kings Ln)_Ill_Seg1	PASS	3.3
Zone B2 (Princes Hwy & Kings Ln)_Ill_Seg2	PASS	4.4
Zone B2 (The Seven Ways to Illawarra Train Line)_Ill_Seg1	PASS	1.1
Zone B2 (The Seven Ways to Illawarra Train Line)_Ill_Seg2	PASS	19.4
Zone B2 (The Seven Ways to Illawarra Train Line)_Ill_Seg3	PASS	16.9
Zone B2 (The Seven Ways to Illawarra Train Line)_Ill_Seg4	PASS	0.4
Zone B2 (The Seven Ways to Illawarra Train Line)_Ill_Seg5	PASS	0.0
Zone B2 (Princes Hwy to Keats Ave)_Ill_Seg1	PASS	2.4
Zone B2 (Princes Hwy to Keats Ave)_Ill_Seg2	PASS	1.7
Zone B2 (Princes Hwy to Keats Ave)_Ill_Seg3	PASS	0.0
Zone B2 (Illawarra Train Line to Railway St)_Ill_Seg1	PASS	0.3
Zone R4 (The Seven Ways to King Edward St)_Ill_Seg1	PASS	0.0
Zone R4 (The Seven Ways to King Edward St)_Ill_Seg2	PASS	0.0
Zone R4 (The Seven Ways to King Edward St)_Ill_Seg3	PASS	0.0
Zone R4 (The Seven Ways to King Edward St)_Ill_Seg4	PASS	0.0
Zone B2 (Princes Hwy to Chapel Ln)_Ill_Seg1	PASS	0.00
Zone B2 (Princes Hwy to Chapel Ln)_Ill_Seg2	PASS	1.37
Zone B2 (Princes Hwy to Chapel Ln)_Ill_Seg3	PASS	3.09
Zone B2 (Princes Hwy to Chapel Ln)_Ill_Seg4	PASS	4.05
Zone B2 (Princes Hwy to Chapel Ln)_Ill_Seg5	PASS	3.18
Zone B2 (Princes Hwy to Chapel Ln)_Ill_Seg6	PASS	1.61

**Luminous Intensity (Cd) Per Luminaire**

Maximum Allowable Value: 7500 Cd  
 Control Angle: 83 Degrees

Luminaire Locations Tested (315)

Test Results: PASS



Tony Moody BTP (UNSW), LL.B (UTS) (Hons.), MPIA  
Email: [tonymoody@tonymoody.com.au](mailto:tonymoody@tonymoody.com.au) or [tony@tonymoody.com.au](mailto:tony@tonymoody.com.au)  
Mobile: 0414 330 807

02 July, 2019

Bayside Council  
444-446 Princes Highway  
ROCKDALE NSW 2216

**Attention: Michael McCabe, Director – City Futures.**

**Re: Section 8.2 Review Application, DA-2018/94, Proposed Replacement of Existing Advertising Signage with a Proposed LED Digital Display.**

**Ppty: 511 Princes Highway, Rockdale  
(corner of Princes Highway, Tramway Arcade and The Seven Ways).**

Dear Mr McCabe,

I refer to the abovementioned Section 8.2 Review Application for the erection of a proposed “LED Digital Display” to replace an existing approved sign on a property at 511 Princes Highway, Rockdale (subject site).

I was requested by the Applicant to advise it of my professional opinion on the abovementioned Section 8.2 Review Application.

Prior to providing my professional opinion, I wish to provide the following preliminary comments:

- I wish to introduce myself. I am a Consultant Planner with 15 years’ experience in 3 Local Government Councils, including 9 years as a Senior Development Control Planner. I hold a Bachelor of Town Planning Degree from the University of NSW and a Bachelor of Laws Degree (Hons) from the University of Technology, including a High Distinction in Environmental Studies. I have appeared as an Expert Planning Witness for 9 Councils in

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**Tony Moody Planning & Development Pty Ltd**  
ACN 102 593 215 / ABN 24 102 593 215  
1/17 Thurlow Street  
REDFERN NSW 2016

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- 2 -

the Land and Environment Court (Court) and I have also appeared in numerous Appeals as a Court Appointed Expert.

- I stress that the following opinion is only a very brief summary of my opinion on the Section 8.2 Review Application. If you wish me to provide my detailed advice or seek clarification of any points in my opinion, I am happy to do so.
- I was not the author of the original Statement of Environmental Effects in relation to the proposed **original** sign which was ultimately refused by Bayside Council (Council).
- I note the report dated 11 April, 2019 and prepared by Kerry Gordon, Consultant Planner for Council, in response to the proposed original sign. Kerry Gordon raised no objections to the proposed original sign on a number of grounds, but did raise objections on a number of other grounds, which are generally reflected in the Reasons for Refusal of Council's Notice of Determination dated 15 April, 2019.
- The Section 8.2 Review Application includes, but is not limited to, a proposed **amended** sign which incorporates a number of design amendments to the proposed original sign.
- A "*Traffic and Road Safety Assessment Report*" prepared by Traffic and Safety Solutions Pty Ltd concluded that the proposed Digital LED Signage complied with relevant road safety criteria. Furthermore, the Traffic and Road Safety Assessment Report noted that the proposed dwell time of 30 seconds between changes exceeds the minimum dwell time of 10 seconds stipulated in the relevant guidelines.
- The Roads and Maritime Services (RMS) on 28 June, 2018 granted concurrence to the proposed original sign under Section 138 of the Roads Act 1993, with the inclusion of conditions, including a trial period for 30 second period dwell time for advertisements.

#### **Reasons for Refusal of Proposed Original Sign**

I refer to the "*Notice of Determination*" dated 15 April, 2019 issued by Council which outlines its Reasons for Refusal in response to the proposed original sign.

I consider that a number of the Reasons for Refusal did necessitate amendments to the proposed original sign.

I am of the opinion that the proposed amended sign, which is the subject of the current Section 8.2 Review Application, satisfactorily addresses the Reasons for Refusal.

Adopting the numbers referred to in the Reasons for Refusal, I advise as follows:

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**Reason 1 – Design of Proposed Advertising Sign.**

- Council raised concern about the proposed original sign being *“excessive in size, projecting forward of the front façade and projecting above the parapet of the building”*.
- I also note the concerns expressed by Council Officers to the effect that the proposed original sign was larger than the Council approved sign.
- I agree with Council that amendments were required to the proposed original sign.
- I am pleased to note that the following amendments have been incorporated in the proposed amended sign:
  - i. The proposed amended sign is lower than the existing Council approved sign. On this point, I consider that, should Council have any doubts, there would be some benefit if the Applicant were to provide Survey Certification from a qualified Surveyor to the effect that the height of the proposed amended sign is lower than the existing Council approved sign.
  - ii. The proposed amended sign also includes modification of the parapet of the existing building. On this point, I note that the amended parapet is significantly below the 22m Height of Buildings Standard under Rockdale Local Environmental Plan 2011 applicable to the subject site.
  - iii. The size of the proposed amended sign is no larger than the existing Council approved sign. On this point, I consider that should Council have any doubts, there would be some benefit if the Applicant were to provide a Surveyor's Certification that the proposed amended sign is, in fact, no larger than (but lower than) the existing Council approved sign.
  - iv. The amended plans show that the proposed amended sign projects forward from the facade less than the existing Council approved sign and is setback a greater distance from the boundaries of the subject site than the existing Council approved sign. Again, should Council have any doubts, this may be certified by a Surveyor.
  - v. Council Officers in their letter dated 12 July, 2018 expressed concern that a *“small portion of the existing sign encroaches into the roadway”*. As noted above, the amended plans have modified the projection of the sign so that it is shown on those plans to be within the boundary of the subject site. However, a Surveyor's Certification can be obtained by the Applicant to provide further comfort to Council that the proposed amended sign will not encroach over the boundaries of the subject site. Furthermore, I would support the imposition of a Condition of Consent requiring the Applicant to

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- 4 -

provide a Surveyor's Certification following construction of the proposed amended sign that the proposed amended sign, when built, does not encroach over the boundaries of the subject site.

- On the assumption that the above Survey Certifications are provided by a qualified Surveyor, I consider that the design of the proposed amended sign would be very reasonable, particularly due to the amendments referred to above, and would satisfy the issues raised in Council's first Reason for Refusal.

**Reason 2 – Proposed 24 Hour Illuminated Sign is Inappropriate in Transition Area**

- I note that the proposed original sign was to operate *"24 hours a day, 7 days a week"*.
- An updated *"Lighting Impact Assessment"* dated 21 June 2019 has now been included with the Section 8.2 Review Application.
- I further note that the hours of illumination for the proposed amended sign have been reduced to 6:00am to 11:00pm daily and this reduction in hours of illumination is referred to in the updated Lighting Impact Assessment dated 21 June, 2019.
- As previously advised, the updated Lighting Impact Assessment Report now also focuses on the nearest properties of any use *"which are zoned either B2 or R4"* and could therefore in future be re-developed into high-density residential properties. Furthermore, the above report advises that the properties zoned either B2 or R4 form *"the focus of the obtrusive lighting assessment"*.
- The updated Lighting Impact Assessment Report concludes that the proposed amended sign *"complies with all relevant requirements of AS 4282-1997 Control C of the obtrusive effects of outdoor lighting"*.
- Based on the above report, I would recommend a Condition of Consent limiting the hours of illumination of the proposed amended sign to 6:00am to 11:00pm, compared to the previously proposed 24-hour illumination for the sign originally proposed under the subject Development Application.

**Reason 3 – Inadequate Assessment on Impact of Illumination Glare upon Future Residences.**

- As previously noted in Reason 2 above, the updated Lighting Impact Assessment Report accompanying the Section 8.2 Review Application focuses on the nearest properties *"which are zoned either B2 or R4"* and could in future be re-developed into high density residential properties.

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Furthermore, the report advises that the properties zoned either B2 or R4 form *"the focus of the obtrusive lighting assessment"*.

- I further note that the Lighting Impact Assessment advises that the proposed sign *"complies with all relevant requirements of AS 4282-1997 Control C of the Obtrusive Effects of Outdoor Lighting"*.
- Based on the above report, the proposed amended sign will not have an adverse illumination impact glare upon existing and likely future residences.

**Reason 4 – Lack of an Appropriate Public Benefit in conjunction with the Proposed Sign.**

- I note that the proposed amended sign is now accompanied by a draft *"Planning Agreement"* prepared by the Applicant and its Solicitors.
- The above draft Planning Agreement has been prepared based on a Council template, adopting the same rates and clauses as comparable planning agreements.
- I leave this matter for discussions between Council and the Applicant.

**Reason 5 – Public Interest**

- As previously advised, I consider that the proposed original sign did raise a number of matters of concern which required amendments. I consider that the proposed amended sign has addressed my previous concerns.
- Finally, I note the advice of Council Officers that in relation to the proposed original sign: *"No submissions were received during the public notification period"*. Whilst the lack of any public objections is not determinative, I consider that the lack of public objection against the proposed original sign is a relevant matter to be considered on the issue of the "public interest".

**Conclusion**

For the reasons referred to above, I support the proposed amended sign which is the subject of the current Section 8.2 Review Application.

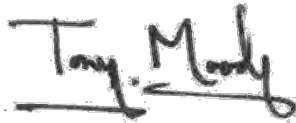


- 6 -

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I again reiterate my previous advice that *"that the following opinion is only a very brief summary of my opinion on the Section 8.2 Review Application. If you wish me to provide my detailed advice or seek clarification of my opinion, I am happy to do so"*.

Yours faithfully,

A handwritten signature in black ink that reads "Tony Moody". The signature is written in a cursive style with a horizontal line underneath the name.

**TONY MOODY**  
**BTP (UNSW), LL.B (UTS) (Hons.), MPIA**  
**Tony Moody Planning & Development Pty Ltd**

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## **Planning Agreement**

between

**513-517 Princes Highway Pty Limited**  
**ACN 156 138 573**  
**(Developer)**

and

**Bayside Council**  
**ABN 80 690 785 443**  
**(Council)**

513-517p\_19132\_028.docx

Doc ID 670489723/v1

**TABLE OF CONTENTS**

- 1. Definitions and interpretation**
  - 1.1 Definitions
  - 1.2 Interpretation
- 2. Planning Agreement under the Act**
- 3. Application of this Agreement**
- 4. Operation of this Agreement**
- 5. Development Contributions - the Current Development Application**
- 6. Adjustment of Development Contribution**
- 7. Late Payment**
- 8. Consolidation of payment dates**
- 9. Allocation of Display Time**
- 10. Council's obligations in respect of the Development**
- 11. Assignment and Transfer**
- 12. Council's acknowledgement**
- 13. No fetter**
- 14. Application of sections 7.11 and 7.12 of the Act to the Development**
- 15. No Registration of this Agreement**
- 16. Dispute Resolution**
  - 16.1 Notice of Dispute
  - 16.2 Response to Notice
  - 16.3 Negotiation
  - 16.4 Further Notice if not Settled
  - 16.5 Mediation
  - 16.6 Litigation
  - 16.7 Exchange of Information
  - 16.8 Continue to Perform obligations
- 17. Bank Guarantee**
- 18. GST**
  - 18.1 Defined GST term
  - 18.2 GST to be added to amounts
  - 18.3 Tax Invoice
  - 18.4 GST obligations to survive
- 19. Notices**
  - 19.1 Service of notices
  - 19.2 Effect of receipt
  - 19.3 Addresses
- 20. General**
  - 20.1 Legal costs
  - 20.2 Governing law and jurisdiction
  - 20.3 Severability
  - 20.4 Rights cumulative

513-517p\_19132\_028.docx

Doc ID 670489723/v1

- 20.5 Waiver and exercise of rights
- 20.6 Survival
- 20.7 Amendment
- 20.8 Assignment
- 20.9 Counterparts
- 20.10 Entire Understanding

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Doc ID 670489723/v1

This agreement is made on \_\_\_\_\_ 2019

between **513-517 Princes Highway Pty Limited** ACN 156 138 573 of Level 17,  
275 Alfred Street, North Sydney NSW 2060 (**Developer**).

and **Bayside Council** ABN 80 690 785 443 Branch 003 of 444-446 Princes  
Highway, Rockdale NSW 2216 (**Council**).

#### Recitals

- A. The Developer is the operator and owner of the Existing Signage situated on the Land.
- B. The Developer has lodged the Current Development Application to develop Digital Signage on the Land.
- C. By way of this Agreement, the Developer agrees to provide the Development Contributions on the terms and conditions of this Agreement pursuant to section 7.4 of the Act in relation to the Current Development Application.
- D. This Agreement between the parties has been entered into for the purposes of satisfying Clause 13 of the *State Environmental Planning Policy No. 64 (Advertising and Signage)* and the Transport Corridor Outdoor Advertising and Signage Guidelines for the provision of the public benefit to be provided in connection with the display of the advertisements in relation to the Current Development Application.

Now it is agreed as follows:

### 1. Definitions and Interpretation

---

#### 1.1 Definitions

In this agreement:

**Act** means the *Environmental Planning and Assessment Act 1979 (NSW)*.

**Bank Guarantee** means the bank guarantees to be provided in accordance with clause 17.

**Business Day** means:

- (a) for the purposes of receiving a Notice, a day which is not a Saturday, Sunday, public holiday or bank holiday in the city in which the Notice is to be received; and
- (b) for any other purposes a day on which the banks are open for business in Sydney, New South Wales other than a Sunday or public holiday in Sydney, New South Wales.

**Claim** includes a claim, notice, demand, action, proceeding, litigation, investigation, judgment, damage, Loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute and whether involving a third party or a party to this agreement.

**Commencement Date** means the date of execution of this Agreement.

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Doc ID 670489723/v1

**Construction Certificate** has the same meaning as in section 6.4(a) of the Act.

**Consumer Price Index**  
means:

- (a) the Alt Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics; and
- (b) if this price index is discontinued or abolished or if the items or weighting of the items whose prices are considered vary, so as to change the basis of the price index, then any price index the Developer selects that, as nearly as practicable, serves the same purpose.

**Current Development Application** means Development Application No 2018/94 for the Development as modified by review application lodged under section 8.2 of the Act dated 2/07/2019

**Development** means the development that is sought to be approved in the Current Development Application, which includes, among other things Digital Signage.

**Development Application** has the same meaning as in section 1.4 of the Act.

**Development Consent** has the same meaning as in section 1.4 of the Act.

**Development Contribution** means the monetary contribution amount required to be paid by the Developer pursuant to this Agreement.

**Digital Display Area** means the area of Signage comprising of digital technology (including but not limited to light emitting diode technology) in a screen configuration used, intended to be used or otherwise set aside for the display of advertisements or other signs, notices, content, devices or representations.

**Digital Signage** means Signage with a Digital Display Area.

**Existing Signage** means the Signage that is on the Land as at the date of this Agreement.

**First Payment Date** means the date being 14 days after a Construction Certificate is granted in relation to the Current Development Application **Government Agency** means any government, governmental, semi-governmental, administrative, fiscal or judicial body department, commission, authority, tribunal, agency or entity.

**GST** means goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

**GST Law** has the same meaning as in the GST Act.

**Insolvency Event** means the occurrence of any one or more of the following events regarding any party to this agreement:

- (a) a meeting has been convened, resolution proposed, petition presented or order made for the winding up of that party;

- (b) a receiver, receiver and manager, provisional liquidator, liquidator, or other officer of the Court, or other person of similar function has been appointed regarding all or any material asset to the party;
- (c) a security holder, mortgagee or chargee has taken attempted or indicated an intention to exercise its rights under any security of which the party is the security provider, mortgagor or chargor; or
- (d) an event has taken place with respect to the party which would make, or deem it to be, insolvent under any law applicable to it.

**Land** means the Land described in Schedule 1.

**Liability** means any liability or obligation (whether actual, contingent or prospective) including any Loss, irrespective of when the acts, events or things giving rise to the liability or obligation occurred.

**Loss** includes any loss, damage, cost, charge liability (including Tax liability) or expense (including legal costs and expenses).

**Modification Application** means an application to modify a development consent under section 4.55 of the Act.

**Occupation Certificate** has the same meaning as in the Act.

**Party** means a party to this Agreement including their successors and assigns.

**Payment Date** means the date being 14 days after an interim or final occupation certificate is granted in relation to the Current Development Application.

**Planning Agreement** has the same meaning as in section 7.1 of the Act.

**Public Purpose** means public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity within or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic, pedestrian matters.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000* (NSW).

**Signage** means a sign or infrastructure which supports a sign on which advertisements or content are displayed and includes the Existing Signage and Digital Signage.

**Tax** means all forms of taxes, duties, imposts charges, withholdings, rates, levies or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines, expenses and other additional statutory charges, incidental or related to the imposition.

**Term** means the period that:

- (a) a Development Consent granted in relation to the Current Development Application is in force for, being:

- (i) 15 years after the date on which the Development Consent becomes effective and operates in accordance with s 4.20 of the Act; or
- (ii) any lesser period specified in the Development Consent.

## 1.2 Interpretation

In this agreement, unless the context otherwise requires:

- (a) a reference to:
  - (i) one gender includes the others;
  - (ii) the singular includes the plural and the plural includes the singular;
  - (iii) a recital, clause, schedule or annexure is a reference to a clause or recital, schedule or annexure to this agreement and references to this agreement include any recital, schedule or annexure;
  - (iv) any contract (including this agreement) or other instrument includes any variation or replacement of it and as it may be assigned or novated;
  - (v) a statute, ordinance, code or other law includes subordinate legislation (including regulations) and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
  - (vi) a person or entity includes an individual, a firm, a body corporate, a trust, an unincorporated association or an authority;
  - (vii) a person includes their legal personal representatives (including executors), administrators, successors, substitutes (including by way of novation) and permitted assigns;
  - (viii) a group of persons is a reference to any two or more of them taken together and to each of them individually;
  - (ix) an entity which has been reconstituted or merged means the body as reconstituted or merged, and to an entity which has ceased to exist where its functions have been substantially taken over by another body, means that other body;
  - (x) time is a reference to legal time in Sydney, New South Wales;
  - (xi) a reference to a day or a month means a calendar day or calendar month;
  - (xii) a reference to money (including AUD' or 'dollars') is to Australian currency,
- (b) unless expressly stated, no party enters into this agreement as agent for any other person (or otherwise on their behalf or for their benefit);
- (c) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as', 'for example' or similar words are not words of limitation;
- (d) the words 'costs' and 'expenses\*' include reasonable charges, expenses and legal costs on a full indemnity basis;

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- (e) headings and the table of contents are for convenience only and do not form part of this agreement or affect its interpretation;
- (f) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (g) the time between two days, acts or events includes the day of occurrence or performance of the second but not the first day act or event;
- (h) if the last day for doing an act is not a Business Day, the act must be done instead on the next Business Day;
- (i) where there are two or more persons in a party each are bound jointly and severally; and
- (j) a provision of this agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this agreement or the inclusion of the provision in this agreement.

## **2. Planning Agreement under the Act**

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- 2.1 The parties mutually acknowledge and agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

## **3. Application of this Agreement**

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- 3.1 This Agreement applies to the Land, the Existing Signage on the Land, the Current Development Application and to the Development.
- 3.2 Nothing in this Agreement affects the operation of the Development Consent(s) that are ongoing and in force in respect of the Existing Signage. The parties agree that the Development Consent(s) will continue to operate for the duration of the Term and are not taken to be abandoned by the Developer's use or operation of the relevant Signage as Digital Signage for the Term.

## **4. Operation of this Agreement**

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- 4.1 This Agreement takes effects from the date this Agreement is executed by the Parties.

## **5. Development Contributions – the Current Development Application**

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- 5.1 **Schedule 2** has effect in relation to the Development Contributions to be made by the Developer under this Agreement in relation to the Current Development Application.
- 5.2 If Development Consent is granted in relation to the Current Development Application, and a Construction Certificate is issued, the Developer must make the Development Contributions (as set out in **Schedule 2**) to Council in accordance with this Agreement.
- 5.3 For the purposes of Clause 5.2:
- (a) The Developer acknowledges that it must lodge a Construction Certificate prior to commencement of works or use associated with the Current Development Application (pursuant to section 6.7 of the Act);

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- (b) Council acknowledges that the Developer may elect not to take up Development Consent granted in relation to the Current Development Application;
- (c) The Developer must immediately notify Council of the date a Construction Certificate is issued in relation to the Current Development Application; and
- (d) If the Developer commences construction work (or use) in relation to Digital Signage approved pursuant to the Current Development Application without a Construction Certificate, the Payment Date is taken to be 14 days after the commencement of use of the Digital Signage and the Developer is immediately liable to pay the Development Contribution calculated from that date plus interest at a rate of 10% above the daily Reserve Bank of Australia Cash Rate from the date that payment was due up to and including the date the overdue amount is paid.

- 5.4 The Developer agrees to make and the Council agrees to accept, the Development Contributions in relation to the Current Development Application, to be applied for the Public Purpose by the Council.
- 5.5 The Developer and the Council agree that on each anniversary or the First Payment Date the Development Contribution in relation to the Current Development Application will increase by the increase in the Consumer Price Index for the prior year.

## **6. Adjustment of Development Contribution**

---

- 6.1 If at any time the use or operation of any of the Signage by the Developer pursuant to any Development Consent granted to the Current Development Application permanently ceases for any reason, including as a result of the termination of a lease or licence under which the Developer had a right to access and use the Land to operate the relevant Signage, the parties acknowledge that:
- (a) the Developer may provide written evidence to the Council to demonstrate that the use or operation of particular Signage by the Developer has permanently ceased; and
  - (b) the Council must give genuine consideration to any such evidence and, if satisfied (acting reasonably) that the use and operation of the particular Signage by the Developer has permanently ceased, the Development Contribution is to be adjusted to the effect that the Development Contribution in relation to the said Signage is no longer payable by the Developer. If the Digital Signage has been removed or its use permanently ceased such that no party can utilise it under the Current Development Application, on request of the other party, the parties must promptly negotiate a termination to this Agreement to formally record the ceasing of operation of the Digital Signage and end of this Agreement.

## **7. Late Payment**

---

- 7.1 Where any payment of a Development Contribution is not made on or before the due date for payment, the unpaid amount will accrue interest at a rate of 2% above the daily Reserve Bank of Australia Cash Rate from the date that payment was due up to and including the date when the overdue amount is paid.
- 7.2 If the Developer has not paid Development Contributions as required for 3 consecutive months, despite the Council having issued tax invoices in accordance

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with this Agreement for each of those 3 months, then the Developer must cease the use of the Digital Signage.

## **8. Consolidation of Payment Dates**

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- 8.1** Without limiting the generality of Clause 20.7 of this Agreement, the parties acknowledge that they may, from time to time, negotiate and execute a variation of this Agreement so as to make provision for the date or dates on which recurrent payments of Development Contributions required by this Agreement are due to be consolidated (with appropriate adjustments) so as to make provision for a recurrent consolidated payment of the total Development Contribution payable.

## **9. Allocation of Display Time**

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- 9.1** In addition to the Development Contributions, subject to Clause 9.2, the Developer agrees to allocate during the Term the following display time in relation to Signage which is the subject of Development Consent in relation to the Current Development Application:
- (a) 5 % of the annual display time on digital Signage to Council to advertise Council events and community information.
- 9.2** The Developer's obligation under Clause 9.1 is subject to the following conditions:
- (a) Council must comply with the Developer's standard commercial terms and conditions for the display of advertisements on advertising assets;
  - (b) Council must pay any production or service costs in connection with the display of an advertisement;
  - (c) the right to display an advertisement on digital Signage is personal to Council and cannot be transferred or sold to another person or exchanged for any other benefit or for cash;
  - (d) if at any time during the Term Council does not use its allocation of display time on Digital Signage to display an advertisement, then that unused display time is immediately forfeited to the Developer and does not accrue for future use; and
  - (e) Council must ensure that any advertisement displayed does not include the logo or branding of any third party, infringe any third party's intellectual property rights or breach any law or regulation, except that Council may include the logo or branding of a third party to identify it as a sponsor of the Council event being advertised.

## **10. Council's Obligations in respect of the Development**

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- 10.1** Subject to Clause 10.2 and Clause 12, Council must not erect, install, plant or otherwise place, or grant to itself or any third party any licence, consent or approval to erect, install, plant or otherwise place, any plant or equipment, vegetation, structure, object, building or work on land owned, managed or controlled by Council which has or will have the effect of obscuring or obstructing visual access to the Signage from any public road for the duration of the Term.
- 10.2** Clause 10.1 does not limit or fetter in any way Council's ability to exercise its rights and responsibilities in relation to road safety or functions as a roads authority under the *Roads Act 1993* including, without limitation, the installation or display of a

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prescribed traffic control device pursuant to the *Road Transport Act 2013* or otherwise installing or erecting signs or devices related to traffic and pedestrian safety or the regulation of pedestrians and traffic.

## **11. Assignment and Transfer**

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**11.1** Unless the matters specified in Clause 11.2 are satisfied, the Developer is not to do any of the following:

- (a) assign, transfer dispose or novate to any person the Developer's rights or obligations under this Agreement.

**11.2** The matters required to be satisfied for the purposes of Clause 11.1 are as follows:

- (a) the Developer has, at no cost to Council, first procured the execution by the person to whom the Developer's rights or obligations under this Agreement are to be assigned, transferred or novated, of an agreement in favour of the Council on terms that are no less favourable to Council than the terms of this agreement;
- (b) Council, by notice in writing to the Developer, has stated that evidence satisfactory to Council has been produced to show that the assignee, transferee or novatee, is reasonably capable of performing its obligations under the Agreement; and
- (c) the Developer is not in breach of this Agreement.

**11.3** Any purported dealing in breach of this clause is of no effect.

## **12. Council's Acknowledgement**

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**12.1** Subject to Clause 12.2, Council acknowledges and agrees that for the duration of the Term:

- (a) the payment of the Development Contribution and the allocation of display time pursuant to Clause 9 is in substitution for the payment of any other fees, rates, charges or levies (Levy Payments) which Council could or may seek to impose on the Developer and its successors or assigns in respect of the Existing Signage and Development;
- (b) Council releases the Developer and its successors or assigns from all liability for Levy Payments in respect of the Existing Signage and Development; and
- (c) Council will not seek to impose levies to the same effect of the Development Contributions.

**12.2** Nothing in Clause 12.1 limits or fetters in any way Council's power to impose fees, rates, charges or levies under any Act (including but not limited to the *Local Government Act 1993*) regulation, statutory rule or similar which the Council could or may seek to impose:

- (a) on the owner of the Land; or
- (b) as a standard application fee, lodgement fee or other administrative or processing fee or charge that is payable to Council in connection with any Development Application, Modification application, application for a Construction Certificate or similar.

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**13. No Fetter**

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- 13.1** Nothing in this Agreement shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.
- 13.2** For the avoidance of doubt, nothing in this Agreement shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty in relation to:
- (a) assessment and determination of the Current Development Application;
  - (b) the exercise of Council's functions as a roads authority under the *Roads Act 1993*; or
  - (c) the exercise of Council's functions under the *Road Transport Act 2013* including but not limited to the installation or display of prescribed traffic control devices pursuant to that Act; or
  - (d) any other power or functions relating to installing or erecting signs or devices with respect to traffic and pedestrian safety or the regulation of traffic and pedestrians generally.

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**14. Application of sections 7.11 & 7.12 of the Act to the Development**

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- 14.1** This Agreement excludes the application of Sections 7.11 and 7.12 of the Act to the Development.

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**15. No Registration of this Agreement**

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- 15.1** The Parties agree that this Agreement will not be registered for the purposes of section 7.6 of the Act.

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**16. Dispute Resolution**

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**16.1 Notice of Dispute**

If a party claims that a dispute has arisen under this agreement (Claimant), it must give written notice to the other party (Respondent) stating the matters in dispute and designating as its representative a person to negotiate the dispute (Claim Notice).

**16.2 Response to Notice**

Within 20 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

**16.3 Negotiation**

The nominated representatives must:

- (a) meet to discuss the matter in good faith within 10 business days after service by the Respondent of notice of its representative; and
- (b) use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

**16.4 Further Notice if not Settled**

If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (Dispute Notice).

**16.5 Mediation**

The parties agree that a dispute shall be mediated if it is the subject of a Dispute Notice, in which case:

- (a) the parties must agree the terms of reference of the mediation within 5 business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the appointment of a Mediator will be agreed between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply to appoint a mediator;
- (c) the Mediator appointed pursuant to this Clause 16.5 must:
  - (i) have reasonable qualifications and practical experience in the area of the dispute; and
  - (ii) have no interest or duty which conflicts or may conflict with her function as mediator, she being required to fully disclose any such interest or duty before her appointment;
- (d) the Mediator shall be required to undertake to keep confidential all matters coming to her knowledge by reason of her appointment and performance of her duties;
- (e) the parties must within 5 business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (f) the parties agree to be bound by any mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (g) in relation to costs and expenses:
  - (i) each party will bear their own professional and expert costs incurred in connection with the mediation; and
  - (ii) the costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

**16.6 Litigation**

If the dispute is not finally resolved in accordance with clause to litigate the dispute.

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**16.7 Exchange of Information**

The parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause is to attempt to settle the dispute between the parties. No party may use any information or documents obtained through the dispute resolution process established by this Clause 16 for any purpose other than an attempt to settle a dispute between the parties.

**16.8 Continue to Perform Obligations**

Each party must continue to perform its obligations under this agreement, notwithstanding the existence of a dispute.

**17. Bank Guarantee**

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- 17.1** At the time of application for the Construction Certificate in relation to the Current Development Application, the Developer must deliver to Council an irrevocable and unconditional Bank Guarantee in favour of Council equivalent to one quarter of the Development Contribution required to be paid under Clause 5 and Schedule 2 of this Agreement in relation to the Current Development Application.
- 17.2** The Council must return the Bank Guarantee referred to in Clause 17.1 at the end of the Term of the Development Consent granted in relation to the Current Development Application.
- 17.3** If the Development Contribution is adjusted in accordance with Clause 6, the Developer may substitute the Bank Guarantee for the amount equivalent to one quarter of the adjusted Development Contribution.
- 17.4** If the Developer does not comply with its obligations under this Agreement, the Council may after 14 days' notice, call on the Bank Guarantee.

**18. GST**

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**18.1 Defined GST terms**

In this Clause 18, words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

**18.2 GST to be added to amounts payable**

If GST is payable on a taxable supply made under, by reference to or in connection with this Agreement, the party providing the consideration for that Taxable Supply must also pay the GST Amount as additional consideration. This clause does not apply to the extent that the consideration for the Taxable Supply is expressly agreed to be GST inclusive, unless otherwise expressly stated, prices or other sums payable or consideration to be provided under or in accordance with this Agreement are exclusive of GST.

**18.3 Tax Invoice**

If a Party is liable for GST on any payments made under this Agreement, the other Party must issue a tax invoice (or an adjustment note) to the liable Party for any GST payable under this agreement within seven days of a written request. The tax invoice

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(or adjustment note) must include the particulars required by the GST Law to obtain an input tax credit for that GST.

#### **18.4 GST obligations to survive termination**

This Clause 18 will continue to apply after expiration of termination of this Agreement.

### **19. Notices**

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#### **19.1 Service of Notices**

A notice, consent, approval or other communication under this agreement (Notice) must be:

- (a) in writing and signed by the sender or its duly authorised representative, addressed to the recipient and sent to the recipient's address specified in Clause 19.3; and
- (b) delivered by personal service, sent by pre-paid mail or transmitted by facsimile or email, or any other lawful means.

#### **19.2 Effect of Receipt**

- (a) A Notice given in accordance with this Clause 19.1 is treated as having been given and received:
  - (i) if personally delivered, on delivery;
  - (ii) if sent by pre-paid mail, on the fifth clear Business Day after the date of posting (or the seventh Business Day after the date of posting if sent to or from an address outside Australia);
  - (iii) if sent by facsimile, when the sender's fax machine produces a transmission report stating that the transmission of the entire Notice was complete; and
  - (iv) if sent by email, at the top of transmission by the sender, unless the sender receives an automated notice generated by the sender's or the recipient's email server that the email was not delivered,

except that if the delivery, receipt or transmission, is after 5.00pm in the place of receipt or on a day which is not a Business Day, it is taken to have been received at 9.00am on the next Business Day.

#### **19.3 Addresses**

- (a) The particulars for delivery of Notices are initially:

**513-517 Princes Highway Pty Limited**

**c/- Fivex Pty Limited**

Name: Lesli Berger

Address: Level 17, 275 Alfred Street, North Sydney NSW 2060

Email: lberger@fivex.com.au

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Doc ID 670489723/v1



**Bayside Council**

Name: [Insert]

Attention: [insert]

Address: [insert]

Fax: [insert]

Email: [insert]

- (b) A party may change its address for the delivery of Notices by notifying that change to each other party. The notification is effective on the later of the date specified in the Notice or five Business Days after the Notice is given.

**20. General**

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**20.1 Legal Costs**

- (a) Except as expressly stated otherwise in this agreement, each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this agreement.
- (b) The Developer must pay all legal costs (assessed on an indemnity basis) and out of pocket disbursements incurred by the Council in relation to enforcing the Developer's obligations under this Agreement.

**20.2 Governing Law and Jurisdiction**

- (a) This agreement is governed by and is to be construed in accordance with the laws applicable in New South Wales, Australia.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

**20.3 Severability**

- (a) Subject to this Clause 20.3, if a provision of this agreement is illegal or unenforceable in any relevant jurisdiction, it may be severed for the purposes of that jurisdiction without affecting the enforceability of the other provisions of this agreement.
- (b) Clause 20.3(a) does not apply if severing the provision:
- (i) Materially alters the:
    - (A) scope and nature of this agreement; or
    - (B) the relative commercial or financial positions of the parties; or
  - (ii) Would be contrary to the public policy.

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**20.4 Rights Cumulative**

Except as expressly stated otherwise in this agreement, the rights of a party under this agreement are cumulative and are in addition to any other rights of that party.

**20.5 Waiver and exercise of rights**

- (a) A single or partial exercise or waiver by a party of a right relating to this agreement does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss, cost or expense of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

**20.6 Survival**

The rights and obligations of the parties do not merge on:

- (a) Completion of any transaction under this Agreement; or
- (b) Termination or expiration of the Agreement.

**20.7 Amendment**

This agreement may only be varied or replaced by an agreement executed by the parties.

**20.8 Assignment**

The Developer must not assign or deal with its rights under this agreement without the prior written consent of Council.

**20.9 Counterparts**

This agreement may consist of a number of counterparts and, if so, the counterparts taken together constitute one agreement.

**20.10 Entire Understanding**

- (a) This agreement contains the entire understanding between the parties as to the subject matter of this agreement.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this agreement are merged in and superseded by this agreement and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
  - (i) affects the meaning or interpretation of this agreement; or
  - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.

**Executed as an agreement**

**EXECUTED** for and on behalf of 513- )  
**517 Princes Highway Pty Limited ACN** )  
156 138 573 in accordance with Section )  
127(1) of the *Corporations Act 2001*: )

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Signature of Director/Secretary

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Signature of [Sole] Director/Secretary

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Name of Director/Secretary

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Name of [Sole] Director/Secretary

**EXECUTED** for and on behalf of )  
**Bayside Council ABN 80 690 785 443** )  
**BRANCH 003** in the presence of: )  
)

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Witness

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General Manager

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Name of Witness

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Name of General Manager

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**Schedule 1 – The Land**

<b>Land</b>	<b>First Schedule (owner of the Land)</b>	<b>Registered Dealing Number of leasehold interest in Land (if applicable)</b>
Lot 11 in DP 1188474, being known as 511 Princes Highway, Rockdale	513 -517 Princes Highway Pty Limited	AH750431 (as varied) AH419555 (now expired) AH236612 (as varied)

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Doc ID 670489723/v1

### Schedule 2 – Development Contributions - the Current Development Application

Column 1	Column 2	Column 3	Column 4
Development Application	Signage Details	Monetary Contribution (per annum for the duration of the Term)	Timing of Payment
DA2018/94	Dimensions: 12.468 (wide) x 3.42 (high) 42.64 square metres	\$555/m <sup>2</sup> x 42.64m <sup>2</sup> = <u>\$23,665.20<sup>1</sup></u> (increased in accordance with cl 5.5)	Provided that Council has issued an invoice to the Developer for the amount payable, the Developer must pay the Monetary Contribution in relation to DA 2018/94 in advance in equal monthly instalments on and from the First Payment Date until the end of the Term.

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<sup>1</sup> The agreed rate is \$555 per physical square metre of the Digital Display Area

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## Explanatory Note

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Pursuant to clause 25E of the *Environmental Planning and Assessment Regulation 2000*

### 1. Introduction

#### 1.1 Purpose

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of the proposed planning agreement (Planning Agreement) prepared in accordance with Subdivision 2, Division 7.1, Part 7 of the *Environmental Planning and Assessment Act 1979 (Act)*.

#### 1.2 Preparation

This Explanatory Note has been prepared jointly by the Parties to the Planning Agreement in accordance with clause 25E(3) of the *Environmental Planning and Assessment Regulation 2000 (Regulation)*.

### 2. Parties to the Planning Agreement

513-517 Princes Highway Pty Limited  
ACN 156 138 573  
(Developer)

and

Bayside Council  
ABN 80 690 785 443  
(Council)

### 3. Description of the Subject Land

The Planning Agreement applies to the Land, being Lot 11 in DP 1188474, known as 511 Princes Highway, Rockdale.

### 4. Description of the Development Application

The Planning Agreement applies to existing signage on the Land, Development Application No. DA2018/94 (Development Application).

The Development Application seeks to convert existing static signage to chargeable digital LED signage.

### 5. Summary of Objectives, Nature and Effect of the Draft Planning Agreement

The objective of the Planning Agreement is to record the terms of the offer made by the Developer and its obligation to provide public benefits in connection with the display of the advertisements in accordance with clause 13(3) of State Environmental Planning Policy No. 64 — Advertising and Signage and the Department of Planning and Environment 'Transport Corridor Outdoor Advertising and Signage Guidelines'.

The Planning Agreement provides that the Developer is to make monetary contributions to Council calculated by reference to the digital display area used for the display of advertisements and the like at a rate of \$555 per square metre.

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Doc ID 670489723/v1

If development consent is granted to the Development Application, the Planning Agreement requires payment of the first monetary contribution within 14 days of issue of a construction certificate, as follows:

- DA 2018/94:  $\$555/\text{m}^2 \times 42.64\text{m}^2 = \$23,665.20$ .

The above monetary contribution for the Development Application are to be paid for the balance of the time that the relevant development consent is effective and operational (usually 15 years though this may be decreased), increased in accordance with the Consumer Price Index.

The money received by Council is to be applied towards the public purpose of public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport, transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity within or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic and pedestrian matters.

#### **6. Assessment of Merits and Purpose of the Planning Agreement**

The Planning Agreement serves the public purpose and promotes object (a) of the Environmental Planning and Assessment Act 1979 (Act) by securing the provision of Development Contributions in the nature of monetary payments for the purposes of public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport, transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity within or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic and pedestrian matters.

#### **7. How the Planning Agreement promotes one or more of the objects of the Local Government Act 1993**

The Planning Agreement promotes the principles of local government under the Local Government Act 1993 (see former section 8 of the Local Government Act 1993) by:

- providing appropriate services and facilities for the community in the form funding for such service as a result of the monetary contributions;
- providing for the needs of children by providing funding for school safety infrastructure and programs; and
- properly managing, restoring and enhancing the environment of the area in a manner that is consistent with and promotes the principles of ecologically sustainable development through the provision of funding for improving or providing public amenity within or adjacent to roads, and enhancing the existing road network.

#### **8. Planning Purposes served by the Planning Agreement**

The planning purpose of the Planning Agreement is to provide funds to the Council for the purposes of public benefit works in relation to transport and traffic matters of a public nature, including but not limited to public transport, transport safety, transport amenity improvements, pedestrian safety, improving traffic safety (road, rail, bicycle and pedestrian), providing or improving public transport services, improving or providing public amenity within or adjacent to roads, school safety infrastructure and programs, or other community benefits relating to transport, traffic and pedestrian matters. The Planning Agreement provides for a reasonable means of achieving that purpose.

#### **9. The Council's capital works program**

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The proposed Planning Agreement accords with Council's capital works program and, furthermore, will enable the program to be advanced with greater timeliness and certainty while reducing the financial risks to Council in its implementation

**10. Requirements prior to the issue of construction, occupation or subdivision certificates**

The Planning requires payment of the Development Contribution after the issuing of an occupation certificate, and if no occupation certificate is issued, after such use commences.

**11. Interpretation of Planning Agreement**

This Explanatory Note is not intended to be used to assist in construing the Planning Agreement.

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## Bayside Local Planning Panel

8/10/2019

Item No	6.3
Application Type	Development Application
Application No	DA-2019/271
Lodgement Date	26/07/2019
Proposal	<b>Temporary Use of Mascot Memorial Park for a Food and Wine Festival for Three days (including set up and pack up) During October 2019, and Installation of Associated Temporary Structures (Bayside Food and Wine Festival)</b>
Ward	Ward 3
Owner	Bayside Council
Applicant	Bayside Council
Property	814 Botany Road, Mascot Lot 1 DP1136361, Lot 1 DP 72528 and Pt 2 DP 611027
No. of Submissions	No submissions received
Cost of Development	\$60,000
Report by	Michael McCabe, Director City Futures

## Officer Recommendation

It is RECOMMENDED, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*:

That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2019/271 for the temporary use of Mascot Memorial Park for a food & wine festival for 3 days (including set up and pack up) during October 2019, and installation of associated temporary structures ('Bayside Food and Wine Festival'), pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to the Planning Assessment Report in Schedule 1.

## Location Plan



## Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Heritage Impact Assessment [↓](#)
- 3 Statement of Environmental Effects [↓](#)
- 4 Site Plan [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

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### Application Details

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<b>Application Number:</b>	DA 2019/271
<b>Date of Receipt:</b>	26 July 2019
<b>Property:</b>	814 Botany Road, Mascot Memorial Park, Mascot
<b>Lot &amp; DP/SP No:</b>	Lot 1 DP 1136361, Lot 1 DP 72528 & PT 2 DP 611027
<b>Owner:</b>	Bayside Council
<b>Applicant:</b>	Bayside Council
<b>Address:</b>	444-446 Princes Highway, Rockdale, NSW, 2216
<b>Proposal:</b>	Temporary use of Mascot Memorial Park for a food & wine festival for 3 days (including set up and pack up) during October 2019, and installation of associated temporary structures ('Bayside Food and Wine Festival')
<b>Property Location:</b>	Corner of Coward Street and Botany Road, Mascot
<b>Value:</b>	\$60,000
<b>Zoning:</b>	RE1 – Public Recreation <i>Botany Bay Local Environmental Plan 2013</i>
<b>Author:</b>	Kim Johnston – Consultant Town Planner (KJ Planning)
<b>Date of Report:</b>	20 September 2019
<b>Classification of Building:</b>	Class 10b – A structure being a fence, mast, antenna, retaining or free standing wall, swimming pool or the like.

### Key Issues

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The key issues for the proposal include:

- Potential impact on heritage values of the site - Mascot Memorial Park is a heritage item (I68) under the *Botany Bay Local Environmental Plan 2013 ('BBELP 2013')*. The applicant (Council) does not propose any permanent development, and will ensure the heritage aspects of the site are maintained;
- Safety of the event – relevant conditions of consent have been recommended to be imposed to ensure the event is run safely; and
- Return of site to original condition - relevant conditions of consent have been recommended to be imposed to ensure the site is returned to its original (pre-Festival) condition.

### Recommendation

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Item	Bayside Planning Panel Meeting
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It is RECOMMENDED, pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*:

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2019/271 for the temporary use of Mascot Memorial Park for a food & wine festival for 3 days (including set up and pack up) during October 2019, and installation of associated temporary structures ('Bayside Food and Wine Festival'), pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to the Planning Assessment Report in Schedule 1.

## Background

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The subject site comprises a large area of passive and active recreation for the community. There has been a previous consent issued for a similar one-day event on the site, being for '*Carols in the Park and Christmas markets*'.

This consent, DA 2017/1178, was approved on 1 December 2017 which authorised the following:

- One (1) day event held on 9 December 2017 between 3pm and 9pm with setup times 8 December 2017 between 9am and 5pm, and 9 December between 9pm and 11pm;
- The provision of a stage and associated stalls for sales and entertainment.

A similar event, 'Taste of Mascot', was held at Mascot Oval, located a short distance to the west of the subject site, on Sunday 22 October 2017, from 11am to 4pm. This one (1) day event, approved under DA 2017/1139, authorised the installation of 60 temporary structures (stalls) comprising 35 food, 15 market and 10 other stalls on the site.

The consent was issued with conditions which covered issues relating to security, waste management, sanitary facilities, first aid, and vehicle access, set up and pack up arrangements, food and building code requirements as well as general operational conditions for the site.

Conditions were also imposed which required that, at the conclusion of the event, the site is to be returned to its original condition. Similar conditions are proposed in the recommended conditions attached to this report in Schedule 1.

## Site History

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Mascot Memorial Park was acquired in 1920 from the estate of the late William Parker. The park was the site of the first North Botany council meeting in 1888 in the cottage belonging to William Parker.

Improvements to the park involved the setting out of the memorial gardens and tree planting. Many of the original plantings include the grand Cottonwood quadrangle, Willows, Canary Island Date Palms, Bamboo and display beds of annual plants of the era which included roses.

The foundation stone for the World War I memorial on the corner of Botany Road and Coward Street was laid by Alderman T H Hicks on his election as Mayor of Mascot in 1920. An additional



plaque was added in 1967 to commemorate the memory of the fallen of World War II and all subsequent wars.

In 1995, the memorial was restored and upgraded by Council for the anniversary of the end of World War II. Work included extensive restoration of the pre-1920 lights by Mascot Steel, high pressure cleaning and re-gilding of inscriptions. Sawn sandstone armed forces pads replaced the old concrete ones as well as a decorative sandstone rail either side of the stairs leading up to the memorial onto a new sandstone landing.

Two 'Remembrance Walls' either side of the memorial commemorating the Pacific and European campaigns of World War II were designed and constructed out of two types of Australian granite. An open circular pathway of ground granite complements the colours of the stonework in the memorial and is bordered with Rosemary hedges and white Anzac carpet roses.

### Description of Proposal

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The proposal involves holding the inaugural '*Bayside Food and Wine Festival*' ('the Festival') which is proposed to take place on Saturday, 19th October 2019. A similar event, '*A Taste of Mascot*', ran for several years at Mascot Oval and in 2017 had approximately 5000 attendees.

This Festival will provide opportunities for patrons to sample wine, spirits and craft beers, as well as food and experience cooking demonstrations and information. This is the first time that the Festival will be held at this site.

The event space that will be used excludes surrounding footpaths with no event equipment to be placed within 5 meters of the fence line of the properties facing Forster Street. The area to be used for the temporary structures/stalls measures approximately 110m x 110m (refer **Figure 2**).

#### The Event (Festival)

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The proposed Festival is to be held on Saturday 19 October 2019, between 3pm and 9pm and includes the following temporary structures and equipment:

- Approximately 50-60 temporary structures comprising the following;
  - a) 30 (max) temporary market stalls for food and beverages measuring 2.4m x 2.4m;
  - b) 20 (max) temporary market stalls for food measuring 3m x 3m;
  - c) 10 (max) temporary market stalls for drinks measuring 3m x 3m;
- A cooking demonstration area within a 10m x 15m temporary structure containing a stage measuring 9m x 4m x 0.6m;
- A masterclass area comprising a 10m x 9m temporary structure;
- 10 (max) Food trucks;
- 6 silenced generators;
- 6 portable cool rooms;
- 3 portable light towers; and
- 2 temporary x 4 pan toilet blocks;

The likely patronage has been estimated to be approximately 4000 - 6000 people and 200 stall personnel, performers and contractors. A Trade Fair liquor licence will be required which will allow sampling, sales by the cup and takeaway bottle sales with Council being the Licensee.



Figure 1: Site Plan (Source: Statement prepared by Applicant)

#### Frequency and Timing of the Event

The Statement of Environmental Effects briefly mentions on the last page that it is proposed to hold the festival up to twice a year (maximum) for five years. This aspect of the proposal was not discussed in any detail and there was not any information provided on the likely timing of the second event during the year or any dates behind 2019.

Accordingly, only consent for a single event to be held in October 2019 is considered acceptable in this instance.

#### Vehicle Access and Traffic Generation

The applicant indicates that there are likely to be approximately 20 mid-size trucks will be required for deliveries to the site for the event as well as 40-50 small vehicles (cars/vans) for the stalls. Vehicle access for the trucks and cars used in the set-up and pack-up of the proposed event are to use the two (2) vehicle entry points from Coward Street.

#### Set-up & Pack-up

Structures will be set up in the day prior to the event and will be removed the following day. The set-up and pack-up arrangement is proposed as follows:

- Friday 18 October, 7am-5pm - Delivery and installation of structures, staging, plant and toilets. Installation of event signage;
- Saturday 19 October, 8am-2pm - Stall holder and performer deliveries and set-up. Additional signage and decoration;
- Saturday 19 October 9pm-11pm – stall holder and performer pack up and departure;
- Sunday 20 October 9am-4pm – pack up and removal of structures, staging, plant and toilets.

#### Waste Management

Appropriate waste and recycling bins (to be provided by Council) will be placed strategically throughout the park for the use of patrons with larger skip bins in the back of house areas for the stall holders. Reusable, biodegradable and recyclable products will be encouraged amongst stallholders to reduce waste including landfill. Waste will be collected Monday by Council staff.

#### Noise management

A Public address system will be located throughout the park for the broadcast of live music, cooking demonstrations and workshops, which is to be managed by a professional sound company at an appropriate volume for the venue. Broadcast event noise will be monitored so as not to heavily impact on the surrounding residents. Noise from patrons is expected to be minimal and limited to talking.

#### Security

The Festival proposes to provide security and first aid personnel on site and all food stalls/trucks will be required to have fire extinguisher and blanket (if cooking). Police, ambulance and fire brigade will be notified of the event. Five (5) security personnel will patrol the event at all times and minimum two (2) first aid officers will be onsite with a dedicated treatment area.

#### Car Parking

Car parking for the Festival will generally rely on existing on-street car parking while the stall holders and other staff can utilise the car parking area behind Mascot Oval, off O'Riordan Street.

#### Alcohol Sale and Consumption

There is no mention of the regulations relating to the responsible service of alcohol however conditions have been recommended to be imposed in Schedule 1 to ensure the Festival is run in accordance with these requirements. Relevant conditions relating to the liquor licence are also recommended in Schedule 1.

There are no permanent building works proposed.

## Site Description

The site comprises an area of public open space, known as Mascot Memorial Park and is located in the south western corner of the intersection of Coward Street and Botany Road, Mascot. The site is regular in shape, bounded by Coward Street in the north, Botany Road in the east, Aloha Street in the West and several detached dwellings fronting Forster Street to the South.

The site includes a war memorial (cenotaph) in the north-eastern corner and also contains an amenities building in this portion of the site. The remainder of the Park comprises landscaped gardens and pedestrian paths. Within the park along the western boundary adjoining Aloha Street are two (2) tennis courts and a children's playground which replaced outdated equipment in 1994. The Mascot Senior Citizens and Family Day Care are also located within this area of the park. This western portion of the park is not proposed to form part of the Festival area.

The park is well utilised for large cultural and commemorative functions, such as Anzac Day celebrations and Carols by Candlelight, as well as for wedding ceremonies, picnics and lunch for office workers.

The site is zoned RE1 – Public Recreation and is a heritage item (I68) under the *Botany Bay Local Environmental Plan 2013*, which is discussed further below. The locality generally consists of a mix of residential and commercial uses. Public transport is available in the area including bus services along both Coward Street and Botany Road as well as Mascot Railway Station approximately 800 metres to the north-west of the site. The location of the site is illustrated in Figure 1.



Figure 2: Site Location (Source: SIX Maps)



## Statutory Considerations

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

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

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

The following Environmental Planning Instruments are relevant to this application:

#### State Environmental Planning Policy 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 of the *Botany Bay Development Control Plan 2013*, relating to contaminated land. As the proposal involves a change of use only and will not excavate below ground and will not seek to use the site for residential purposes, further investigation with respect to contamination is considered unnecessary. Accordingly, the site is suitable for the proposed temporary use.

#### Botany Bay Local Environmental Plan 2013

*Botany Bay Local Environmental Plan 2013* ('BBLEP 2013') is the principal environmental planning instrument relevant to the site. The controls of the BBLEP 2013 have been considered in the assessment of the Development Application and the following information is provided in Table 1:

Table 1: Consideration of BBLEP 2013

Principal Provisions of BBLEP 2013	Compliance (Yes/No)	Comment
Land Use Zone (Part 2 of LEP)	Yes	The site is zoned RE1 – Public Recreation under the BBLEP 2013. The use as a recreation facility including the temporary use as proposed is permissible in the zone.
Is the proposed use/works permitted with development Consent? (Part 2 of LEP)	Yes	The proposed use is permissible with Council's consent under the BBLEP 2013. Clause 2.8 Temporary use of land provides for the temporary use of the land (refer below).
Does the proposed use/works meet the objectives of the zone? (Part 2 of LEP)	Yes	<p>The proposed development is consistent with the objectives of the zone which are:</p> <ul style="list-style-type: none"> <li>• To enable land to be used for public open space or recreational purposes.</li> <li>• To provide a range of recreational settings and activities and compatible land uses.</li> <li>• To protect and enhance the natural environment for recreational purposes.</li> </ul> <p>The proposal allows for the continued use of the site following the event for public open space and allows for a use which is</p>

Principal Provisions of BBLEP 2013	Compliance (Yes/No)	Comment
		generally compatible with the outdoor open space use of the site. There will be no adverse impacts on the environment arising from the proposed temporary use of the Park for the proposed event.
Temporary use of land (Cl 2.8) (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or has detrimental economic, social, amenity or environmental effects on the land.	Yes	The proposal will not detrimentally impact on the future use of the land as all of the proposed temporary structures and other Festival equipment will be removed once the event is finished (the following day). There will not be any adverse social or economic impacts as the use is temporary and will assist in uniting the local community and provide for economic activity in the area which may benefit local jobs and investment opportunities following the Festival.
(2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months (3) Development consent must not be granted unless the consent authority is satisfied that:	Yes	The proposed event is to run for only one (1) day, one (1) day to set up and one (1) day to remove, resulting in a total of three (3) days. This is consistent with this Clause.
(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and	Yes	The proposed use is for a temporary event and therefore will not prejudice the use of the site for public recreation in the long term (throughout the rest of the year).
(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and	Yes	The proposed use will not result in any significant adverse impacts on adjoining land or the general amenity of the area given it will only be carried out for six (6) hours and adequate conditions relating to noise, traffic and security are recommended to be imposed in Schedule 1. While there may be some short-term impacts on the amenity of the area, such impacts will be minimised via the conditions of consent recommended to be imposed in Schedule 1.
(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or	Yes	The proposed temporary structures, other equipment and use of the site will not result in any adverse impacts on the environment or the heritage values of the site. The site is not affected by any natural hazards which

Principal Provisions of BBLEP 2013	Compliance (Yes/No)	Comment
increase the risk of natural hazards that may affect the land, and (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.	Yes	would affect the proposed temporary use of the site.  The proposed use involves temporary structures and other equipment which will be removed from the site at the completion of the event. The site will be restored to its original condition. Relevant conditions have been recommended to be imposed in Schedule 1 of the Attachment.
(4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.	N/A	This is not proposed.
(5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).	N/A	This is not proposed.
What is the height of the building? Does the height of the building comply with the maximum building height? (Part 4 of LEP)	Not Applicable	Not Applicable.
What is the proposed FSR? Does the FSR of the building comply with the maximum FSR? (Part 4 of LEP)	Not Applicable	Not Applicable.
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? (Part 4 of LEP)	Not Applicable	Not Applicable.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The site is a heritage item (168 – Memorial Park) and adjoins a heritage item (Item 194 – Botany Family Day Care). The proposal will not adversely affect the heritage value of this item as outlined below.

The objectives and provisions of 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**

There are no current Draft EPIs applicable to this development

#### **S4.151)(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 relevant provisions of the *Botany Bay Development Control Plan 2013* ('BBDCP 2013') have been considered in the assessment of the proposal as outlined below.

#### Part 3B Heritage

Mascot Memorial Park is a heritage item (I68) under the BBLEP 2013 and is located adjoining another heritage item, Item No 194, comprising the Botany Family Day Care. This is an example of an original representative example of both Georgian and Victorian period.

In the Statement of Heritage Impact provided by the applicant (Council), the heritage significance of the Park is stated as:

*"Mascot Memorial Park is a locally significant cultural landscape that provides evidence of the community's memorialisation of their sacrifice and losses in the First World War. The park is also historically significant as the location of the first meetings of the North Botany Council following its formation in 1888. Evidence of the original cottage in which the meetings were held can still be interpreted through the remnant formal front garden layout and planting with adjacent gate opening in the boundary fence and the area of open grass that marks the footprint of the building and its rear yard area. It's planting and design is also of local heritage significance for its aesthetic and historic qualities, being a very good and substantially intact of formal garden design and planting in the early 20thC with intact original inter-War brick fence in decorative pattern. Of particular contributory value are the mature eucalypts near the centre of the gardens and the groves and groupings of palms."*

The main heritage aspects of the park include:

- Poplar trees
- Bamboo
- Brick fence on Botany Road
- Avenue of London Plane Trees
- Palms
- War Memorial Cenotaph

The proposal involves the installation of various temporary structures and plant equipment, which will be removed following the completion of the event as outlined above. As illustrated on the Site Plan, it is evident that these proposed temporary structures and plant equipment are to be located clear of any historically significant trees and vegetation as well as clear of the war memorial Cenotaph. Accordingly, it is considered that subject to the imposition of the recommended conditions of consent in Schedule 1, the heritage values of the site will not be adversely affected by the proposal.

It is unlikely that the event will negatively impact the streetscape, or amenity of the neighbouring properties. Accordingly, the proposed development application raises no concerns in relation to compliance with the BBDCP 2013.

#### **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 consideration of impacts on the natural and built environments includes:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed event is likely to be visited by nearby residents and can be accessed by a large proportion of the local resident population. The site will be returned to its original condition (required by conditions) and is therefore an appropriate use of the site.

Access and traffic – The proposal will impact on car parking availability in the vicinity of the park during the set-up, pack up and running of the event. However, as the event is for a single day and will be held on a Saturday afternoon, it is expected that many of the likely patrons will either walk from nearby residential areas or use public transport. Public transport is available via buses, with multiple stops within 100 meters of the park, as well as rail services from Mascot Train Station, 800m to the north-west of the site. These public transport options are illustrated in **Figure 3**. The applicant also stated that there will be stall holder car parking behind Mascot Oval, accessed from O'Riordan Street. In relation to vehicle access for the set-up and pack-up days, such vehicles will enter the site via Coward Street.

Therefore, while there will be some impacts on on-street car parking, these impacts will be minimised through people arriving on foot or by public transport and such impacts will be short-term. Accordingly, it is considered that these impacts are acceptable in this instance.

- Public Domain – The proposed Festival is compatible with the existing area and will not utilise any of the existing footpaths or public roads (with the exception of the use of the surrounding streets for on-street car parking). The proposal will not impede pedestrian access in the area and will not impinge on any public areas, including the foreshore.
- Utilities – All utilities are either available at the site or will be provided for the proposed use (including the cool rooms, generators and additional toilet facilities) and as a consequence there are no impacts on utilities.
- Heritage – The proposal will not adversely affect any items of environmental heritage as considered in this Report.
- Natural environment – The proposal will have minimal impact on the natural environment, as it is located in an area already zoned for development and there are no significant trees or vegetation to be removed. The Park will be returned to its original condition following the proposed Festival.



**Figure 3: Public Transport Options in the area (Source: *Statement of Environmental Effects prepared by Applicant*)**

- **Social and economic impact** – The proposal will improve the social and economic environment of the locality. The proposed Festival will allow for the community to come together which will promote social interaction and cohesion. The proposed Festival is also likely to improve business investment in the area from both direct sales/spending on the day as well as follow up sales to the businesses participating in the Festival.
- **Site design and internal design** – The proposal is appropriately set out on the site to allow for manoeuvring of vehicles on and off the site and minimises adverse impacts on adjoining properties.
- **Construction** – While there will be no permanent construction of any structures on the site, relevant conditions have been recommended to be imposed to ensure that the installation of the temporary structures will be carried in accordance with industry standards. Potential impacts on the natural environment will be minimised.
- **Cumulative impacts** – The proposal will not result in any adverse cumulative impacts as the development generally complies with the zone objectives and the relevant objectives and standards in the planning controls.

Accordingly, it is considered that the proposed Festival will not result in any significant adverse impacts in the locality as outlined above.

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

The subject site is not known to be affected by any natural hazards. There are no other site constraints that are likely to have a significant adverse impact on the proposed development. The site is affected by aircraft noise, however, the use is for a temporary event which is unlikely to result in any significant adverse impacts. The site is considered suitable for the proposed temporary use.

#### **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 271 surrounding property owners for a fourteen (14) day period from 2 August 2019 to 16 August 2019. There were no submission were received.

#### **Referrals**

The development application was referred to the following external agencies:

**Sydney Water** – Sydney Water reviewed the application and provided a reply via email dated 13 August 2019 which stated that the development did not require assessment by Sydney Water.

The development application was referred to the following internal Council Officers:

**Environmental Health Officer** – The proposal was assessed in relation to temporary noise and food premises and no objections were raised, subject to the imposition of recommended conditions which are to be included on any consent issued for a temporary use. Furthermore in relation to noise, it was recommended that the applicant be requested to ensure that all speakers (music) and public address systems are facing away from all residential premises and kept at a reasonable level.

**Engineering Officer** - The proposal was considered from an engineering perspective and a flood advice letter was requested, however, given this is for a temporary event, it is considered that such a letter is not required. The event is unlikely to proceed if flooding in the area was likely.

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

It is considered that granting approval to the proposed development would be in the public interest as it allows for a community event which will allow for social interaction and engagement.

#### **Conclusion**

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Development Application No. 2019/271 for an entertainment/recreation event, 'Bayside Food and Wine Festival', a one (1) day event to be held on Saturday 19 October 2019 between 3pm and 9pm at 814 Botany Road, Mascot Memorial Park, Mascot, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval subject to conditions of consent.

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**Attachment****Schedule 1- Conditions of Consent****Premises:** 814 Botany Road, Mascot Memorial Park, Mascot**DA No:** 2019/271**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:

<b>Plan</b>	<b>Author</b>	<b>Dated</b>
Site Plan	Bayside Council	12 July 2019; Received 26 July 2019
<b>Reference Document(s)</b>	<b>Author</b>	<b>Dated</b>
Statement of Environmental Effects	Bayside Council	Received 26 July 2019
Heritage Impact Statement	Bayside Council	9 July 2019; Received 26 July 2019

2. This consent relates to land at Lot 1 DP 1136361, Lot 1 DP 72528 & PT 2 DP 611027 and, as such, building works must not encroach on to adjoining lands or the adjoining street reserves.
3. This consent authorises the temporary use of the site and the provision of the approved temporary structures for this single event of three (3) days in total (including set up, the event and pack up).
4. This consent authorises the holding of a temporary event, '*Bayside Food and Wine Festival*', which comprises the following:
  - a) An event which runs for one (1) day, from 3.00pm until 9.00pm on Saturday 19 October 2019; and
  - b) A set up time for the event of one (1) day (Friday 18 October 2019) and a pack up time/restore site to original condition of one (1) day (Sunday 20 October 2019).
5. All food stall holders must complete and return Council's temporary food stall event registration form to Council one (1) week prior to trade at the event.

**CONDITIONS APPLYING AT ALL TIMES BEFORE AND AFTER THE TEMPORARY EVENT**

6. The maximum amount of temporary structures to be installed on the site is sixty (60) comprising the following:
  - a) 30 (max) temporary market stalls for food and beverages;
  - b) 20 (max) temporary market stalls for ready to eat food items; and
  - c) 10 (max) temporary market stalls for drinks.

A maximum of ten (10) food trucks are permitted at the event.



7. The festival is to be operated, and the temporary marquees are to be constructed/installed, to meet the following requirements:-
  - a) *Food Act 2003*;
  - b) *Food Regulation 2015*;
  - c) *Food Standards Code* prepared by Food Standards Australia and New Zealand; and
  - d) *Food Handling Guidelines for Temporary Events – NSW Food Authority* dated June 2016
8. All food stalls used during the event must comply with the following requirements:
  - a) All temporary food stalls must have a roof and three sides designed to maintain adequate ventilation and protection of food. The stalls shall be of plastic or vinyl type sheeting and care must be taken to ensure the stalls are stable and secure.
  - b) An overhead cover must be provided to all cooking areas or food storage areas outside of the stall. This may be achieved by providing a sun shade structure or open sided stalls.
  - c) A durable dust and moisture cover must be laid over the entire floor area of each stall. A suitable material would be an impervious membrane such as rubber matting.
  - d) All stall counter surfaces shall be smooth, durable and impervious. Surfaces can be covered with plastic or plastic table cloths to meet this requirement. Surfaces that cannot be easily cleaned, such as wood, will not be accepted.
  - e) All power and gas service leads must be secured.
  - f) A compliant fire extinguisher of adequate size must be provided in a convenient and accessible location for each stall that provides hot food.
  - g) All food on display must be either:
    - i) whole fruit, vegetables;
    - ii) wrapped or packaged; or
    - iii) completely enclosed in a suitable display cabinet; or
    - iv) be protected by a physical barrier such as perspex glass sneeze guard or clear plastic siding to the stall; or
    - v) located so as not to be openly accessible to the public.
  - h) All food for retail sale must comply with the labelling requirements of the Food Standards Code Chapter 1 (General Food Standards), Part 1.2 – '*Labelling and other Information Requirements*'.
  - i) Each stall is to be provided with a covered garbage bin for the storage of the stall's wastes. A separate adequate storage of paper, cardboard or other recyclable material must be provided by the event/market organiser in a suitable location to be used by all stall holders.
  - j) Hand washing facilities must be provided within each food stall which handles / prepares any foods on site. A sealed container of potable water (minimum capacity 20 litres) with a tap and suitable bowl or container must be provided for hand washing only. The waste water is to be disposed of into a waste water container. Each hand wash basin must have an adequate supply of warm running water (approximately 40°C), liquid soap and disposable paper towels.
9. The temporary marquees/structures must:

- a) Comply with Parts D1 & D2 of the Building Code of Australia – Volume 1 (i.e. distances to exits, exit doors, exit door handles etc).
  - b) Be provided with portable fire extinguishers in accordance with Part E1.6 of the Building Code of Australia – Volume 1.
  - c) Cool rooms are to comply with Part G1.2 of the BCA – Volume 1.
  - d) Generators to be installed and operated in accordance with specifications;
  - e) Disabled ramps and sanitary facilities are to comply with Australian Standard 1428.1-2009.
10. Stall food holders registration details and food safety supervisor details (where applicable) shall be recorded and copies kept with the event/ market organiser. This must be available for inspection upon request by Council's Officers.
11. Other than fresh fruit and vegetables, the foods sold at the market, must be sourced from a reputable supplier or manufacturer who are registered with either the NSW Food Authority or a local enforcement agency as defined under the *Food Act 2003*. A copy of the current approval by the authorised agency shall be submitted to Council prior to trade at the markets.
12. All takeaway food prepared at the food stall must be sold immediately unless there is a suitable food warmer or display cabinet in which to keep the food either hot or cold. All raw and perishable foods such as steaks, hamburger patties, seafood and other meat products must be kept in a refrigerated unit such as a portable cool room. Ready to eat food products or precooked foods which contain fresh cream, custard, cheese or any similar food that promotes bacterial growth must be stored and displayed in a refrigerated unit at a temperature below 5°C. For events that will last 3 (three) hours or longer, a cool room (walk in refrigerator) must be provided to ensure all potentially hazardous food can remain under temperature control. A maximum of two stalls to share a cool room within 5 metres of entry point of stall.
13. All food stalls shall have a temperature probe that is able to measure the core temperature of food to  $\pm 1^{\circ}\text{C}$ .
14. Potentially hazardous food items must be kept under temperature control. The hot food must be kept at or above 60°C (hot holding). The cold food must be kept at or below 5°C (cold holding). The frozen food must be kept below (minus) 18°C.
15. Any food stall selling food that is ready to eat, potentially hazardous and not sold and served in the supplier's original package must have a designated Food Safety Supervisor present during the operation of the business.
16. A minimum of 3 (three) communal wash up sinks shall be provided by the event/ market organisers and accessible to all food stall holders during trade. An adequate supply of hot and cold running water must be provided at each facility, which shall be large enough to accommodate for all food stalls.
17. All stall fixtures, fittings and equipment, and those parts of vehicles used to transport food, must be maintained and cleaned so there is no accumulation of food waste, dirt, grease or other visible matter. All food contact surfaces, such as food preparation bench tops must be cleaned and sanitised with a suitable food grade chemical sanitiser. A suitable food grade chemical sanitiser shall be provided. Only single use eating and drinking utensils such as cups, plates, forks and knives are permitted.

18. Prior to the commencement of the event, Council's Building Surveyor shall undertake an inspection to verify compliance with the requirements of this consent.
19. Five (5) security personnel must patrol the event at all times during the festival. Security personnel shall be on the site at all times whilst the equipment is on site.
20. First aid services are to be provided on the site throughout the occupation of the event. A minimum of two (2) first aid officers shall be onsite within a dedicated treatment area during the festival.
21. All the food and beverage stalls must be operated in accordance with the requirements of the *Food Act 2003*, the Food Standard Code (the Code) as well as any other requirements of the NSW Food Authority.
22. A Trade Fair Liquor Licence under the provisions of the *Liquor Act 2007* is required for the Festival. The terms and conditions of the Liquor licence must be complied with at all times during the running of the Festival.
23. The Festival must be operated having regard to the Responsible Service of Alcohol at all times.
24. A suitable number of hand-washing facilities are to be provided either as external communal hand wash stations, or internal hand wash stations with potable hot and cold water supplied. Soap and paper towels must also be included.
25. All food stall holders are to ensure power is supplied to maintain cooking and storage of potentially hazardous foods. An alternative back-up power supply should be considered in the event that a blackout occurs.
26. Access for visitors and residents of nearby properties is to be maintained at all times.
27. All vehicles (including deliveries) shall enter and leave the premises in a forward direction. All set up and pack up vehicles are to enter and leave the site from the Coward Street vehicle entry points.
28. 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, soot, steam, dust, wastewater, waste products, grit, oil or otherwise.
29. The operation of the event shall be conducted in a manner that does not pollute waters as defined by the *Protection of the Environment Operations Act 1997*. This particularly relates to the maintenance and operation of the portable toilet facilities that are used throughout the event.
30. Liquid and solid wastes generated on the site shall be collected, transported and disposed of in accordance with the *Protection of the Environment Operations Act 1997*. All wastes generated are to be correctly disposed of in waste receptacles supplied and wherever possible, recycled materials stored separately for collection.
31. Waste water and oils must not be disposed of into the stormwater system or on the ground. All waste water must be disposed of through Sydney Water's sewerage system. All waste oils must be disposed of through a licensed contractor.

32. An appropriate number of bins are to be provided throughout the festival area for the event. No waste or waste containers shall be placed on the public way (footpath, roadways) at any time.
33. The proposed development shall not give rise to an 'offensive noise' as defined under the provisions of the *Protection of the Environment Operations Act 1997*.
34. The public address and speaker system to be used during the festival is to be operated by a professional sound company and shall be at an appropriate volume whilst in use. The speakers are to be orientated away from adjoining residential development.
35. No equipment for the event shall be placed within 5 metres of the fence line of the adjoining properties facing Forster Street.
36. The orderly entry and dispersal of people entering at the start of the event and exiting the Park upon completion of the event is required.
37.
  - a) The operation of all plant and equipment and temporary use shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration);
  - b) The operation of all plant and equipment and temporary use when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time;
  - c) The operation of all plant and equipment and temporary use when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time;
  - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
38. The site is to be kept clean during and after the event and all used waste receptacles on-site are to be securely closed to avoid spillage.
39. No trees are to be removed, lopped or otherwise damaged during the set-up, pack-up and duration of the event.
40. At the conclusion of the event, the site is to be returned to its original condition.

## Heritage Impact Statement

### Property Details:

Property Name: Mascot Memorial Park

Address: 814 Botany road, Mascot

SHR Number:

### Description of works:

The inaugural Bayside Food and Wine Festival will take place on Saturday, 19<sup>th</sup> October 2019. Following on from the successful A Taste of Mascot, which ran several years, and in 2017 had approximately 5000 attendees, this new event will provide opportunities for patrons to sample wine, spirits and craft beers, eat some great food, and learn a bit of cooking along the way.

Bayside Food and Wine Festival will be held for the first time in Mascot Memorial Park. The park will provide a wonderful backdrop for the event.

Works will include the installation, use and removal of a range of temporary structures, plant equipment, waste services and other event related equipment. It is expected the event may attract in excess of 5000 attendees spread over the 6 operational hours.

### Author:

Mark Goddard, Events Officer, Bayside Council

### Date of Report:

9 July 2019

## Statement of Heritage Impact for Mascot Memorial Park

### Introduction

This report is prepared to support an application for a heritage exemption to host an event in Mascot Memorial Park.

### Heritage Listing

Mascot Memorial Park is listed as a heritage item on Schedule 5 of Botany Bay Local Environmental Plan 2013 as a local item numbered I68.

It is not listed on the National Heritage List or the Commonwealth Heritage List.

### Significance of Mascot Memorial Park

Mascot Memorial Park is a locally significant cultural landscape that provides evidence of the community's memorialisation of their sacrifice and losses in the first world war. The park is also historically significant as the location of the first meetings of the North Botany Council following its formation in 1888. Evidence of the original cottage in which the meetings were held can still be interpreted through the remnant formal front garden layout and planting with adjacent gate opening in the boundary fence and the area of open grass that marks the footprint of the building and its rear yard area.

Its planting and design is also of local heritage significance for its aesthetic and historic qualities, being a very good and substantially intact of formal garden design and planting in the early 20thC with intact original inter-War brick fence in decorative pattern. Of particular contributory value are the mature eucalypts near the centre of the gardens and the groves and groupings of palms. The garden layout also retains remnant plantings and spatial qualities that provide evidence of the earlier use of the land by William Parker, including the layout of his formally planted front garden.

The War Memorial is the focal element of the Park, being located in a prominent position at the north-eastern corner where it is clearly visible from both Botany Road and Coward Street. The monument is of local historic and aesthetic significance as a very good representative example of this style of memorial structure. The Memorial Park was acquired from the estate of early Alderman, William Parker, to provide an appropriately impressive setting for the memorial column, and it continues to demonstrate this intention, with the mature plantings forming the backdrop to views over the memorial from the public domain.

### Brief Description of proposed development

The inaugural Bayside Food and Wine Festival will take place on Saturday, 19th October 2019. Following on from the successful A Taste of Mascot, which ran for several years and in 2017 had approximately 5000 attendees, this new event will provide opportunities for patrons to sample

**Statement of Heritage Impact for Mascot Memorial Park**

wine, spirits and craft beers, eat some great food, and learn a bit of cooking along the way. Bayside Food and Wine Festival will be held for the first time in Mascot Memorial Park. The park will provide a wonderful backdrop for the event.

Bayside Food and Wine Festival  
Mascot Memorial Park  
Coward St, Mascot  
3-9pm Saturday 19 October 2019

**Impact Assessment****Summary**

As this is a one day event there will be minimal to no impact on the site. The locations of stalls and equipment has been designed to avoid impact with trees or other plantings. Items will not be placed within 10 meters of the memorial or within or over the mulched area of any garden bed.

**Additions:**

- Approximately 50-60 temporary structures, ranging in size from 2.4x2.4m to 10x15m will be in place for the event. Structures will go in the day prior to the event and be removed the day following. This short duration will greatly reduce any visual impact the structures have.

**Change of use:**

- The location will be changed from a passive park to an event space for the duration. 4000-6000 would be expected over the duration of the event, in addition to up to 200 staff, stall personnel and contractors.
- The change of use will be for the duration of the event only, being 3pm-9pm. following the event and removal of equipment it will revert to being a passive park.

**Heritage Items in the Vicinity–Impact Assessment**

- The park is heritage listed due to the plantings, landscaping including walls, and war memorial located within its boundaries
- Event structures and other infrastructure will be located in a manner as to not impact on gardens, trees, walls and the memorial
- Event signage will be attached to event infrastructure or be freestanding
- Moving vehicles will be directed by event staff to ensure they avoid trees and plantings
- Locations where it is expected to have high traffic in or around garden beds will be protected by barriers or ground covers.
- Mulched garden beds will be a natural deterrent to limit people approaching trees

**Statement of Heritage Impact for Mascot Memorial Park**

- Where possible, heavy vehicles will be directed to stay on paths and not enter grassed areas

**Conclusion**

Based on the impact assessment, methods in place to reduce risk/ impact and previous experience using the site for events, it is unlikely that the event will have a significant impact on Mascot Memorial Park. The only foreseeable impact would be some ground compaction within the grassed areas.



## Statement of Environmental Effects

### Bayside Food and Wine Festival

19 October 2019

### Mascot Memorial Park

814 Botany Road Mascot

Additional information for Development Application # \_\_\_\_\_

The inaugural Bayside Food and Wine Festival will take place on Saturday, 19<sup>th</sup> October 2019. Following on from the successful A Taste of Mascot, which ran several years, and in 2017 had approximately 5000 attendees, this new event will provide opportunities for patrons to sample wine, spirits and craft beers, eat some great food, and learn a bit of cooking along the way. Bayside Food and Wine Festival will be held for the first time in Mascot Memorial Park. The park will provide a wonderful backdrop for the event.

#### Additions/ removals:

- Approximately 50-60 temporary structures, ranging in size from 2.4x2.4m to 10x15m will be in place for the event. Structures will go in the day prior to the event and be removed the day following. This short duration will greatly reduce any visual impact the structures have.
- There will be no removal of trees, buildings or other park assets

#### Change of use:

- The location will be changed from a passive park to an event space for the duration. 4000-6000 would be expected over the duration of the event, in addition to up to 200 staff, stall personnel and contractors.
- The change of use will be for the duration of the event only, being 3pm-9pm. following the event and removal of equipment it will revert to being a passive park.

## Site description

Mascot Memorial Park is located on the corner of Botany road and Coward st. The event space that will be used excludes surrounding footpaths and measures approximately 110x110m. Within the grounds of the passive park are several garden beds, trees, hedges and other landscaping. There are two small Council buildings used by caretakers. In addition to this there is a sandstone wall along Botany Road and a war memorial at the corner of Botany Road and Coward Street. The site is almost flat with a slight fall to the south.

The site is bordered by Botany road (east), Coward Street (north), Aloha Street (west) and the back of houses located on Forster Street (South). To the east the property faces Mascot Town Hall and retail, commercial and residential properties. To the north and west it faces residential properties. Included within the footprint of the park, but not in use for the event is a double tennis court (and clubhouse), playground and Mascot Senior Citizens Centre.

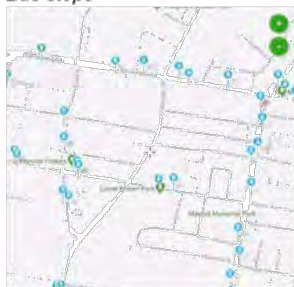
The same location has been used for many years for the Carols in the Park event hosted by Councils (Previously Botany and now Bayside).

No event equipment will be placed within 5 meters of the fence line of the properties facing Forster St. Site is zoned RE1

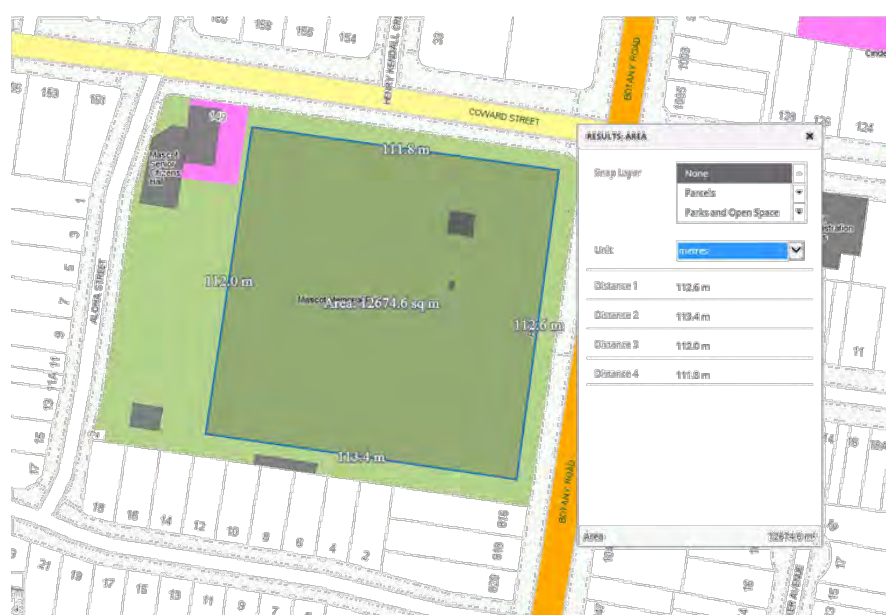
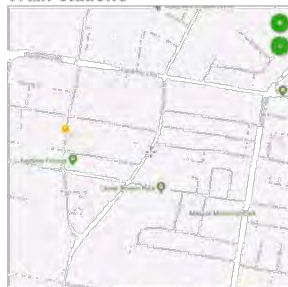
Access to the site is via Botany St (2 entry Points), Coward st (3 large entry points) and Aloha Street (3 large entry points).

Public transport is available via bus with multiple stops within 100 meters of the park (see map) and closest rail station is Mascot Train Station (800m walk)

*Bus stops*



*Train stations*



### Infrastructure

It is expected that the event will require the following infrastructure, although given the amount of time between submission, approval and the event, actual quantities may vary;

2.4x2.4m Temporary fete stalls (food and beverage)- up to 30

3x3m temporary food stalls – up to 20

3x3m temporary drink stalls – up to 10

Food trucks – up to 10

10x15m temporary structure, 9x4x0.6m stage, cooking demonstration area – 1 of  
10 x 9m masterclass temporary structure  
6 silenced generators  
3 portable light towers  
2 temporary 4 pan toilet blocks  
6 portable cool rooms

### Liquor licence

A Trade Fair Liquor Licence will be applied for, allowing sampling, sales by the cup, and takeaway bottle sales. Council will be the licensee.

### Access

Access for several trucks will be required. It is estimated that up to 20 mid-size trucks will make deliveries in addition to 40-50 small vehicles (cars and vans). The same number of vehicle movements will take place for the removal of equipment. Two vehicle entry points of Coward Street will be used.

### Timings

Friday 18 October, 7am-5pm - Delivery and installation of structures, staging, plant and toilets.

Installation of event signage

Saturday 19 October, 8am-2pm - Stall holder and performer deliveries and set-up. Additional signage and decoration

Saturday 19 October, 3pm-9pm – event operational times. Event entertainment including demonstrations, workshops and performances, food and beverage sampling and sales.

Saturday 19 October 9pm-11pm – stall holder and performer pack up and departure

Sunday 20 October 9am-4pm – pack up and removal of structures, staging, plant and toilets.

### Contours



### Waste management

Council will provide the appropriate number of waste bins and cleaners based on the final quantity of stall holders and their products. Reusable, biodegradable and recyclable products will be encouraged amongst stallholders to reduce waste including landfill. Waste will be collected Monday by Council waste staff. Both waste and recycle 240L bins will be placed strategically throughout the park for the use of patrons with larger skip bins in the back of house areas for the stall holders.

### Noise management

Public address systems will be located through the park for the broadcast of live music, cooking demonstration and workshops. All will be managed by a professional sound company and will be at an appropriate volume for the venue. Broadcast event noise will be monitored so as not to heavily impact on the surrounding residents. Noise from patrons is expected to be minimal and limited to talking.

### Site safety

Security and first aid personnel will be on site. All food stalls/trucks will be required to have fire extinguisher and blanket (if cooking). Police, ambulance and fire brigade will be notified of the event. 5 security personnel will patrol the event at all times. Minimum two first aiders will be onsite with a dedicated treatment area.

### Notifications and promotion

The event will be promoted heavily throughout the Bayside Local Government Area including:  
Letterbox drop  
Banners

**Posters**

Print media advertising

Online and social media advertising.

Digital billboards

Notification of residents will be undertaken as part of the DA process. Additional notification may take place by the event organiser.

**Likely impacts of the proposal**

Visual and acoustic privacy and overshadowing- Structures will be located at a distant significant enough, and built to a height that will eliminate overshadowing. Patrons will be at ground level and will not be able to see over fence lines

**Air or noise emissions**

Generators will be placed at over 10m from any property border and are silenced. Noise from PA systems will be directed into the event space. Scents and smoke from food stalls may be present but will be limited. Vehicle emissions would not be greater than the average for the area due to the proximity to Botany road which is a main thoroughfare.

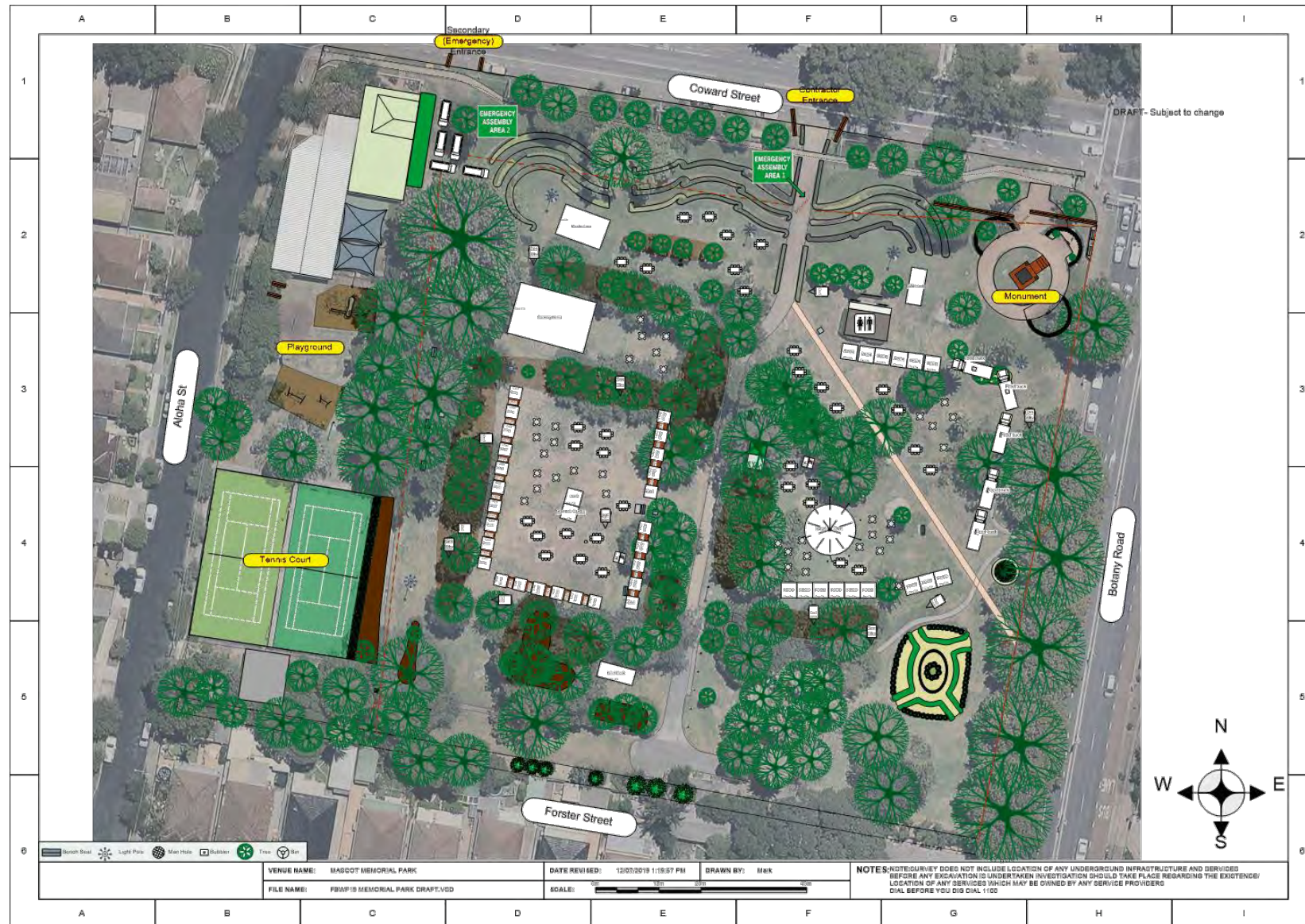
**Traffic, parking and general accessibility**

It is expected that the event will have a significant increase in on-street parking for its duration due to the number of stall holders, performers and patrons that would drive to the event. Accessibility to the park during setup and removal of infrastructure will be limited to reduce risk of accident for workers and patrons. Streets surrounding the event may experience small delays as patrons look for parking nearby. Use of public transport to attend the event will be encouraged. Car park behind Mascot Oval, off O'Riordan St, will be opened and stall holders will be encouraged to park there.

**Duration of approval**

The event is to be held on an annual basis and as such we seek a 5 year approval, for the event to be held up to twice a year.





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**Bayside Local Planning Panel**

**8/10/2019**

Item No	6.4
Application Type	Development application
Application No	DA-2019/243
Lodgement Date	09/07/2019
Proposal	<b>41 Gloucester Street, Rockdale - Demolition of existing structures and construction of a two storey boarding house with 10 rooms, 5 parking spaces and 2 motorcycle parking spaces</b>
Ward	Ward 3
Owner	Elizabeth and Jimmy Apostolovski
Applicant	Cornerstone Design
Property	41 Gloucester Street, Rockdale
No. of Submissions	A total of forty (40) submissions comprising 39 letters and one(1) petition with 81 signatures
Cost of Development	\$1,259,092
Report by	Michael McCabe, Director City Futures

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**Officer Recommendation**

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2019/243 for demolition of existing structures and construction of a two storey boarding house with 10 rooms, 5 parking spaces and 2 motorcycle parking spaces at 41 Gloucester Street, Rockdale 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 Planning Assessment Report [↓](#)
- 2 Photomontage [↓](#)
- 3 Site Analysis Plan [↓](#)
- 4 Roof Plan and Elevations [↓](#)
- 5 Elevations [↓](#)
- 6 Landscape Plan [↓](#)
- 7 Plan of Management [↓](#)



# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2019/243
<b>Date of Receipt:</b>	9 July 2019
<b>Property:</b>	41 Gloucester Street, ROCKDALE (Lot 2 DP 165852)
<b>Owner:</b>	The Ghassan Abboud Pty Ltd
<b>Applicant:</b>	Cornerstone Design
<b>Proposal:</b>	Demolition of existing structures and construction of a two storey boarding house with 10 rooms, 5 parking spaces and 2 motorcycle parking spaces
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	A total of forty (40) submissions, comprising 39 letters and one (1) petition containing 81 signatures
<b>Author:</b>	Petra Blumkaitis
<b>Date of Report:</b>	23 September 2019

### Key Issues

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The key issues related to this application are:

- Subject to the recommended conditions of development consent, the proposal complies with the requirements of State Environmental Planning Policy (Affordable Rental Housing) 2009, Rockdale Local Environmental Plan 2011 and Rockdale Development Control Plan 2011.
- A total 40 submissions, including one (1) petition with 81 signatures were received opposing the proposed development.

### Recommendation

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1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2019/243 for demolition of existing structures and construction of a two storey boarding house with ten (10) rooms, five (5) carparking spaces and two (2) motorcycle parking spaces at 41 Gloucester Street, Rockdale 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.

### Background

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## History

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

DA-2004/130 for two storey attached dual occupancy and Torrens title subdivision, withdrawn on 2.9.2003,  
CC-2004/49 for two storey attached dual occupancy and Torrens title subdivision, withdrawn on 2.9.2003,  
DA-2004/239 for two storey dwelling at rear creating dual occupancy and Torrens title subdivision, withdrawn on 2.9.2003,  
CC-2004/104 for two storey dwelling to create detached dual occupancy, DA lapsed, 6.10.2003, and  
DA-2004/292 for alterations and additions to rear of existing dwelling and new single storey dwelling to create detached dual occupancy and Torrens title subdivision, approved, 6.10.2006.

An inspection of the site and Council records show none of the applications have been commenced. All previous approvals have now lapsed. The site appears to have been occupied by a single dwelling for some time.

## Proposal

Council is in receipt of a development application DA-2019/243 at 41 Gloucester Street, Rockdale, which seeks consent to carry out demolition of existing structures and construction of a part two storey (fronting Gloucester Street) and part single storey (at the rear of the site) boarding house with 10 rooms, 5 car parking spaces, 2 motorcycle and 2 bicycle parking spaces.

Specifically, the proposal consists of:

- Building adjacent to Gloucester Street:
  - Ground floor
    - a) five (5) self-contained boarding house rooms with courtyards
    - b) common room
    - c) stair case to first floor
  - first floor
    - a) three (3) self-contained boarding house rooms with balconies
    - b) stair case to ground floor
- Building adjacent to Oswin Lane
  - a) two (2) self-contained boarding house rooms with courtyards
- Site
  - a) four (4) car parking spaces accessed from Oswin Lane
  - b) common open space located approximately in the centre of the site
  - c) one (1) accessible car parking space and one (1) motorcycle parking space accessed from Gloucester Street
  - d) new front fence including mailboxes
  - e) garbage bin storage area
  - f) landscaping

## Site location and context

The subject site is known as Lot 2 DP165852, 41 Gloucester Street, Rockdale. The site is a rectangular shape with front and rear boundary widths of 11.68 metres. The side boundaries are 62.9m deep. The total site area is 735m<sup>2</sup>. The topography of the site is such that it is nearly flat. The site has a frontage to Oswin Lane, at the rear.

The subject site contains a single-storey dwelling, a small shed at the rear of the site and no vegetation. The site is located on the northern side of Gloucester Street between Clifford and Railway Streets. Adjoining development to the sides and opposite is single storey detached dwellings. Development along Oswin Lane at the rear of the site is a mix of secondary dwellings, single, double and triple garages and sheds. The majority of dwellings in the vicinity are single storey. At the intersection of Oswin Lane, Arlington Street and Clarence Road, to the west of the subject site, is a four storey mixed use development. Heritage item I213, being a row of palm trees, is located in the road verge on the opposite side of Gloucester Street.

There are no trees of significance on site.

## Statutory Considerations

### *Environmental Planning and Assessment Act, 1979*

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

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

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

The following Environmental Planning Instruments are relevant to this application:

#### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

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 B4 zones and accessible areas.	The site is located within a R2 Low density residential zone with regular train services from Rockdale train station approximately 320m distant.	Yes

Clause 29(1)(a) – FSR	0.5:1	0.48:1	Yes
Clause 29(2)(a) – Building Height	8.5m	7.5m	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 Gloucester Street, 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 at the rear of the front building with a north aspect. 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"> <li>One area of at least 20m<sup>2</sup> with a minimum 3m dimension for the use of lodgers</li> <li>One area of at least 8m<sup>2</sup> with a minimum dimensions of 2.5m for the use of a manager</li> </ul>	<p>The communal room is adjoined by an outdoor area of 25m<sup>2</sup>, with a minimum dimension of 3.2m.</p> <p>The nominated manager's residence is adjoined by an outdoor area of 36m<sup>2</sup>, with a minimum dimension of 2.7m.</p>	Yes

Clause 29(2)(e) – Car parking	<ul style="list-style-type: none"> <li>· 0.5 parking spaces per boarding room where not carried out by or on behalf of a social housing provider.</li> <li>· Not more than 1 space per person employed.</li> </ul>	<p>Ten (10) letting rooms are proposed on the site, comprising nine (9) double rooms and one (1) single room.</p> <p>Five (5) car parking spaces are proposed on site. Which complies Clause 29(2)(e) (iia) and (iii) of the ARH SEPP.</p> <p>One is to be an accessible space.</p> <p>Parking is available for two (2) motorcycles and bicycles.</p>	Yes
Clause 29(2)(f) – Accommodation size (minimum)	<ul style="list-style-type: none"> <li>· 12m<sup>2</sup> per single boarding room</li> <li>· 16m<sup>2</sup> in any other case</li> </ul>	All rooms have a total area greater than 16m <sup>2</sup> , varying between 32m <sup>2</sup> and 34m <sup>2</sup> , 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 front building on the ground floor, on the north end of the building, adjacent to an open space area.	Yes
Clause 30(1)(b) – Size of rooms	No rooms greater than 25m <sup>2</sup> area excluding private kitchen and bathroom facilities.	Rooms when private kitchens and bathrooms are excluded do not exceed 25m <sup>2</sup> .	Yes
Clause 30(1)(c) – Number of Lodgers	No more than 2 lodgers per room.	A maximum of two occupants per double boarding room, and one occupant for the single 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.	Nine double and one single rooms could accommodate a total of 19 lodgers. A managers boarding room is therefore not required on site.	Yes

Clause 30(1)(h) – Bicycle & Motorcycle Parking	At least one per 5 boarding rooms	Two 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 than 12 boarding rooms.	The proposed boarding house will contain ten (10) rooms.	Yes
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 as being compatible with the character of the local area and will not detract from the heritage item (palm trees) in Gloucester Street.	Yes
Clause 52 – Subdivision	Subdivision not permitted.	Nil subdivision proposed	Yes

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 1025113M. A consent condition is included in the draft consent to ensure that these requirements are adhered to.

#### 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.

#### Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.3 Between 20 and 25 ANEF (2033) contours	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood planning	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

### 2.3 Zone R2 Low Density Residential

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a boarding house which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The proposed development is consistent with the objectives of the zone as it provides for the housing needs of the community in a low density residential environment while minimising impact on the character and amenity of the area.

### 4.3 Height of buildings

The height of the proposed building is 7.5m and therefore does not exceed the maximum 8.5m height shown for the land on the Height of Buildings Map.

The proposed development reflects the Federation-era style of buildings along the street by using similar materials, including a tile roof and brick, and similar design features including a pitched roof. The comparatively small first floor is set well back from the site boundaries which will maintain satisfactory sky exposure and daylight to neighbouring properties and the common open space area on the subject site. A high quality urban form is anticipated to result from the design which is responsive to the site context.

### 4.4 Floor space ratio - Residential zones

The Gross floor area of the proposed development has been calculated as 358m<sup>2</sup> over a site area of 735m<sup>2</sup>. Therefore the proposed floor space ratio (FSR) for the building is 0.48:1 and does not exceed the maximum FSR for the land 0.5:1 as shown on the Floor Space Ratio Map.

Further, the proposed density is in accordance with the desired future character of Rockdale, will have minimal adverse environmental effects on the use or enjoyment of adjoining properties, and will maintain an appropriate visual relationship between new development and the existing character of area.

Accordingly, the proposed FSR for the development meets the objectives and satisfies the maximum FSR permitted by Clause 4.4 in RLEP 2011.

### 5.10 Heritage conservation

The proposed development is located in the vicinity of heritage item I213 (palms on verge) which is a row of Canary Island date palms planted within the road reserve, on the opposite side of Gloucester Street from the subject site.

The NSW Office of Environment and Heritage provides the following Statement of significance for the trees: *"The row of Canary Island Date Palms is an example of the type of street planting prevalent in Sydney from the turn of the 19th Century to the Inter-War period. The street trees are historically significant as part of the 1915 Morse Estate. The trees aesthetically have value for the complementary role with the Federation style of houses in the street."*

The proposed development will demolish a dwelling which is likely of Federation-era, on the opposite side of Gloucester Street from where the palms are growing. The proposed development is sympathetic to the heritage item being of brick and tile construction with a pitched roof. There are three other examples in the street of two storey developments which are less sympathetic to the heritage item, being Nos 9 and 12 Gloucester Street and a two storey residential flat building with a side elevation to Gloucester Street, at No 64 Railway Street.

The proposed development does not affect the integrity or character of the heritage item and the qualities which makes the heritage item and its setting significant will not be diminished.

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

#### 6.2 Earthworks

Earthworks are required on site for site preparation. The objectives and requirements of Clause 6.2 of RLEP 2011 have been considered in the assessment of this application. It is considered that the proposed earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. Nevertheless relevant consent conditions are included in the draft consent to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

#### 6.3 Between 20 and 25 ANEF (2033) contours

The proposal was accompanied by an Acoustic Report prepared by koikas acoustics dated July 2019, 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. A consent condition has been prepared requiring the development to meet with the Australian Standards for indoor design sound levels.

#### 6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51 metres to Australian Height Datum (AHD). The proposed building height is at 32 metres to AHD and in this regard, it is considered that the proposed development will have no adverse impact on the OLS and hence is acceptable with regards to this Clause.

#### 6.6 Flood planning

The site is affected by overland flows and the proposal has therefore been designed to ensure that the driveway crossing, habitable floor levels and other relevant components of the development are in



accordance with the requirements contained in Council's Flood Advice Letter. The plans have been assessed by Council's Development Engineer, and appropriate consent conditions have been prepared, including compliance with the submitted Flood Management Plan. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

#### 6.7 Stormwater

The proposal involves the construction of an on site detention/retention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

#### 6.12 Essential services

Services will generally be available on the site. Additional consent conditions have been included requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

##### **Rockdale Development Control Plan 2011**

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

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
4.1.1 Views and Vista	Yes	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes - see discussion
4.3.3 Communal Open Space	Yes	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes	Yes - see discussion
4.4.2 Solar Access - General Controls	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes - see discussion
4.6 Driveway Widths	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.7 Hot Water Systems	Yes	Yes - see discussion
5.1 Building Design - General	Yes	Yes - see discussion

#### 4.1.1 Views and Vista

The site and adjoining properties are relatively flat and contain minimal views out over the curtilage of each parcel of land and the adjacent properties. In this regard, they do not contain any iconic or significant view corridors. As such, the siting of the proposed building will ensure that there is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents.

#### 4.1.2 Heritage Conservation - Vicinity of Heritage Item

The proposed development is in the vicinity of a heritage item located along the south side of Gloucester Street (15 Canary Island date palm trees planted in the road verge). The proposed development is sympathetic to the heritage item in terms of building design, materials and streetscape. In this regard, the proposed development does not affect the integrity or character of the heritage item. Therefore the qualities that makes the heritage item and it's setting significant will not be diminished, dominated or overwhelmed by the proposed development.

#### 4.1.3 Water Management

The roofwater and runoff is to be directed to an detention tank. A stormwater plan has been submitted and assessed as satisfactory by Council's Development Engineer.

#### 4.1.4 Soil Management

The Soil & Water Management Plan has been submitted and general erosion and sediment control strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site.

#### 4.2 Streetscape and Site Context - General

The proposal is located in a R2- Low density residential zone. The immediate context is relatively low scale consisting of single storey dwellings, secondary dwellings and detached garages. The proposed boarding house is consistent with the desired and future character of the area in terms of height, bulk and scale, and is generally appropriate in this context.

The proposed front setback is consistent with the setbacks of surrounding dwellings and in this regard the residential streetscape will be retained and complemented.

The proposed built form on site complies with the required height and FSR requirements. The proposed development has been designed with appropriate use of articulation & modulation to the facades via the incorporation of balconies, pedestrian entries at ground level, and a range materials which adds visual interest to the facades.

The proposed development will have living rooms and courtyards addressing the street, with the building's frontage and entry points being readily apparent from the street. The proposed development has been designed with balconies and living spaces that will provide casual surveillance of the street.

#### 4.3.1 Open Space & Landscape Design - Low & medium density residential

Councils Landscape officer has approved the submitted landscape plans subject to consent conditions.

The proposal provides adequate landscaping, with capability to contain storm water runoff. Private and communal open spaces are usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping.

#### 4.3.3 Communal Open Space

The communal open space of 60m<sup>2</sup> has been arranged to maximise solar access, with planting and seating facilities.

The garage bin area has been located appropriately to minimise amenity impacts to adjoining properties.

The landscape design optimises useability, privacy and social opportunity, and respect for neighbours' amenity. The landscape design is considered satisfactory.

#### 4.4.1 Energy Efficiency - Residential

The applicant has submitted a BASIX Certificate, No. 1025113M, for the proposed development. The commitments made result in reductions in energy and water consumption, and will achieve the efficiency target set under SEPP BASIX.

#### 4.4.2 Solar Access - General Controls

The subject site runs north-south, meaning shadows track across the site and neighbouring properties over the day, ensuring adequate solar access to the private open spaces and living rooms of the subject site and adjoining properties.

#### 4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating minimum ceiling heights of 2.6m to the ground floor and 2.7m to the first floor, and cross ventilation to each boarding room.

#### 4.4.5 Visual privacy

The proposed boarding house has been designed and sited to minimise the overlooking of adjoining properties, incorporating:

- privacy screens to both sides of the rear first floor balcony
- windows with sill height of 1.8m
- landscape hedging/ tree screening located along boundary fences
- windows are offset to preclude views into windows of adjacent buildings

Having regard to the above, the proposed development provides a reasonable level of visual privacy between the adjoining properties. A consent condition is proposed to ensure adequate privacy screens to both sides of the rear first floor balcony.

#### 4.4.5 Acoustic privacy

There will be minimal adverse impact on the acoustic privacy of adjoining and surrounding properties as consideration has been given to the location and design of the building and landscaping in relation

to private recreation areas to minimise noise intrusion on the amenity of adjoining properties.

#### 4.6 Car Park Location and Design

The majority of the car parking for the site is to be accessed from Oswin Lane at the rear of the site, with driveway access for one car parking space from Gloucester Street, which is typical for development along Gloucester Street.

Oswin Lane is characterised by multiple garages for most lots and the proposed four car parking spaces will be in character with the Laneway. The proposed driveway from Gloucester Street will be located adjacent to the driveway to No. 43 Gloucester Street, improving the availability of on street parking in the street.

Council's Development Engineer has assessed the proposed parking as satisfactory.

#### 4.6 Driveway Widths

The proposed driveway width complies with Council's Technical Specifications and hence satisfies the provisions of this Clause.

#### 4.7 Air Conditioning and Communication Structures

The plans do not depict the location of proposed residential air conditioning units on site. Accordingly, a condition is imposed in the draft conditions requiring air conditioning units to be obscured from public view should they be provided and operate in accordance with the relevant provisions of the Protection of the Environment Operations Act, 1997. Subject to conditions, the development is acceptable with regards to this Clause.

#### 4.7 Waste Storage and Recycling Facilities

An adequate space is provided for the storage of garbage bins adjacent to but screened from Gloucester Street.

#### 4.7 Laundry Facilities and Drying Areas

The application includes the provision of internal laundry facilities within each boarding room. A shared clothesline is provided as well as sufficient space within courtyards or balconies to dry laundry.

#### 4.7 Letterboxes

Letterboxes are to be incorporated within the proposed front fence. This location is accessible and convenient for both delivery and safe retrieval of mail.

#### 4.7 Hot Water Systems

A consent condition is imposed which requires the proposed individual instantaneous hot water systems on balconies to be encased in a recessed box with the lid/cover designed to blend with the building. All associated pipe work is to be concealed. Subject to conditions, the proposed development is acceptable with regards to this Clause.

#### 5.1 Building Design - General

The proposed design of the boarding house is sympathetic to the existing character within the street. The pitched roof, partially landscaped front yard and low front fence is typical of development along the street.

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

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS

*2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard a consent condition is proposed to ensure compliance with the standard.

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

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

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls. The impacts that have not already been addressed are as follows:

##### **Construction**

The residential building is to be constructed in brick and roof tiles with concrete/timber floors. A BCA Compliance Assessment prepared by Building Certificates Australia Pty Ltd, dated 5 July 2019 which confirms compliance with all applicable parts of the BCA is readily achievable by the proposal, was submitted to support the development application. Site and safety measures are to be implemented in accordance with conditions of consent and Workcover Authority guidelines/requirements.

##### **Access**

A Statement of Compliance for Access for People with a Disability, prepared by Accessible Building Solutions, dated 25-06-2019, which concludes the proposal can achieve compliance with the access provision of the BCA and the Access to Premises Standard, was submitted to support the proposal.

##### **Erosion and Sediment Control**

Sediment control details were included on the Stormwater Drainage/Sediment Control Details plan submitted with the development application. Council's Development Engineer is satisfied with the submitted plan, and appropriate consent conditions have been prepared to ensure compliance with the plan.

##### **Plan of Management**

A Plan of Management (PoM) prepared by BMA Urban, dated 8 July 2019, was submitted to support the application. The PoM describes the operational, administrative, monitoring and complaints matters which will control the manner in which the boarding house is to be run. The PoM also sets out the house rules for the boarding house, including those matters which may result in eviction. Consent conditions have been prepared which link the PoM to the approved operation of the boarding house.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional consent conditions are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011. A total of

forty (40) submissions has been received, comprising 39 letters and one (1) petition containing 81 signatures.

The issues raised in the submissions are discussed below:

**Issue 1: Insufficient car parking**

Comment: The proposal provides five (5) car parking spaces on site, which complies with Clause 29(2) (e)(iia) of State Environmental Planning Policy (Affordable Rental Housing) 2009. This Clause requires 0.5 car parking spaces for each boarding room in a development which is not carried out by or on behalf of a social housing provider.

**Issue 2: Change in demographics**

Comment: This is not a valid planning consideration and no comment will be made on the demographics of Rockdale.

**Issue 3: Setting of a precedent**

Comment: The proposed use is permissible in the zone subject to compliance with relevant legislation. The proposed boarding house has been assessed in accordance with relevant legislation and is satisfactory. There are other boarding houses operating in streets in proximity to Gloucester Street.

**Issue 4: Non-compliance with zone objectives**

Comment: The proposal has been assessed as meeting the zone objectives of providing for the housing needs of the community within a low density residential environment in a manner which minimises impacts on the character and amenity of the area.

**Issue 5: Increased and unsafe traffic in Oswin Lane**

Comment: The proposal includes parking for four vehicles to be accessed from Oswin Lane. The additional traffic from these vehicles is assessed as a minor increase which can be accommodated in the lane.

**Issue 6: Scale and design not in character with the street**

Comment: The proposal complies with height, setback, and floor space ratio controls for the site. The proposed design is sympathetic to the low density residential character of the site. The materials proposed are brick and a pitched tile roof, the front setback is to be suitably landscaped with one driveway which is consistent with existing development along the street. The scale and design is assessed as sympathetic to the existing character in the area.

**Issue 7: Use of the site as a boarding house**

Comment: The site is within a zone which permits boarding houses.

**Issue 8: Development is a residential flat building and not a boarding house**

Comment: The development application was lodged as a boarding house not a residential flat building, which is permissible with development consent in the residential R2 zone.

**Issue 9: Noise**

Comment: The Plan of Management restricts the use of the outdoor communal area by time, activity and number of people. It also restricts the use of the communal room, when visitors must leave the premises, the volume of music, televisions and the like, prohibits parties, pets, smoking and illegal drugs and limits the consumption of alcohol on the premises to limit noise and anti-social behaviour

impacts to residents and adjoining properties. A consent condition has been included which requires the operation of any air conditioning units to be within limits set in the relevant legislation.

**Issue 10: Loss of privacy**

Comment: The first floor windows have a minimum sill height of 1.8m and the rear first floor balcony will be fitted with appropriate privacy screens, which will limit the potential for overlooking of neighbouring properties and subsequent loss of privacy. The first floor accessway is not large enough to promote lingering and overlooking of neighbouring properties, it is also offset from the windows in the ground floor of the neighbouring properties.

**Issue 11: Overshadowing**

Comment: The shadows cast by the proposed building will travel across the site and the neighbouring properties which will ensure direct sunlight for three hours in habitable rooms and 50% of the private open space between 9am and 3pm in mid winter for adjoining properties. This is in accordance with Clause 4.4.2 of Rockdale Development Control Plan 2011.

**Issue 12: Safety**

Comment: The Plan of Management includes provisions to ensure the safety of residents within the boarding house. Anti-social behaviour may result in eviction and police intervention.

**Issue 13: Proposal is out of character with the area**

Comment: There are mixed use and flat building developments at either end of Gloucester Street, at 3-7 Clarence Street and 64 Railway Street. There are other two storey buildings along Gloucester Street. Over ten strata residential flat building developments exist in Villiers Street, one block to the north. The proposal is for a type of low density residential accommodation which is permissible with consent and is consistent with the character of the area.

**Issue 14: Litter**

Comment: The Plan of Management requires the premises to be kept in a clean and tidy manner at all times. Street cleansing is conducted regularly by Council. The proposal is not anticipated to result in an increase of litter on the site or along Gloucester Street.

**Issue 15: Crime and drug-dealing**

Comment: All illegal activities are matters for the police. The Plan of Management prohibits the possession and/or use of illegal drugs on the premises.

**Issue 16: No onsite manager**

Comment: Clause 30(e) of SEPP(ARH)2009 requires an onsite manager if 20 or more lodgers can be accommodated on site. The proposed boarding house has a maximum capacity of 19 lodgers. Therefore an onsite manager is not required.

**Issue 17: Stormwater management**

Comment: Council's Development Engineer has assessed the stormwater management system proposed for the site and is satisfied.

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

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that

the proposed development is in the public interest.

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

A Section 7.11 Contribution Payment of \$35,052.58 is payable in accordance with Council's Policy and is imposed as a consent condition.

### ***Civil Aviation Act, 1988***

The site is within an area that is subject to the Civil Aviation (Building Controls) Regulations 1988 made under the *Civil Aviation Act, 1988*.

### **Civil Aviation (Building Control) Regulations 1988**

The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

### **Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas**

The proposed development is affected by the 15.23m Building Height Civil Aviation Regulations, however the proposed building height at 7.5m will have minimal impact upon the height requirement in the regulations.

## **Schedule 1 - Draft Conditions of consent**

### **General Conditions**

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

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

<b>Plan/Dwg No.</b>	<b>Drawn by</b>	<b>Dated</b>	<b>Received by Council</b>
Site/Ground Floor Plan and First Floor Plan, Project No. CD 1464, Drawing No. DA 02, Issue B	Cornerstone Design	26/08/19	4/09/2019
Roof Plan and Elevations, Project No. CD 1464, Drawing No. DA 03, Issue B	Cornerstone Design	26/08/19	4/09/2019



Elevations Project No. CD1464, Drawing No. DA 04, Issue B	Cornerstone Design	26/08/19	4/09/2019
Section, Streetscape and Driveway Profile, Project No. CD 1464, Drawing No. DA 05, Issue B	Cornerstone Design	26/08/19	4/09/2019
Landscape Plan, Drawing No. 19-3984 L01, Revision A	Zenith Landscape Designs	28.06.19	4/09/2019
Stormwater Drainage/ Sediment Control Details, Drawing No. 2021 - S1/3, S2/3 and S3/3, Rev A	John Romanous & Associates	27.06.2019	27/06/2019
Schedule of Finishes	Cornerstone Design		8/07/2019
Waste Management Plan			26/06/2019
Flood Management Plan			27/06/2019

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 1025113M other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
7. Excavation, filling of the site (with the exception of the area immediately under the building envelope), or construction of retaining walls are not permitted unless shown on the approved plans and authorised by a subsequent construction certificate.
8. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
9. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.

### Development specific conditions

The following conditions are specific to the Development Application proposal.

10. The site is not to be used as a brothel and is not to provide any related sex uses in accordance with the Brothels Legislation Amendment Act 2007.
11. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
12. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
13. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
14. 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.
15. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
16. Bicycle parking facilities shall be designed in accordance with AS2890.3:1993.
17. The off-street parking areas associated with the subject development shall be designed strictly in accordance with AS2890.1 and AS2890.6.
18. A 1.7 metre high privacy screen shall be installed to the eastern and western sides of the first floor rear balcony.
19. Proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
20. Retaining walls are not approved unless shown on the plans listed in condition 2. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer. Filling of the land outside the building envelope is not permitted.
21. 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, Public Health Regulation 2012, Boarding Houses Act 2012 and Boarding Houses Regulation 2013.
22. 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.
23. Trading shall not commence until a final inspection has been carried out by Council's Environmental Health Officer and all requirements have been complied with.
24. Boarding House Conditions
  - (a) This approval is for a boarding house as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009. A Boarding House is defined as "a building that:

- (i) is wholly or partly let in lodgings, and
  - (ii) provides lodgers with a principal place of residence for 3 months or more, and
  - (iii) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.
- (b) The Boarding House is to operate in accordance with the requirements of the State Environmental Planning Policy (Affordable Rental Housing) 2009. Any variation of the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.
- (c) The boarding house shall comply with the following:
  - (i) A maximum of 10 boarding rooms and one (1) common room shall be provided on the site.
  - (ii) No boarding room will be occupied by more than two (2) persons, accommodating a maximum of 19 persons at any one time.
  - (iii) The proposed boarding rooms shall accommodate the following schedule for all rooms proposed.
    - Room G.01 (2) person maximum
    - Room G.02 (2) person maximum
    - Room G.03 (1) person maximum
    - Room G.04 (2) person maximum
    - Room G.05 (2) person maximum
    - Room G.06 (2) person maximum
    - Room G.07 (2) person maximum
    - Room 1.01 (2) person maximum
    - Room 1.02 (2) person maximum
    - Room 1.03 (2) person maximum
  - (iv) 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.
  - (v) Adequate number of beds (each provided with a mattress and pillow and an adequate supply of clean blankets or equivalent bed clothing), adequate storage space and blinds, curtains or similar devices to screen bedroom windows for privacy must be provided for the occupants.
  - (vi) A 24 hour, 7 day contact number shall be provided to all immediate and nearby residential neighbours for use in the event of a disturbance. If the contact number changes, neighbouring residents shall be provided with a new telephone number with 7 days.
  - (vii) The proprietor/operator of the proposed development must limit patron numbers in external areas to no more than 8 (eight) people at any one time.

- (viii) Use of the external common area is not permissible during the night time period (10 pm to 8am).
- (ix) Use of music in the communal room is permitted provided that the music is played at background noise levels (66 dBA Leq sound pressure, such that conversation can be conducted without raised voice being required).
- (x) No amplified/ stereo/ music/ speakers are to be used in the indoor and outdoor communal areas. Outdoor communal and communal areas are not to be used for parties and there is to be no group activities between 10pm and 8am Monday to Sundays and public holidays.
- (d) Plan of Management (PoM)
  - (i) The boarding house shall at all times be operated in accordance with the approved Plan of Management (PoM).
  - (ii) A copy of the the approved PoM shall be displayed in the Communal Room and within each of the boarding rooms at all times;
  - (iii) A copy of the PoM shall be made freely available to family and visitors who frequent the facility, as well as to neighbouring property owners and local residents, if requested.
  - (iv) The PoM shall be reviewed annually. If the Plan of Management is updated following the review, the operator is required to:
    - 1. ensure that the amended PoM is consistent with all conditions of this consent;
    - 2. a copy of the amended Plan of Management is provided to Council within 7 days of completion;
    - 3. update the PoM, if required, to include comments provided by Council.
- (e) Subdivision of the boarding rooms is not permitted.
- (f) All tenants must enter into an occupancy agreement prior to commencing tenancy at the premises. The minimum period for the occupancy agreement must three (3) months in accordance with the definition of 'boarding house' in the AHSEPP & Rockdale Local Environmental Plan 2011 (see 'A' above).
- (g) A copy of the annual fire safety statement is to be prominently displayed in the approved Boarding House. Note: An annual inspection will be carried out by Council to determine that all conditions of consent and fire safety measures are being complied with. An additional fee may be charged for the required inspection as adopted in Council's fees and charges.
- (h) Prior to issue of the Occupation Certificate:
  - 1. (i) The boarding house must be registered with Council
  - (ii) Details, including name, contact number and email address of the Boarding House Manager are to be provided to Council. Should these details change at any time, revised information shall be provided to Council within 7 days of the change in manager.
  - (iii) Each bedroom must be numbered in accordance with the approved plans and a schedule showing the numeral designating each bedroom and the number of persons permitted to be accommodated in each must be conspicuously displayed on the premises.
  - (iv) 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.
- (v) A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be conspicuously displayed to public view outside the premises.
  - (vi) A schedule showing the numeral designating each bedroom and the number of persons permitted to be accommodated in each bedroom must be conspicuously displayed on the premises. Each bedroom must be clearly numbered and the maximum number of persons allowed to be accommodated in each bedroom must be displayed clearly on the door of or in each bedroom.
25. (2) The Final Landscape Plan shall be generally in accordance with the approved Landscape Plan Landscape Plan prepared by Zenith Landscape Designs, dated 29th August 2019 and comprise detailed landscape construction documentation (plans and specifications) to be submitted to, and approved by Bayside Council's Landscape Architect prior to the issue of the Construction Certificate. The landscape documentation shall include, but not be limited to:
- (a) A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
  - (b) Planting proposed adjacent to car parking spaces along the rear of the property shall be amended to minimise maintenance, and provide some shade and general amenity. 1000mm wide strip between western boundary and car parking spaces shall be a planter bed with groundcovers in mulch, and include a minimum of one (1) Australian native/or deciduous tree with a minimum pot size supplied at 45 litre, to reach a minimum mature height 6 meters in local condition.
  - (c) One (1) Australian native/or deciduous tree with a minimum pot size supplied at 75 litre, to be planted in the front garden, to reach a minimum mature height of 7 meters in local conditions.
  - (d) A Landscape Maintenance Schedule shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).
  - (e) All trees shall be installed with Stakes and Ties.
- (3) A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of a Construction Certificate. Gloucester Street verge strip shall be planted with one (1) street tree as per Rockdale Street Tree Master plan. All public domain landscape

- works shall be carried out as per Council specifications.
- (4) New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, biannual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
  - (5) Landscape Completion / Certification. Prior to 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 plans prior CC, 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.

#### **Prior to issue of the construction certificate**

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

- 26. Prior to the issue of the Construction Certificate, a detailed stormwater drainage management plan for the disposal of all roof-water, surface water and subsoil water from the site shall be submitted and approved by the Principal Certifier. The drainage management plan for the Construction Certificate shall comply with the requirements as detailed in the Rockdale Stormwater Technical guidelines.
- 27. Prior to the issue of the Construction Certificate, the proposed rear portion of the proposed dwellings closer to Oswin Lane shall be constructed on pier and beam foundation with an open cavity under the structure so that floodwaters are not obstructed or diverted to adjacent lands.
- 28. Prior to the issue of the Construction Certificate, a suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy up to 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood event, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood.
- 29. Prior to the issue of the Construction Certificate, 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(1% AEP level). Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Details are to be shown on the approved plans.
- 30. Prior to the issue of the Construction Certificate, A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer must be provided, The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The Plan must make provision for the following:

- (a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development.
  - (b) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
  - (c) Flood warning signs/depth indicators for areas that may be inundated.
  - (d) A flood evacuation strategy.
  - (e) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.
  - (f) Specify the architectural and structural plans upon which the above recommendations have been incorporated.
31. Prior to the issue of the Construction Certificate, a Construction Traffic Management Plan (CTMP) must be submitted to and approved by Principal Certifier. Approval of the CTMP may require endorsement from the Bayside Traffic Committee. The CTMP shall include, but not limited to the following: vehicle routes, number of construction vehicles, hours of operation, access arrangements, pedestrian management, construction vehicle 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 TMP shall be supported by a traffic control plan prepared by a suitably qualified and RTA 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'.
32. The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicant's cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider.
33. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- i. A Footpath Reserve Restoration Deposit of \$2,640.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$19.00.
34. A footpath inspection fee of \$160.00 shall be paid to Council with lodgement of the Construction Certificate with Council, or by the PCA when submitting the copy to Council.
35. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.

36. 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.
37. A Section 7.11 contribution of \$35,052.58 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Regional Open Space Fund	\$4,501.04
City Wide Open Space Fund	\$7,137.28
Rockdale Local Open Space Fund	\$14,915.92
City Wide Town Centre and Streetscape Fund	\$800.14
Rockdale Local Town Centre and Streetscape Fund	\$627.14
Pollution Control Contribution	\$4,118.14
Child care services	\$167.61
Community services	\$179.77
Library services	\$2,429.32
Administration and management contribution	\$176.22
<b>Total in 2019/20</b>	<b>\$35,052.58</b>

Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

38. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
39. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal



Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

40. A system of fire and smoke alarms and/or detection system (as applicable) shall be provided throughout the building. Details shall be submitted for assessment and approval prior to application for a Construction Certificate.
41. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

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

42. The instantaneous hot water systems are to be encased in a recessed box with the lid/cover designed to blend with the building.
43. A sign indicating the permissible maximum length of time during which a person may board or lodge in the premises must be conspicuously displayed to public view outside the premises.
44. The Principal Certifier shall not issue a Construction Certificate until a detailed acoustic assessment /report of all mechanical plants (ventilation systems, garbage exhaust fans, vehicle turntable motor, car park exhaust fans, toilet exhaust fans, exhaust fans, ventilation fans and condenser units) and equipment including air conditioners which meet the NSW EPA Industrial Noise Policy and Protection Of Environment Operations Act 1997 noise emission criteria for residential air conditioners is prepared as specified in Acoustic Assessment for Development Application prepared by 'Koikas Acoustics Pty Ltd – , Document Reference 3778R20190628jt 41 Gloucester Street, Rockdale DA Noise Assessment' dated the 3 July 2019. The acoustic assessment / report shall include at least the following information:
  - the name and qualifications or experience of the person(s) preparing the report
  - the project description, including proposed or approved hours of operation
  - relevant guideline or policy that has been applied
  - results of background and any other noise measurements taken from most noise affected location at the boundary line
  - meteorological conditions and other relevant details at the time of the measurements
  - details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
  - a site map showing noise sources, measurement locations and potential noise receivers
  - noise criteria applied to the project
  - noise predictions for the proposed activity
  - a comparison of noise predictions against noise criteria
  - a discussion of proposed mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures
  - how compliance can be determined practically

The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the

Association of Australian Acoustical Consultants). It shall be submitted to the Principal Certifier. All recommendations and/or noise mitigation measures (if applicable) shall be complied with.

### **Prior to commencement of works**

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

45. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
46. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

47. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
48. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
49. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
50. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

**During demolition / excavation / construction**

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

51. 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.
52. The stormwater connection to Council drainage system shall be inspected by Council prior to backfill. A minimum 5 working day notice shall be given to Council prior to inspection. An inspection fee is required to be paid prior to inspection.
53. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
54. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
55. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
56. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
57. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
58. A Registered Surveyor's check survey certificate or compliance certificate shall be forwarded to the certifying authority detailing compliance with Council's approval at the following stage/s of construction:
  - i. After excavation work for the footings, but prior to pouring of concrete, showing the area of the land, building and boundary setbacks.
  - ii. Prior to construction of each floor level showing the area of the land, building and boundary setbacks and verifying that the building is being constructed at the approved level.
  - iii. Prior to fixing of roof cladding verifying the eave, gutter setback is not less than that approved and that the building has been constructed at the approved levels.
  - iv. On completion of the building showing the area of the land, the position of the building and boundary setbacks and verifying that the building has been constructed at the approved levels.
  - v. On completion of the drainage works (comprising the drainage pipeline, pits, overland flow paths, on-site detention or retention system, and other relevant works) verifying that the drainage has been constructed to the

approved levels, accompanied by a plan showing sizes and reduced levels of the elements that comprise the works.

59. When soil conditions require it:
- i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
60. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
61. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.
62. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
  - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.

- iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
  - a) spraying water in dry windy weather
  - b) cover stockpiles
  - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
63. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.

**Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

64. Prior to the issue of an 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 plans, relevant Australian Standards, Council Specifications.
65. Prior to the issue of an 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 On-Site retention System. A Works-as-Executed plan must be submitted Council at the completion of the works, the plan must clearly illustrate dimensions and details of the site drainage and the On-Site Retention system. The plan shall be prepared by a registered surveyor or an engineer. A construction compliance certification must be provided to verify, that the constructed stormwater system and associate works have been carried out in accordance with the approved plan(s), relevant codes and standards.
66. Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant Australian Standards and the following has been implemented within the property, where applicable:
  - a) The car park has been completed, a line marked and all signage relating to car parking erected.
67. Prior to the issue of an Occupation Certificate, a certificate from a suitably qualified engineer shall be provided to the Principal Certifier certifying that the habitable floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level . A copy of the certificate shall be provided to Council where Council is not the Principal Certifier.
68. Should the flood risk management report require a flood evacuation plan the plan shall be located and fixed in a suitable location that can be accessed by all residents.
69. Prior to the issue of an Occupation Certificate, the following works will be required to be undertaken in the road reserve at the applicant's expense:
  1. construction of a concrete footpath and /or grass verge along the frontage of the development site on Gloucester Street;
  2. construction of a new fully constructed concrete vehicular entrance/s;
  3. removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  4. Construction of Layback and/or kerb and gutter in Oswin Lane.

All footpath, or road and drainage modification and/or improvement work to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
70. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
71. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
72. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved



development. The landscaping is to be maintained to the approved standard at all times.

73. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
74. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

75. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
76. Prior to the issue of Occupation Certificate the applicant shall submit to the Principal Certifier an acoustic compliance report to verify that the measures stated in the report by 'Koikas Acoustics Pty Ltd Engineers – , Document Reference 3778R20190628jt' 41 Gloucester Street, Rockdale DA Noise Assessment' dated 3 July 2019 and all other noise mitigation measures associated with the mechanical plants (ventilation systems, garbage exhaust fans, toilet exhaust fans, ventilation fans and condenser units) and equipment including air conditioners have been carried out and certify that the construction meets the above requirements. If Council is not the Principal Certifier, a copy shall be submitted to Council concurrently.

The report shall be prepared by a suitably qualified and experienced acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

77. The noise reduction measures specified in the noise report prepared by koikas acoustics Pty Ltd dated 3 July 2019 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
78. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
79. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and

- works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
80. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 17 May 2019.
  81. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
    - Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
    - The overflow from the rainwater tank shall be directed to the storm water system.
    - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
    - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

### **Roads Act**

82. The design and construction of the gutter crossing shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Blacktown (Ph 02 8814 2144).

Detailed design plans of the proposed gutter crossing are to be submitted to the RMS for approval prior to the commencement of any roadworks. It should be noted that a plan checking fee (amount to be advised) and lodgment of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RMS.

83. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

84. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council. Where a conflict exists between design documentation or design notes and AUS-



SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

85. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
86. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
87. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu).
88. All works associated with the proposed development shall be at no cost to the RMS.

### **Development consent advice**

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

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

- c. If Council is appointed as the Principal Certifying Authority (PCA), a fee shall be paid before a Construction Certificate is issued. If the fee is paid after the end of the financial year, it will be adjusted in accordance with Council's adopted fees and charges. The fees charged encompass all matters related to ensuring that the proposed development is carried out in accordance with the approved plans and any post inspection issues that may arise.
- d. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

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

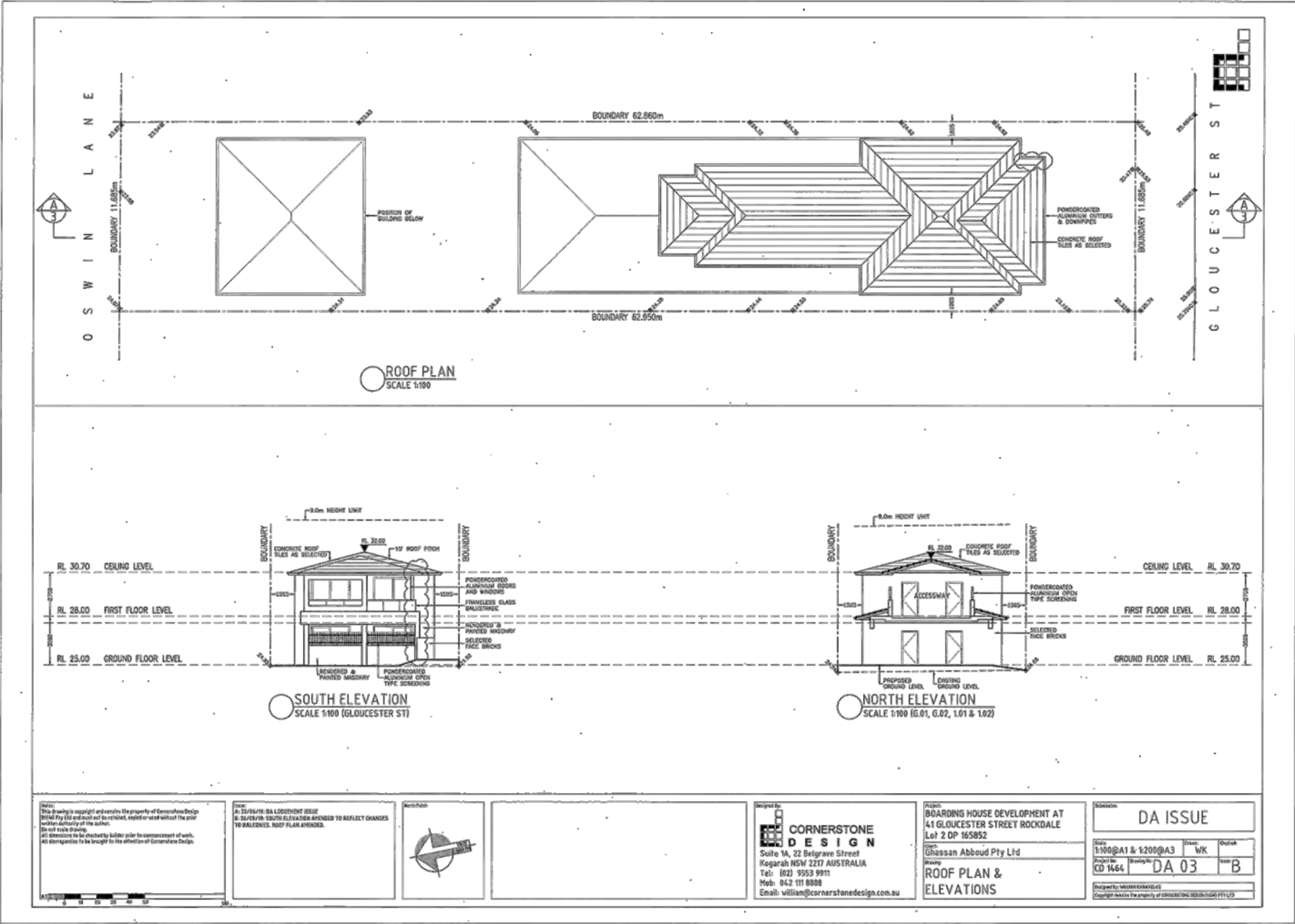
Regulation 2005.

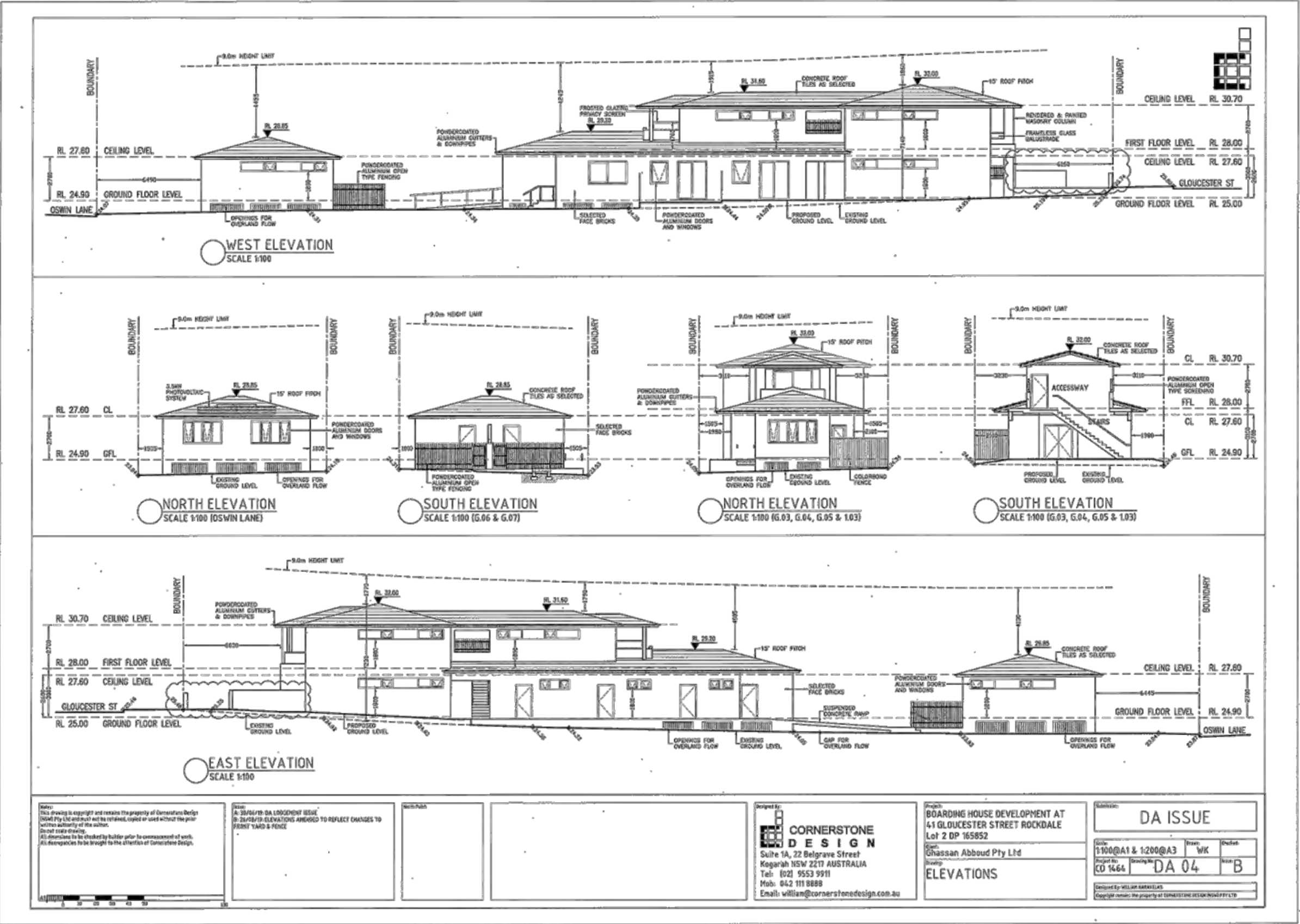
- e. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.
- f. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
  - choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- g. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- h. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- i. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.





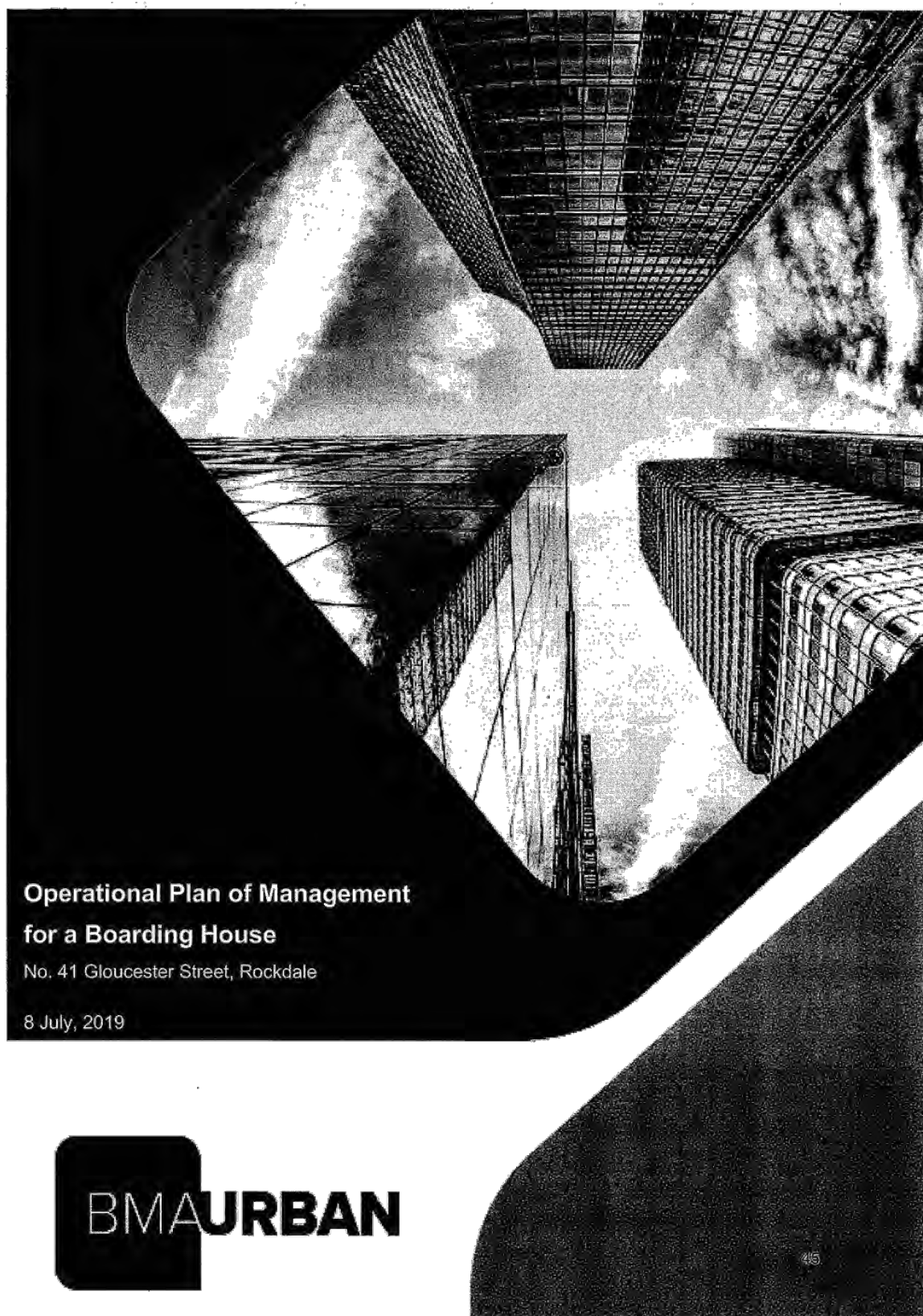












**Operational Plan of Management  
for a Boarding House**

No. 41 Gloucester Street, Rockdale

8 July, 2019

**BMAURBAN**



## Contents

1. The Premises.....	48
2. Objectives.....	48
3. Operational Matters .....	48
4. Administration.....	50
5. Monitoring/Complaints.....	54
6. House Rules.....	55

### Attachments:

Attachment A: Standard Occupancy Agreement

Attachment B: Accommodation Register

Attachment C: Complaints Register

## 1. The Premises

This Plan of Management has been prepared for the Operational Manager of the proposed boarding House development at 41 Gloucester Street, Rockdale. This development provides (10) self-contained rooms (one of which is nominated as the adaptable room), communal facilities and on-site parking for five (5) vehicles, two (2) motorcycles and two (2) bicycles.

The Operational Manager of the boarding house is to implement and comply with the requirements of the Plan of Management, as well as all conditions of development consent that may be issued for the boarding house by Bayside Council.

## 2. The Objectives of the Operational Plan of Management are:

- a) To detail the nature of the operation and to ensure compliance with all conditions of development consent issued by Bayside Council.*
- b) To ensure safety of all residents of the boarding house.*
- c) To provide a comfortable and harmonious residential environment for residents.*
- d) To ensure that the premises is properly maintained and operates in a manner which maintains a high level of amenity.*
- e) To ensure that there are no adverse impacts arising from the premises on any adjoining property or the neighbourhood.*

### The Plan:

- a) Identifies the everyday operation of the premises.*
- b) Establishes a monitoring system that ensures the objectives of this plan are met.*
- c) Establishes "House Rules" for all persons who stay within the premises.*
- d) Ensures procedures are in place to facilitate ongoing communication with the neighbours, Police, Bayside Council and management of the premises, to resolve any operational issues that may arise.*

## 3. OPERATIONAL MATTERS

### General Parameters for the Boarding House:

1. The premises is to operate as a registrable boarding house for the purposes of the NSW *Boarding Houses Act 2012* and the operation of the boarding house is to be in compliance with the Act at all times.
2. The premises is not to offer any alternative type of accommodation or be used for any purpose other than as a registrable boarding house.

**Boarding House Operational Manager:**

1. The boarding house Operational Manager is to adhere to the objectives set out in the Introduction of this Operational Plan of Management.
2. The particular responsibilities of the Operational Manager will include:
  - a. Accepting and assessing applications for residence;
  - b. Enforcing House Rules;
    - The Operational Manager has the authority to evict a resident who is refusing to comply with the House Rules set out in Section II. (Refer to Clause 11 of the 'Standard Occupancy Agreement' at Attachment A).
    - Other than in exceptional circumstances (i.e. in order to protect the safety of other residents), prior to eviction, the Operational Manager is to issue the resident/s with a Notice of Intent to Evict. A standard wording for the Notice is to be provided by the owner/operator. In preparing the standard wording of the Notice, it is recommended that the owner/operator consult a lawyer to ensure legal correctness. The standard wording is to be altered to reflect the particular circumstances of the case.
    - The Notice of Intent to Evict must provide the resident/s with an opportunity to modify their behaviour so as to avoid eviction. However, if the resident/s does not modify their behaviour in response to the Notice of Intent to Evict, the owner/operator may engage a security firm to implement the eviction.
  - c. Cleaning common areas;
    - The Operational Manager must ensure that the common room is kept in a clean and tidy state, including daily vacuuming/mopping.
    - The common area is to be maintained by the Operational Manager who is to ensure that the area is cleaned to a professional standard at least once a week.
    - That wastes are properly contained within the bins within the waste area. Bins are to be taken to the street for collection as organised by the Operational Manager.
  - d. Attending to any resident complaints
    - If residents, either within the development or from surrounding residents, have complaints of enquiries, the Operational Manager will listen to and address those. Contact details of the Operational Manager will be clearly displayed in all rooms and entry lobbies. Given that the Operational Manager is located off site, details of this person/s will be distributed to all neighbouring residents within a five (5) house radius along both Gloucester Street, Oswin Lane and Villiers Street. If required, the manager will liaise between boarders and surrounding residents.
  - e. Preparation of rooms for new residents
    - When a room becomes vacant, the Operational Manager is to ensure that the room is cleaned and ensure that the fixtures, fittings and furniture are in good order and if otherwise, replace or repair items as required.

f. General maintenance

- If minor repairs or replacement of items is required, such as replacing light bulbs in common areas and the like, the Operational Manager is to attend to these. A small toolkit and general maintenance supplies will be provided and are to be kept in the communal facilities room.

3. With the exception of an initial security deposit (see below for details), the Operational Manager is not required to accept payments from residents. Rental payments are to be organised through electronic means and paid directly to the nominated account of the owner/operator of the Boarding House.

4. The Operational Manager must not discriminate against residents on grounds of their race, religious beliefs, ethnicity, gender, sexual orientation or age.

5. The Operational Manager must not promote the use of illegal drugs or engage in any illegal activity.

#### 4. Administration

1. Any person who is to occupy a room in the boarding house is to sign an Occupancy Agreement. The Occupancy Agreement that will be used on site is based on the Standard Occupancy Agreement for General Boarding Houses under the NSW *Boarding Houses Act 2012* (refer to Attachment A). The owner/operator of the boarding house, or their delegate is also required to sign the Agreement.

2. Prior to entering into an Occupancy Agreement, the Operational Manager, is to provide the prospective boarder/s with a copy of the Occupancy Principles within Schedule 1 of the *Boarding Houses Act 2012* (N.B. This is provided at Annexure 1 of the Standard Occupancy Agreement at **Attachment A**).

3. The Operational Manager, is to provide a copy of this Operational Plan of Management to all new residents at the time that they sign an Occupancy Agreement. The Operational Manager is to advise the new resident/s that they must read and understand the resident obligations that are set out in the Operational Plan of Management. The new resident/s must sign a statement to the effect that they understand and will abide by those resident obligations.

4. Prior to entering into an Occupancy Agreement, the Operational Manager is required to advise all prospective lodgers that they may potentially be evicted if they breach their obligations.

5. Prior to entering into an Occupancy Agreement, all prospective residents are to provide photographic identification ("ID") (typically a driver's license or a passport) to confirm their identity. The Operational Manager is to enter the particulars of the ID (for example, the driver's license number or Passport number) in the Boarding House Accommodation Register (**Attachment B**).

6. Prior to entering into an Occupancy Agreement, all prospective residents are to provide the Operational Manager with next of kin details for emergency purposes. Next of kin details are to be kept by the Operational Manager for the entire duration of the lodgers stay.

7. Prior to entering into an Occupancy Agreement, the Operational Manager is to confirm with a prospective lodger that they are obligated to reside within the boarding room for a period of no less than three (3) months.

8. Prior to entering into an Occupancy Agreement, the Operational Manager is to advise prospective residents of the fees, including any applicable utility charges, prior to entering into any occupancy agreements.

9. Upon entering into an Occupancy Agreement, the Operational Manager is to accept a security deposit, amounting to two weeks of the occupancy fees and is to provide a receipt for that amount to the new resident/s.

10. Upon execution of an Occupancy Agreement, the Operational Manager is to enter the details of the new resident/s into the Boarding House Register (**Attachment B**), is to provide the resident/s with a copy of the signed Occupancy Agreement and is also to keep a copy of the signed Occupancy Agreement in a secure location.

11. Upon a resident ceasing to occupy a boarding room, the security deposit, less any deductions authorised by the *Boarding Houses Act 2012*, is to be paid to the resident within 14 days of the date upon which the resident ceases to occupy the boarding room.

#### **Signage:**

The following signage must be conspicuously installed and maintained at the premises:

1. The name and 24 hour contact number of the Operational Manager must be displayed externally at the front of the premises, as well as within the in the ground floor lobby areas and each boarding room.
2. 'No Smoking' or 'Smoke Free Premises' signage is to be displayed in all common areas of the premises.
3. The House Rules shall be displayed in the common area of the premises.
4. The minimum length of stay of any guest shall be displayed in public view outside the premises.
5. A schedule showing the numerical designation of each boarding room and the maximum number of persons permitted to be accommodated in each room must be displayed in the reception area.

#### **Noise Management Measures:**

1. The use of the outdoor communal area should be limited to a maximum of eight (8) people at any one time or as otherwise stipulated by Bayside Council as a condition of consent.
2. Access to the outdoor communal area will be restricted from 10pm to 8am.
3. Amplified and/or canned music is not be played in the outdoor communal areas at any time.
4. When noisy activities are occurring in the indoor communal living areas, doors and windows must be closed while the volume of the television or any noise generating device must be kept within reasonable levels.

**Off Street Parking:**

1. Off street parking is provided for the use of all residents on a 'first-in, first served' basis.
2. Cars, bicycles and motorcycles are to be parked in the allocated areas.
3. No car or motorcycle is to remain in a parking space, without being moved, for a period of longer than 72 hours.

**General Cleanliness, Hygiene and Waste Management:**

1. The Operational Manager is to regularly inspect the premises and organise for ongoing cleaning of the common areas. All garbage receptacles in common areas are to be emptied daily. The Operational Manager is required to ensure that the cleanliness and upkeep of the premises is maintained on a daily basis.
2. Pest control inspections are to be carried out on a yearly basis as a minimum.
3. The waste and recycling bin storage area shall be kept in a clean and tidy manner. This area shall be thoroughly cleaned on a weekly basis. The Operational Manager will ensure that relevant parties are employed to undertake this and other cleaning tasks.
4. A minimum bi-weekly collection of waste and recycling is to be carried out by the nominated waste contractor.
5. A 'No Smoking' Policy inside all boarding rooms and the communal room will be applied on the premises.
6. All boarding rooms accommodate laundry and drying facilities. Residents will be responsible for the cleaning of personal items and clothing. Regular cleaning of linen will be carried out for each boarding room as considered reasonable and appropriate.

**Security:**

1. Residents must make sure their guests are aware of, and abide by the House Rules.
2. The Operational Manager must not enter residents' rooms other than as allowed under the Act.
3. Security cameras are permitted to be installed in the common areas.
4. All residents are to be provided with a security key / swipe card (or similar) upon arrival. The security key / swipe card must provide 24 hours access into the premises, to each respective level and entry to individual residents' rooms.

**Door locks and keys:**

1. Residents must not tamper with (or change) any locks on the premises, or make copies of or obtain additional security keys / swipe cards without the permission of the Operational Manager.

**Room Capacities:**

1. There is to be no more than one (1) resident residing within the single adaptable room and two (2) residents residing at any one time in any nominated double room.

**Building Services and Fire Safety Procedures:**

1. In the instance of an emergency evacuation, details of evacuation procedures will be provided in a clearly identifiable location in each boarding room. Residents shall be directed to emergency exits and the yet to be confirmed emergency assembly point.
2. Smoke Detectors are to be installed in every boarding room, communal room and all internal common areas.
3. In the event of a fire, the fire alarm will sound. A yet to be confirmed assembly point will be designated for residents.
4. An emergency evacuation plan prepared by a competent person shall be prepared and that emergency evacuation plan shall be displayed in each boarding room and in the common area.
5. All material installed in the fit out and furnishing of the rooms shall be of a type that resists the spread of fire and limits the generation of smoke.
6. An Annual Fire Safety Statement is to be submitted to Council and the Commissioner of the NSW Fire Brigade. A copy of the Annual Fire Safety Statement is to be displayed in the common area. The premises shall at all times comply with the fire safety provisions of the *NSW Environmental Planning and Assessment Regulation 2000*.
7. A list of emergency telephone numbers (plumbers, electricians, police, fire, ambulance) is to be provided within each boarding room.
8. Annual certification of fire safety equipment is to be carried out by a suitably qualified person/persons employed by the owner/operator of the boarding house.
- 9 All doors to the boarding rooms and the external doors to the boarding house shall be lockable. The doors to the boarding house shall be self - closing and will be locked from the outside but will be openable from within the boarding house without the need for a key. All doors to the boarding rooms shall be self-closing and shall be lockable but shall be openable from the inside without the need for a key.

**Review of Plan of Management, Noise Management Procedures or House Rules:**

If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this Plan for the better management of the premises, subsequent to that modification, Bayside Council shall be provided with a copy of the modified Plan.

## 5. MONITORING/COMPLAINTS

To ensure that all complaints are appropriately recorded and acted upon, a Complaint Monitoring System has been established as part of this Plan.

A copy of the Operational Plan of Management is to be made available for inspection by any person who makes a request to the Operational Manager to view the document.

In the case where a lodger/resident or land owner/occupier adjacent to the premises believes that they have cause to make a complaint, it may be made to the Operational Manager by one of the following means:

- Telephone
- Mobile Phone
- Email
- Facsimile
- Mail

The Operational Manager is to take all necessary and timely action to rectify the matter and is to notify the complainant of the action taken to rectify the problem.

To assist in the investigation of the potential problem, it is suggested the following information be provided to the owner/operator of the operation:

- Exact nature and details of the incident;
- Date and time of the incident; and
- The full name and address of the complainant.

The details are to be recorded once a complaint has been actioned and a record kept on site and made available on request to demonstrate compliance in what is labelled as the "Complaints Register".

A pro forma providing an example of the information required to be kept is provided at **Attachment C**.

The Complaints Register is to be tabled at any internal Management meetings, or when any further action is required to be initiated and/or responsibilities allocated.

In receiving a complaint from a neighbouring resident/land owner, the Operational Manager is to adhere to the following guidelines:

1. When taking a telephone call or a personal visit, ensure that you remain polite and the visitor or enquirer is given every reasonable assistance.
2. If the comment/complaint is about a problem that is actionable immediately, appropriate action is to be taken to alleviate the problem immediately and the details are given to Management.
3. If the problem is not actionable immediately, the resident/landowner is to be contacted and informed of the progress and anticipated timeframe for action of their complaint.
4. Once all actions are completed, the matter is recorded and filed in a central Register the held by the Operational Manager with a duplicate copy provided to the owner/operator of the premises.



5. If a message is received on a mobile phone, the resident/landowner's call is to be returned as soon as possible and the recording and follow up procedures as outlined above are to be followed.

6. The NSW Police are to be made aware of any complaints of a criminal nature.

## **6. HOUSE RULES**

The following house rules apply. The rules consist of behavioural requirements as well as operational issues that need to be managed on site at all times. They are in no particular order of importance.

The House Rules may be amended by the owner/operator and/or the Operational Manager in order to resolve issues that arise due to operational matters that come from complaints, including general management changes required as part of the everyday running of the premises.

The House Rules are to be displayed in each room and in all common areas and will form part of the tenant's agreement that are signed by all occupants.

The House Rules are as follows:

### **PART 1 - Resident and guest behaviour:**

1. Only the residents who have signed an Occupancy Agreement shall occupy a boarding house room.

2. All visitors of residents are to leave the premises by 10pm nightly.

3. Residents and their guests must not interfere with the reasonable peace, comfort and privacy of other residents. From 10pm daily, expectations of reduced noise levels are heightened. Accordingly, music, television and the like is to be lowered in volume so that it is not audible from outside the room. If a neighbouring resident/s complains that the noise is audible from their rooms, the noise generating activity is to be ceased.

4. The possession of and/or use of illegal drugs on the premises is prohibited. The possession and/or usage of illegal drugs will lead to eviction and police reporting and prosecution.

5. Residents must act in a responsible and considerate manner at all time. The consumption of alcohol in common areas is not permitted. Drunken behaviour may result in eviction.

6. The premises is Smoke-free and as such, smoking is not permitted inside the rooms or in any communal recreation or common areas and any open space of the building.

7. No parties are permitted on the premises.

8. All activities within the building including music are required to operate in accord with the guidelines set within the Protection of the Environment Operations Act 1997

9. Anti-social behaviour is unacceptable. This includes threatening or demeaning any person within the building. Residents may not make comments to one another that are of a derogatory nature, on the basis of the other person's appearance, race, gender, sexual orientation, religion or ethnicity. Damage to any property, graffiti, theft of any property, physical or sexual harassment, or loud and rowdy noise can result in eviction and police intervention.

10. Residents are not permitted to walk around the premises in any state of undress and are to be respectful of other cultures.

11. Residents are to contain their general rubbish within a liner within the bins provided. When full or as required, the liners are to be tied and disposed of in the communal waste receptacles. Residents are to contain recycling, including recyclable containers and clean paper, within the communal recycling receptacles provided. For reasons of hygiene, containers should be lightly washed before disposal, as no liners may be used.

#### **PART 2 - Maintenance of rooms:**

1. Residents must maintain their rooms in a way that does not interfere with the reasonable comfort of other residents, and in a way that does not create a fire or health hazard. Residents must not intentionally or recklessly damage, destroy or remove any part of their rooms or facility/fixture in their rooms.

2. Residents are to keep their rooms' clean and tidy at all times. Kitchenettes and bathrooms are to be kept in a hygienic condition and floors are to be vacuumed regularly (a minimum of once per fortnight) to avoid an excessive accumulation of dust.

3. Burning of candles/incense is not permitted.

4. In the event any resident or their visitors causes wilful damage to any area, texture, fitting or furniture in the premises, the cost of repair or replacement will be met by that person, including any damage created in common areas.

5. Residents are responsible for the security of their money and other valuables all times and the Operational Manager and/or Owner/Operator will not be responsible for any theft of personal property, or for any loss suffered by any resident or visitor.

#### **PART 3 - Common Areas:**

1. Common areas are to be available to be shared by all residents and their guests at all times. A maximum of eight (8) person/s at any one time are permitted within the outdoor common area. Residents are to ensure that they and their guests leave common areas neat, clean and tidy after using them.

2. Residents are not to store personal items/goods in common areas of the site and must ensure that common areas are maintained in a cleanly state.

3. The use of the outdoor communal area is restricted to between 8am and 10pm daily.

4. Access to the indoor common room is to be restricted from 10pm to 7am to reduce the potential for noise impact to other guests.

5. Any damages or required repairs to common areas must be promptly reported to the Operational Manager.

#### **PART 4 - Animals:**

1. No animals or pets are allowed anywhere within the premises.

## Attachment A Standard Occupancy Agreement

<b>STANDARD OCCUPANCY AGREEMENT</b>			
<i>For general boarding houses under the Boarding Houses Act 2012</i>			
<b>Between</b>			
<b>Proprietor</b>			
<b>Resident</b>			
<b>For</b>			
<b>Room</b>	<b>Address</b>		
The resident's room is:    unfurnished <input type="checkbox"/> furnished <input type="checkbox"/> [if furnished, an inventory can be attached]			
Other areas of the premises which are available for use by the resident Kitchen/s <input type="checkbox"/> Bathroom/s <input type="checkbox"/> Common room <input type="checkbox"/> Laundry <input type="checkbox"/>			
Other _____			
<b>Term of Contract</b>			
<b>Commencement Date</b>	<b>Term of agreement (if any)</b>	<b>Occupancy Fee</b>	<b>To be paid</b>
		\$ _____ per week/month/year	
<b>Proprietor's Contact Details</b>			
<b>AGREEMENT TERMS</b>			
<b>1. Condition of the Premises (refer to occupancy principle 1 – see Annexure 1)</b> The proprietor agrees to provide and maintain the premises so that they are in a reasonable state of repair, are reasonably clean and reasonably secure.			
<b>2. House Rules (refer to occupancy principle 2)</b> The resident agrees to comply with the House Rules of the boarding house, which are listed on the attached "Statement of House Rules." House rules may not be inconsistent with the Occupancy Principles stated in Annexure 1, and are not enforceable if they are inconsistent.			
<b>3. No Penalties (refer to occupancy principle 3)</b> The resident is not required to pay a penalty for a breach of this Occupancy Agreement or the House Rules.			
<b>4. Quiet Enjoyment (refer to occupancy principle 4)</b> The proprietor agrees to take all reasonable steps to enable the resident's quiet enjoyment of the premises.			
<b>5. Inspections and Access (refer to occupancy principle 5)</b> The proprietor may inspect boarding house common areas at any reasonable time. Repairs, cleaning and maintenance of common areas can be carried out at reasonable times. The proprietor may only enter the resident's room, at a reasonable time, with reasonable notice and on reasonable grounds. Agreed access and notice periods are set out below. If the third column is left blank, the suggested notice periods set out in the second column will apply.			

Reason For Access	Suggested Notice Period <i>examples of reasonable notice periods – this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement <i>(if different)</i>
In an emergency, or to carry out emergency repairs or inspections	Immediate access	Immediate access*
To clean the premises	24 hours	
To carry out repairs	24 hours	
To show the room to a prospective resident	24 hours	
To carry out inspections	48 hours	

\* Immediate access is likely to be necessary in this situation for safety reasons.

#### 6. Notice of Fee Increase (refer to occupancy principle 6)

The resident is entitled to 4 weeks written notice of any increase in the occupancy fee.

#### 7. Utility Charges (refer to occupancy principle 7)

The proprietor may charge an additional amount for utilities if the resident is made aware of this on signing this agreement. Details of the charge, including how the charge will be calculated, are included in Annexure 2, and Annexure 2 must be signed and dated by the resident and the proprietor.

Charges for utilities must be based on the cost to the proprietor of providing the utility and a reasonable measure or estimate of the resident's use of that utility.

#### 8. Security Deposit (refer to occupancy principle 8)

A security deposit of \$\_\_\_\_\_ is payable to the proprietor, this amount being no more than the sum of two (2) weeks occupancy fee. The security deposit is payable on the day the agreement is signed or on the following day. The security deposit will be repaid to the resident within 14 after the end of this agreement, less any amount necessary to cover:

- the reasonable cost of repairs to the boarding house or goods that come with it, as a result of damage (other than fair wear or tear) caused by the resident and their guest;
- any occupancy fee or other charges owing and payable under this Agreement or the Boarding Houses Act 2012;
- the reasonable cost of cleaning any part of the premises occupied by the resident and not left reasonably clean by the resident, having regard to the condition of the premises at the commencement of the occupancy; and
- the reasonable cost of replacing locks or other security devices altered, removed or added by the resident without the consent of the proprietor.

#### 9. Dispute Resolution (refer to occupancy principle 11)

The proprietor and the resident agree to use their best endeavours to informally resolve any disputes between them that arise from this agreement. Either party may apply to the Consumer Trader and Tenancy Tribunal to resolve a dispute about the Occupancy Principles (see Annexure 1).

#### 10. Written Receipts (refer to occupancy principle 12)

The proprietor agrees to provide the resident with a written receipt for all money paid to the proprietor, including money paid for occupancy fees, a security deposit and for any utility charges. The receipt should be provided within a reasonable time period after the payment is received.

#### 11. Termination (refer to occupancy principles 9 and 10)

The resident is entitled to know why and how this Occupancy Agreement may be terminated, and how much notice will be given before termination. The resident may not be evicted without reasonable written notice from the proprietor.

This Agreement can also be terminated by the resident by written notice given to the proprietor. Agreed reasons for termination and notice periods are set out below. If the third column is left blank, the suggested notice periods set out in the second column will apply.

Reason for Termination by Proprietor	Suggested Notice Period <i>examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement <i>(if different)</i>
Violence or threats of violence towards anyone living, working or visiting the premises	Immediate	Immediate*
Wilfully causing damage to the premises, or using the premises for an illegal purpose	1 day	
Continued and serious breach of this Agreement or the house rules, following a written warning	3 days	
Continued minor breach of this Agreement or the house rules, following a written warning	1 week	
Non-payment of the occupation fee	2 weeks	
Any other reason, including vacant possession required and "no grounds" termination	4 weeks	

\*Immediate termination is likely to be necessary in this situation in order to protect other residents and employees.

Reason for Termination by Resident	Suggested Notice Period <i>examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement <i>(if different)</i>
Serious breach of Agreement by proprietor	1 day	
Minor breach of agreement by proprietor	1 week	
No grounds/Any other reason	1 week	

#### 12. Use of the Premises

The resident agrees not to wilfully or negligently cause damage to the premises or to use the premises for an illegal purpose and to respect other residents' rights to quiet enjoyment of the premises.

NOTE: Any term of this Agreement is not enforceable if it is inconsistent with the Occupancy Principles set out in Schedule 1 of the *Boarding Houses Act 2012*. The Occupancy Principles are attached at Annexure 1.

Signed: \_\_\_\_\_

*(Proprietor)*

Signed: \_\_\_\_\_

*(Resident)*

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**OPTIONAL INFORMATION**  
*The resident may provide contact details to be used in an emergency*

PERSONAL PHONE No/s: \_\_\_\_\_

**EMERGENCY CONTACT PERSON**

NAME: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_

PHONE and/or ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Annexure 1****Occupancy principles**

NB: These principles are contained in Schedule 1 of the *Boarding Houses Act 2012* and apply to residents of NSW boarding houses which are covered by this Act.

**1. State of premises**

A resident is entitled to live in premises that are:

- (a) reasonably clean, and
- (b) in a reasonable state of repair, and
- (c) reasonably secure.

**2. Rules of registrable boarding house**

A resident is entitled to know the rules of the registrable boarding house before moving into the boarding house.

**3. Penalties for breaches of agreement or house rules prohibited**

A resident may not be required to pay a penalty for a breach of the occupancy agreement or the rules of the registrable boarding house.

**4. Quiet enjoyment of premises**

A resident is entitled to quiet enjoyment of the premises.

**5. Inspections and repairs**

A proprietor is entitled to enter the premises at a reasonable time on reasonable grounds to carry out inspections or repairs and for other reasonable purposes.

**6. Notice of increase of occupancy fee**

A resident is entitled to 4 weeks written notice before the proprietor increases the occupancy fee.

**7. Utility charges**

(1) The proprietor is entitled to charge a resident an additional amount for the use of a utility if:

- (a) the resident has been notified before or at the time of entering the occupancy agreement of the use of utilities in respect of which the resident will be charged, and
- (b) the amount charged is based on the cost to the proprietor of providing the utility and a reasonable measure or estimate of the resident's use of that utility.

(2) A utility for the purposes of this clause is each of the following:

- (a) the supply of electricity,
- (b) the supply of gas,
- (c) the supply of oil,
- (d) the supply of water,
- (e) the supply of any other service prescribed by the regulations.

**8. Payment of security deposits**

(1) The proprietor may require and receive a security deposit from the resident or the resident's authorised representative only if:

- (a) the amount of the deposit does not exceed 2 weeks of occupancy fee under the occupancy agreement, and
- (b) the amount is payable on or after the day on which the resident (or the resident's authorised representative) enters the agreement.

(2) Within 14 days after the end of the occupancy agreement, the proprietor must repay to the resident (or the resident's authorised representative) the amount of the security deposit less the amount necessary to cover

the following:

- (a) the reasonable cost of repairs to, or the restoration of, the registrable boarding house or goods within the premises of the boarding house, as a result of damage (other than fair wear and tear) caused by the resident or an invitee of the resident,
- (b) any occupation fees or other charges owing and payable under the occupancy agreement or this Act,
- (c) the reasonable cost of cleaning any part of the premises occupied by the resident not left reasonably clean by the resident, having regard to the condition of that part of the premises at the commencement of the occupancy,
- (d) the reasonable cost of replacing locks or other security devices altered, removed or added by the resident without the consent of the proprietor,
- (e) any other amounts prescribed by the regulations.

(3) The proprietor may retain the whole of the security deposit after the end of the occupancy agreement if the costs, fees or charges referred to in subclause (2) (a)–(e) are equal to, or exceed, the amount of the security deposit.

(4) In this clause:

security deposit means an amount of money (however described) paid or payable by the resident of a registrable boarding house or another person as security against:

- (a) any failure by the resident to comply with the terms of an occupancy agreement, or
- (b) any damage to the boarding house caused by the resident or an invitee of the resident, or
- (c) any other matter or thing prescribed by the regulations.

**9. Information about occupancy termination**

A resident is entitled to know why and how the occupancy may be terminated, including how much notice will be given before eviction.

**10. Notice of eviction**

(1) A resident must not be evicted without reasonable written notice.

(2) In determining what is reasonable notice, the proprietor may take into account the safety of other residents, the proprietor and the manager of the registrable boarding house.

(3) Subclause (2) does not limit the circumstances that are relevant to the determination of what is reasonable notice.

**11. Use of alternative dispute resolution**

A proprietor and resident should try to resolve disputes using reasonable dispute resolution processes.

**12. Provision of written receipts**

A resident must be given a written receipt for any money paid to the proprietor or a person on behalf of the proprietor.

### SCHEDULE OF ADDITIONAL CHARGES

ITEM	AMOUNT	WHEN DUE TO BE PAID	HOW CALCULATED

**NOTE:**

- This schedule is only for use if there are fees or charges in addition to the occupancy fee.
- This schedule forms part of the Occupancy Agreement when signed and dated by both parties.
- A receipt is to be provided to the resident for all payments of additional fees or charges made by the resident, within a reasonable time after the payment is received.
- Charges for utilities must comply with Occupancy Principle 7.

Signed: \_\_\_\_\_  
(Proprietor)

Signed: \_\_\_\_\_  
(Resident)

Date: \_\_\_\_\_

Date: \_\_\_\_\_



[illegible]

**Attachment C: Complaints Register**[illegible]



## Bayside Local Planning Panel

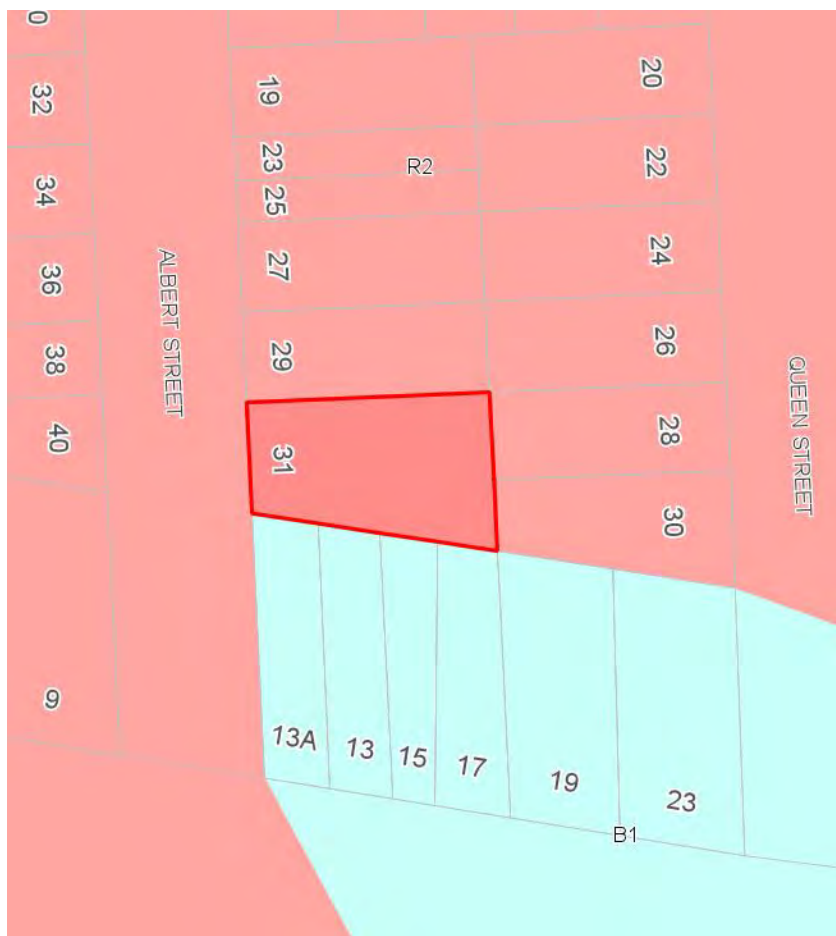
8/10/2019

Item No	6.5
Application Type	Development Application
Application No	DA-18/1161
Lodgement Date	31/08/2018
Proposal	<b>31 Albert Street, Botany - Demolition of existing structures, Torrens Title subdivision into two lots and construction of two (2) x 2 storey semi-detached dwellings and one swimming pool</b>
Ward	Ward 1
Owner	RK Investment Holdings Australia Pty Ltd
Applicant	David DeChiara
Property	31 Albert Street, Botany
No. of Submissions	Nil
Cost of Development	\$499,323
Report by	Michael McCabe, Director City Futures

## Officer Recommendation

- 1 That the Bayside Local Planning Panel, exercising the function of the Council as the consent authority, pursuant to Section 4.16 of the EP&A Act 1979 approves a variation to the floor space ratio prescribed by cl4.4 Floor space ratio of the Botany Bay LEP 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
- 2 That development application DA-2018/1161 for the demolition of existing structures, Torrens Title subdivision into two lots and the construction of two semi-detached dwellings and one swimming pool at No. 31 Albert Street, Botany, be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

## Location Plan



## Attachments

- 1 Supplementary Planning Assessment Report [↓](#)
- 2 Original Assessment Report [↓](#)
- 3 Facade montage [↓](#)
- 4 Site plan [↓](#)
- 5 Front and rear elevations [↓](#)
- 6 Side elevations [↓](#)
- 7 Subdivision plan [↓](#)
- 8 Shadow diagrams [↓](#)
- 9 Landscape plan [↓](#)
- 10 Arborist Report [↓](#)
- 11 Clause 4.6 Variation Request [↓](#)

## BAYSIDE COUNCIL

### Supplementary Planning Assessment Report

#### Application Details

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<b>Application Number:</b>	DA-2018/1161
<b>Date of Receipt:</b>	31 August 2018
<b>Property:</b>	31 Albert Street, Botany Lot 20 DP 60879
<b>Owner:</b>	RK Investment Holdings Australia Pty Ltd
<b>Applicant:</b>	David DeChiara
<b>Proposal:</b>	Demolition of existing structures, Torren title subdivision into two (2) lots, and construction of two x 2 storey semi-detached dwellings and one swimming pool.
<b>Recommendation:</b>	Approval subject to conditions
<b>Value:</b>	\$499,323.00
<b>Submissions:</b>	Nil
<b>Author:</b>	Petra Blumkaitis - Senior Development Assessment Officer
<b>Date of Report:</b>	25 September 2019

#### Key Issues

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The development application the subject of this report was referred to the Bayside Planning Panel (BPP) on 28 May 2019 with a recommendation for approval.

At the meeting the BPP resolved:

- 1. The Bayside Planning Panel has decided that this item be deferred to allow the applicant the opportunity to amend the design of the proposed development considering the following matters:*

*The development, as designed, presents a façade to the street which is inconsistent with the established streetscape in that the ground floor is dominated by two double garages, the building setback from the street is less than surrounding properties and the upper level balconies present as enclosed rooms.*

In response to the above, the applicant submitted amended documentation on 30 July 2019 which includes: Amended architectural plans making the required design changes, an updated clause 4.6 variation and an updated BASIX Certificate. The submitted documentation is considered to adequately address the concerns raised by the BPP.

#### Recommendation

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

- 1 That the Bayside Local Planning Panel, exercising the function of the Council as the consent authority approves a variation to the floor space ratio prescribed by cl4.4 Floor space ratio of the Botany Bay LEP 2013, as it is satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by cl4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and the objectives for development within the zone.
- 2 That development application DA-2018/1161 for the demolition of existing structures, Torrens Title subdivision into two lots and the construction of two semi-detached dwellings and swimming pool at No. 31 Albert Street, Botany, be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

## Background

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### History

The history of the subject development application is summarised as follows:

- **31 August 2018** – DA2018/1161 was submitted to Council,
- **28 May 2019** – BPP considered and deferred application,
- **30 July 2019** – amended plans, SEE and CI 4.6 variation request submitted.

### Proposed amendments made to the development

The changes made in the amended architectural plans submitted to Council are summarised as follows:

#### Ground Floor Plan

- Reduce double garages to single garages,
- Re-arrange ground floor layout of rooms, which remain as laundry, W/C, kitchen, pantry, living and dining rooms, and
- Relocation of staircase.

#### First Floor Plan

- Re-arrange first floor layout of rooms, which remain as four bedrooms, bathroom, and ensuite,
- Relocation of staircase,
- Deletion of rumpus rooms, and
- Addition of a study nook adjacent to the stairs in the south-side semi only.

#### External

- Driveway relocation and addition of paths to front doors.
- Retention of existing Jacaranda tree.

### Proposed development (as amended)

The proposal as modified seeks consent for the demolition of existing structures and the construction of two(2) x two storey semi-detached dwellings, Torrens Title subdivision into two lots and construction of swimming pool in Lot A.

The modified proposal proposes an increase to the floor space ratio (FSR) from 0.59:1 to 0.62:1, resulting in a non-compliance with the FSR control of 23.6%. The applicant has submitted a CI 4.6 justification. The submitted CI4.6 has been assessed and is supported in this instance.

#### **Assessment of the Panel's deferment**

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1. *The Bayside Planning Panel has decided that this item be deferred to allow the applicant the opportunity to amend the design of the proposed development considering the following matters:*

*The development, as designed, presents a façade to the street which is inconsistent with the established streetscape in that the ground floor is dominated by two double garages, the building setback from the street is less than surrounding properties and the upper level balconies present as enclosed rooms.*

#### **Deferral Reason**

**The Panel considers that an appropriate design for this site would address the following elements:**

- *Reconsideration of garages- in particular, single garage doors would be more in keeping with the established streetscape, would reduce the amount of hard paving within the front setback and would present opportunities for greater landscaping of the front gardens.*
- *Reconsideration of the front facing balconies to reduce their visual dominance and bulky appearance.*
- *Provide paved walkways from the street frontage to the front porches as required by the Development Control Plan.*

The applicant has submitted amended plans reducing the garages to a single garage for each semi-detached dwelling, reducing the bulk and visual dominance of the front facing balconies, and changing the location of the driveways and access paths in the front setback to the dwellings.

The applicant has provided the following justification for the proposed amendments:

*“Following comments from the Panel and discussions with Council officers, the proposed development has been redesigned to better reflect the local streetscape. In particular, the façade of the proposed development has been altered in the following ways:*

- *The double garages have been deleted and have been replaced with single garage to reduce the dominance of garage doors to the façade of the dwellings*
- *The single garages are now accessed via an existing shared vehicular crossing from Albert Street, which connects to individual concrete driveways to each*



*dwelling. It is proposed that the existing vehicular crossing on Albert Street is removed and the footway reinstated to Council specification via conditions of consent.*

- *The front balconies have been 'opened up' to reduce their overall bulk and dominance of the façade, compatible with other existing and approved open balconies within the streetscape.*
- *Paved pedestrian walkways have been provided to each dwelling entrance*
- *The façade of the building now incorporates a staggered form to better respond to the site characteristics, including the splayed shape of the site and the existing front setback pattern along Albert Street. The proposal now appears as two distinct dwellings.*

*It is considered that the revised proposal presents a well-designed development that responds well to the site constraints and characteristics and is compatible with the streetscape in terms of scale, setbacks, form, design and materiality. The staggered form provides a transition in setbacks, reflecting the staggered facades of dwellings along Albert Street.*

*Furthermore, it should be noted that the minimum front setback proposed is 4.5m (to the first floor overhang) which is consistent with the front setback pattern along the western side of Albert Street... the revised proposal represents a high quality design that is consistent with the relevant controls and objectives in Part 4A of Botany DCP 2013. In particular, it represents a development that is based on good urban design principles, that is responsive to the character and context of the locality, and ensures that the impact on the amenity of surrounding properties and the streetscape is acceptable."*

Comment: The proposed changes to the floor plans and elevations are supported.

#### **Deferral Reason**

***The amount of landscaping and deep soil zone is not entirely clear on the submitted plans. This is to be clarified by the applicant.***

The applicant submitted amended plans, including a landscape plan which makes clear the landscape and deep soil areas on site, through the use of colour and labelling.

The applicant provided the following comments:

*"The accompanying architectural drawings include area calculations for deep soil landscaped areas (drawing no. 1000\_10/19\_F). The calculations clearly identify all of the areas on the site that are proposed for deep soil landscaping, including the areas within the front setback that will be for deep soil landscaping.*

*The above drawing and accompanying area calculations clearly demonstrate that the proposed development will incorporate compliant area of deep soil landscaping. In total, 257.04m<sup>2</sup> of 40.4% of the site and 51.54m<sup>2</sup> or 51% of the front landscape area will comprise of deep soil landscaping. This is compliant with the numerical controls in Part 4A of Botany DCP 2013 (40% and 50% respectively).*

Comment: The amended landscape plan has been reviewed by Council's Landscape Architect and is considered satisfactory.

An arborist report was prepared for the Jacaranda tree which is growing on the boundary between 31 Albert Street and No. 17 Swinbourne Street. The current fence on the site has been erected somewhat off the boundary, to the north, resulting in the tree appearing to be located wholly within No. 17 Swinbourne Street. A survey of the sites show the tree straddles the boundary between the sites.

The tree is an integral part of the design and amenity for the proposed redevelopment of Nos 13A – 17 Swinbourne Street, and must be retained.

Urban Arbor Pty Ltd was employed by the applicant to prepare a report which was to determine whether the proposed semi-detached dwellings for No. 31 Albert Street could be built as proposed, without harm to the tree.

The Arboricultural Root Investigation Report, dated 23 September 2019, submitted to Council concludes the semi-detached dwellings can be constructed without damage to the tree if appropriate methods are used. The pruning of one limb, which accounts to less than 5% of the overall live foliage area of the tree, would be required.

Council's Tree Management Officer has reviewed the Report and advised concurrence with the report and that the tree can be retained in a viable condition if a Tree Sensitive Construction Method is adopted. Suitable consent conditions have been included to require an appropriate construction method, and retention and protection of the tree.

#### **Deferral Reason**

***The Panel considers that reconfiguration of the provision of parking could be achieved either by tandem garages or alternative options.***

The applicant submitted amended plans which replace the double garages with single garages. The requirement for two car parking spaces for each dwelling is met by driveway parking.

The applicant provided the following justification:

*"As set out earlier in this letter, the originally proposed double garages have been deleted and have been replaced with single garages to each dwelling. This enables each dwelling to accommodate one (1) car parking space within each of the proposed garages. A further uncovered car parking space is provided on the driveway to the garages. Parking on driveway within the front setback area is a common feature of sites along Albert Street and therefore, this parking arrangement will be compatible with the streetscape and will not adversely impacts the visual amenity of the locality.*

*Each of the driveway is a least 5.5m long and therefore capable of accommodating one (1) car. As such, the proposed development will be able to accommodate a total of four (4) off-street parking spaces (two for each dwelling), which is compliant with Council's DCP parking rates for the proposed development."*

Comment: The proposed single garages and driveway parking is supported. The single garages are wider than standard at 4.4m and 3.8m, which permits storage, possibly for bicycles, alongside a vehicle and thereby contributing to encouraging active transport.

#### **Statutory Considerations**

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***Environmental Planning and Assessment Act, 1979***

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

The deletion of the double garages and the re-design of the floor plans has resulted in an increase in gross floor area (GFA) and subsequently a change in floor space ratio (FSR). The amended proposal is therefore assessed in accordance with the Act.

**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**

The application is accompanied by BASIX Certificate Number 948096M\_02 dated Thursday 15 August 2019, prepared by Sustainability-Z Pty Ltd. The Certificate demonstrates the proposed development satisfies the relevant water; thermal comfort and energy commitments as required by SEPP (BASIX).

The provisions of the SEPP are satisfied in this instance.

**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 subject site does not contain trees, however immediately adjacent to the southern boundary is a tree that is subject to approval by Council under clause 4.1.7 of Rockdale Development Control Plan 2011, conferred by:

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

The existing Jacaranda tree located on the adjoining site at 15 Swinbourne Street is in a viable condition and is to be retained and protected during construction. Council's Tree Management Officer has recommended appropriate conditions that have been imposed in the consent, regarding the retention of existing trees and planting new trees.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017.

**Botany Bay Local Environmental Plan 2013**

The application is considered under the remit of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance	Comment
2.1 Landuse Zone		The site is zoned R2 – Low Density Residential under the BBLEP 2013.

Principal Provisions of BBLEP 2013	Compliance	Comment
<b>2.2</b> Zoning of land. Is the proposed use/works permitted with development consent?	Yes	The proposed use of semi-detached dwellings is permissible with Council's consent under the BBLEP 2013.
<b>2.3</b> Zone objectives. Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the following objective in the BBLEP 2013: <ul style="list-style-type: none"> <li><i>To provide for the housing needs of the community within a low density residential environment.</i></li> </ul>
<b>4.3</b> Floor space ratio 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.	No	The site is in the 'N' area on the BBLEP 2013 FSR map, within an identified Area 3.  Clause 4.4A(3)(d) permits an overall FSR of 0.5:1 for the subject site. The proposed modification seeks an FSR of 0.62:1 for the semis, which is a variation of 23.6% from the development standard. The applicant has submitted a Section 4.6 variation request to support the non-compliance. This addressed later in this report.  A detached dwelling house on the same proposed subdivided lots of between 301m <sup>2</sup> and 350m <sup>2</sup> would be granted a FSR of 0.7:1  The FSR is calculated in accordance with Clauses 4.4A and 4.5 of BBLEP 2013.

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

#### **Clause 4.6 Variation to Floor space ratio (FSR)**

The proposal as amended results in an increase to the FSR. The site has a maximum floor space ratio (FSR) of 0.5:1 on the BBLEP 2013 FSR map. The proposed semi-detached dwellings will result in a FSR of 0.62:1, which is a variation of 23.6%.

The applicant has provided a written Clause 4.6 variation request, providing justification for the proposal's variation to the 0.5:1 FSR requirement, stating that it is unnecessary and unreasonable in the particular circumstances.

The applicant makes the following comments on the amended design:

*"The original proposal comprised of 380.92m<sup>2</sup> of GFA, equating to an FSR of 0.6:1 (sic). Due to the removal of the double garages and reconfiguration of the dwellings, the GFA of the revised proposal has been increased at ground level by 11.65m<sup>2</sup> to a total proposed GFA of 392.57m<sup>2</sup>, equating to an FSR of 0.62:1.*

*The allowable FSR for semi-detached dwellings on the subject site under Clause 4.4 of Botany LEP 2012 is 0.5:1 or 317.5m<sup>2</sup>. Therefore, there is a 23.6% exceedance of the FSR development standard proposed. This has been justified through a Clause 4.6 variation request prepared by David De Chiara that accompanies this letter.*

*It should be noted that, despite the numerical variation in FSR over the original proposal that was presented to BLPP, the overall bulk and scale of the building has not significantly changed. In fact, the revised proposal represents a visual improvement on the original proposed despite the increased FSR. The revised proposal will be compatible with the bulk and scale anticipated by the relevant planning controls and will not look visually jarring or out of character with adjoining properties despite the increased GFA."*

#### **4.6 Variation request assessment**

##### **Clause 4.6(3)**

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

- (a) That the compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant has argued the FSR standard is unreasonable or unnecessary in the following:

- *"...this requirement is unfair because a single dwelling is able to build on a 0.7:1 and this bulk and scale would be much greater than a 0.5:1 for a semidetached dwelling."*
- *"If we were to subdivide the block, each block would be able to build two houses of 0.7:1, this shows that a greater bulk and scale development can occur, showing that our variation is only minor."*
- *"The proposed semidetached dwelling is now currently 0.62:1 which sits between 0.5:1 and 0.7:1 and in our opinion still meets design objectives for this area, but also has been designed to have open plan living, good size rooms for the owners, we believe this a small variation to consider as there are a number of development in the area which go to a 1:1 FSR."*

##### **Comments:**

The proposed development has been assessed as resulting in acceptable impacts to neighbouring properties in regard to overshadowing and loss of privacy. The bulk and size of the proposed semi-detached dwellings is consistent with the future character of Botany and the scale is also consistent with the emerging development character of subdivided lots. A strict application of the FSR development standard in this case is assessed to be unreasonable and unnecessary.

- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

The written S4.6 variation request submitted to support the FSR non-compliance includes the following, which addresses the planning grounds on which the development standard may be varied:

*"The proposed use is aligned with Council's, and the wider community's, objectives and demands for creating appropriately located accommodation. The development will achieve its objective of providing additional accommodation opportunities for the area. The proposed development satisfies the guidelines of the Act through providing an efficient land use, and makes orderly and efficient usage of existing infrastructure within the locality. Moreover, there are no significant adverse impacts on the 'public goods' such as air quality, noise, views and amenity."*

Comments:

There are no physical factors on the site which may justify a variation from the development standard, such as a steep slope, contamination, flood affectation, critical habitat, heritage items or the like. There are planning grounds on which the development standard may be varied; these are the compliances of the proposal with all other relevant development controls and that the proposal is otherwise assessed as resulting in a satisfactory development and use of the land which is consistent with the locality and has minimal impacts on the site and neighbouring properties. Further, the site is adjacent to a higher density zone and the additional bulk is commensurate to the immediate context.

#### **Clause 4.6(4)**

Clause 4.6(4) states consent may not be granted for development that contravenes a development standard unless:

(a) The consent authority is satisfied that:

- (i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

Comments:

Council is satisfied that the written request has adequately addressed the matters required to be demonstrated in subclause (3).

- (ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment: The following matters pursuant to Clause 4.6 are therefore also considered:-

- Objectives of the Floor space ratio standard
- Objectives of the R2 Low density residential zone
- Public interest
- Objectives of Botany Bay LEP 2013 Clause 4.6

#### **Objectives of Clause 4.4 Floor space ratio**

The objectives of Clause 4.4 FSR of the Botany Bay Local Environmental Plan 2013 are:

- To establish standards for the maximum development density and intensity of land use,
- To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,
- To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,

- To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,
- To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
- 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 submitted variation request notes the following:

*"The bulk and scale of the building, whilst more extensive than that of the immediately adjoining dwellings, is consistent with that of other semi-detached developments in the LGA and provides a characteristic form and streetscape.*

*The development does not detract from the character of the local area. In order for the development to be compatible it does not necessarily need to be the same.*

*The development does not impact upon the visual relationship between adjoining buildings and has been designed to limit the height of the building to retain a consistent roof line along Albert Street.*

*The proposal incorporates a modern and contemporary design which will add innovation and visual interest to the streetscape, similar to other recent semi-detached developments in the immediate area.*

*The design of the proposal including its setbacks, limited roof form, and materials has had regard to the potential adverse impacts on adjoining neighbours and has sought to mitigate impacts of overshadowing and privacy.*

*There are no additional adverse impacts which stem directly from the FSR departure.*

*It is considered that an appropriate correlation between the size of the site and the size of the proposed development has been achieved."*

Comments:

The proposal is consistent with the objectives of the FSR development standard because it is compatible with the bulk and scale of the character of the area, does not adversely affect the streetscape and results in minimal adverse impacts on adjoining properties.

#### **Objectives of the R2 Low density residential zone**

The objectives of the R2 Low density residential zone are:

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

The submitted variation request argues the proposal is consistent with the objectives of the R2 zone in:

*"it is considered that the development satisfies the objectives of the R2 zone. The development provides additional housing in the form of two separately titled residential dwellings to accommodate the future housing needs of the community within a low density environment. The scale, bulk and height of the development does not detract from the existing one-two storey character of dwellings in the area and has done everything to limit the extent of potential environmental impacts to adjoining properties.*

Comments:

The proposed development is consistent with the objectives of the R2 Low density residential zone because it provides additional housing to serve the housing needs of the community and is consistent with the low density scale of development in Albert Street.

The proposal may encourage walking and cycling as it is located within a reasonable proximity to employment, recreation and retail opportunities.

#### **Public Interest and Public Benefit**

The proposed variation is considered to be in the public interest as the proposed development will provide additional housing to the community.

During the public notification period for the development application no submissions about the proposal were received by Council.

#### Summary

The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 controls and is compliant with all controls except for the FSR development standard. The site is adjacent to a high density residential zone and provides a transition in scale.

It has been established that the proposed development is appropriate and adherence to the development standard in this instance is unreasonable and unnecessary.

The applicant's Clause 4.6 request is well-founded and the departure from the FSR development standard for 31 Albert Street, Botany is in the public interest. On this basis it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the Botany Bay Local Environmental Plan 2013 should be varied.

#### **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 modification has been assessed against the controls contained in the BBDCP 2013. The discussion below compares the proposal with the relevant provisions of this Policy.

##### ***Part 3A – Parking & Access***

The modification deletes a garage space from the ground floor resulting in a single garage contained within the dwellings footprint. A second car parking space is available on the driveways for each semi. This satisfies the requirement for car parking on the site.

##### ***Part 3L- Landscaping and Tree Management***

Council's Landscape Architect and Tree Management Officer have assessed the amended proposal as suitable subject to appropriate consent conditions.



**Part 4A- Dwelling House**

The table below compares the proposal with the relevant provision of this Part of the DCP.

Control	Proposed	Complies
<b>4A.2.4 Streetscape Presentation</b>		
<b>C2</b> – Development must be designed to reinforce and maintain the existing character of the streetscape.	The streetscape of Albert Street is that of detached one and two dwellings with pitched roofs. The amended proposed development is a semi-detached, near-flat roof design which does not reflect the current streetscape, however as older housing stock is replaced in future and is reasonably likely to utilise the permissible development controls it is anticipated the streetscape will change to a modern design aesthetic similar to that proposed in the application. A condition is proposed requiring details of the materials used in the façade.	Yes
<b>C3</b> - Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3.)	The development proposes a pitched roof behind a parapet, which appears from the street to therefore be a flat roof, which is inconsistent with the dominant pitched roofs along Albert Street. On balance, the gradual introduction of varied roof forms in the locality mean the proposed low pitched roof with street frontage parapet is acceptable.	No
<b>C4</b> – Buildings must appropriately address the street.	The proposed semi-detached homes address the street for both vehicular and pedestrian access.	Yes
<b>C6</b> – The entrance to a dwelling must be readily apparent from the street.	The pedestrian access to the dwellings is readily apparent from the street.	Yes
<b>C7</b> - Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.	Both dwellings propose a bedroom and a balcony on the first floor, and a window adjacent to the internal staircase on the ground floor, which face the street.	Yes
<b>4A.2.6 Floor space ratio</b>		
<b>C1</b> – The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the BBLEP 2013	The FSR of the proposed semi-detached dwellings (0.62:1) does not comply with the LEP control of 0.5:1. The non-compliance is addressed previously in this report.	No
<b>C3</b> - In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse	The proposed development is not anticipated to result in unacceptable impacts to adjoining dwellings or the streetscape from loss of privacy, natural	Yes

impacts within the development or on adjoining dwellings or the streetscape in terms of: (i) Loss of privacy (ii) Overshadowing/ loss of natural light (iii) Loss of views (iv) Visual amenity (bulk and scale) and (v) Increased traffic generation	light, views, visual amenity or traffic generation.	
<b>4A.2.8 Building Setbacks</b>		
<b>C1</b> - Dwelling houses must comply with the minimum setbacks as set out in Table 1; Lot width less than 12.5m:  Front = comply with prevailing in street or 6m  Side = merit  Rear = 4m  Eaves = 450mm	The proposed subdivision will result in lots with frontages of 6.4m and 9m.  Front = 6.7m and 5.7m at ground floor, and 5.5m and 4.5m at first floor.  Side = 900mm  Rear = 7.6  Eaves = 900mm	Yes
<b>4A.2.9 Landscape Area</b>		
<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in <b>Table 2</b> : 250-350m <sup>2</sup> – 20%	The proposed landscape areas (in the rear yard) are: Lot A = 26% Lot B = 22% of the site areas.	Yes
<b>C3</b> Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	The proposed landscaped area (the rear garden and a portion of the front garden) is fully permeable, deep soil zones.	Yes
<b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	53% of the front setback area is to be landscape area. This allows sufficient space for deep soil planting including canopy trees.	Yes
<b>C9</b> – The front setback area must contain at least one tree for frontages up to 11.5 metres in width.	A single tree could be grown successfully in the front setback of each dwelling. An appropriate condition will be included in the consent to require planting a tree of minimum 45 litre pot size.	Yes
<b>4A.4.1 Visual Privacy</b>		
<b>C2</b> Visual privacy for adjoining properties must be minimised by: ▪ using windows which are narrow or glazing which is translucent or obscured;	The window selection and location are considered appropriate in providing internal amenity to the proposal, whilst minimising privacy impacts to neighbouring properties.	Yes

<ul style="list-style-type: none"> <li>Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings;</li> <li>Screening opposing windows, balconies and courtyards; and</li> <li>Increasing sill heights to 1.5 metres above floor level.</li> </ul>	First floor bedroom windows proposed to the side elevations will be required by consent condition to have a sill height of at least 1.5m.	
<b>C3</b> First floor balconies are only permitted when adjacent to a bedroom.	The proposed first floor balconies to the front of the semi-detached dwellings are accessed from a bedroom. The size and location of the balconies are unlikely to create adverse privacy impacts for neighbouring properties.	Yes
<b>4A.4.7 Vehicle Access</b>		
<b>C1</b> Driveways within a property shall have a minimum width of 3 metres. Note: An additional clearance of 300mm is required (for each side) if the driveway is located adjacent to a solid structure (i.e. masonry wall).	The proposed driveways are a minimum width of 3m, and are not adjacent to a solid structure.	Yes
<b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.	One (1) vehicle crossing is proposed to each of the proposed allotments in accordance with the provisions of this Clause.	Yes
<b>4A.4.8 Car Parking</b>		
<b>C1</b> Development must comply with Part 3A – Car Parking	The proposed development incorporates two (2) off street parking spaces for each dwelling in a single garage and on the driveway, in accordance with the provisions of this Clause.	Yes
<b>4A.4.9 Parking on Narrow Lots</b>		
<b>C1</b> – Double garage will not generally be permitted for development on sites with less than 12.5 metres frontage due to the impact on the streetscape	Lot A will have a frontage of 6.4m and Lot B a frontage of 9m. Each lot is proposed to have a single driveway cross-over and single garage.	Yes

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

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

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

These matters have been considered in the assessment of the application and determined to have negligible environmental, social and/or economic impacts.

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

These matters have been considered in the assessment of the development application. The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted. Accordingly, it is considered that the site is suitable to accommodate the development.

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

In accordance with Part 2 of the BBDCP 2013, the amended development application was not re-notified as the amended proposal is not considered to create additional impacts to neighbours.

**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 94 Contributions**

The proposal attracts a s7.11 development contribution of \$20,000.00.

**Conclusion**

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The issues raised by the Bayside Planning Panel at their meeting of 28 May 2019 have been addressed by way of amended plans alongside the submission of an updated clause 4.6 variation request. The amended plans submitted to Council are considered to be an improved outcome for the site, the adjoining properties and the streetscape along Albert Street. Therefore, it is recommended that the Panel determine the application in accordance with the recommendation provided.

**Attachment****Schedule 1 – Conditions of Consent****Premises: 31 Albert Street, Botany****DA No: DA-2018/1161****Premises: 31 Albert Street, Botany****DA No: 2018/1161****SCHEDULE OF CONSENT CONDITIONS****GENERAL CONDITIONS**

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

<b>Drawing</b>	<b>Author</b>	<b>Dated</b>
<b>Architectural Plan Set</b>		
Ground floor plan Drawing No. 1000 Sheet 2/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
First floor plan Drawing No. 1000 Sheet 3/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Roof plan Drawing No: 1000 Sheet 4/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Front and Rear elevation Drawing No. 1000 Sheet 5/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Side elevations Drawing No: 1000 Sheet 6/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Sections Drawing No: 1000 Sheet 7/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Site plan and sediment control Drawing No: 1000 Sheet 8/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Landscape plan Drawing No: 1000 Sheet 14/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Subdivision Plan Drawing No: 1000 Sheet 12/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
Pool Section and Driveway Sections Drawing No: 1000 Sheet 13/19 Issue F	David Dechiara	11/7/2018 Rec: 5/8/2019
<b>Stormwater Plans</b>		
Stormwater Drainage and Retention Details, Drawing No: HY-01 Issue A	Apex Design and Construction Pty Ltd	23 July 2018 Rec: 21/12/2018

<b>Reference Documents</b>	<b>Author</b>	<b>Dated</b>
BASIX Certificate No. 948096M_02	Sustainability – Z Pty Ltd	15 August 2019

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

2. This Consent relates to land in Lot 20 Sec E DP 60879 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;
4. 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 dwellings. The installation must satisfy the following:-
  - a) smoke alarms must comply with AS3786 - 1993;
  - b) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and  
  
be located in a position as required by Vol 2. BCA.
5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (as referenced at Condition No. 1) for the development are fulfilled.

Note: Relevant BASIX Certificate means:

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

BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.

6. The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
    - i) The consent authority; or,
    - ii) An accredited certifier; and
  - b) The person having the benefit of the development consent:-
    - i) Has appointed a Certifying Authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and

- c) 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.
- 7. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
  - a) Permit stormwater to be retained by the system;
  - b) Keep the system clean and free of silt, rubbish and debris;
  - c) Maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so, complete the same within the time and in the manner specified in written notice issued by the Council;
  - d) Carry out the matters referred to in paragraphs (ii) and (iii) at the proprietors expense;
  - e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this Clause;
  - g) Comply with the terms of any written notice issued by the Council in respect to the requirements of this Clause within the time stated in the notice.
- 8. If the swimming pool is to be heated an energy efficient heating system is to be installed.

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

- 9. A section 7.11 contribution of \$20,000.00 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained in the Contributions Plan. The contributions 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.

Total levy.....\$20,000.00

Community facilities.....\$1,637.16  
 Recreation and open space.....\$16,890.83  
 Transport facilities.....\$1,326.38  
 Administration.....\$145.62

- 10. First floor windows on side elevations shall have a minimum sill height of 1.5m. Amended plans are to be submitted to the PCA for approval prior to the issue of a Construction Certificate.

11. A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior to the issue of a Construction Certificate. The Albert Street verge strip shall be planted with one (1) Eucalyptus mannifera, as per Botany Bay Street Tree Management Plan. All public domain landscape works shall be carried out as per Council specifications.
12. To ensure the development is compatible with the surrounding environment, colours and finishes of the roof and walls are to be submitted to Council prior to the issue of the Construction Certificate. Council will advise you on the suitability of the selected samples.
13. An application for Property Address Allocation and the associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with AS/NZ 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application. The manual is available for download at:

[http://www.gnb.nsw.gov.au/data/assets/pdf\\_file/0007/199411/2018\\_NSW\\_Addressng\\_User\\_manual.pdf](http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/2018_NSW_Addressng_User_manual.pdf)

14. Any portion of the proposed structure within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
15. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Botany DCP Part 10 – Stormwater Management Technical Guidelines.
16. Detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for assessment and approval. 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 Apex Design and Construction Pty Ltd, Drawing No. HY-01, Issue a, dated 18/12/2018,
- b) The provision for an On-site Stormwater Infiltration System designed to retain all 1 in 100 year storm events and satisfying all relevant Council and Australian



Standards. The design must utilize the soil absorption rate determined through geotechnical testing,

- c) In order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, a rainwater tank system shall be provided with a minimum capacity of 3000L capacity for each lot. The rainwater tanks must be designed to service the toilets, clothes washers and all landscaping 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,
- d) Detailed calculations supporting the proposal.

All plans and documentation shall be certified by a suitably qualified engineer as specified in Botany DCP Part 10 Section 2.1.

- 17. A Tree Protection Zone (TPZ) is to be established for (Tree # 7) *Jacaranda mimosifolia* (Jacaranda) as identified in the Arborist Root Investigation Report prepared by Bryce Claasens of Urban Arbor Pty Ltd, dated 23 September 2019, and in accordance with AS 4970-2009 Protection of Trees on Development Sites.
- 18. A longitudinal driveway profile shall be submitted to the Principal Certifier for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), clearances and lengths. All existing levels at the boundary of the property shall remain, no fill or cut is to be proposed within Council land.
- 19. All 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. All services within the verge and road reserve that need to be relocated for the construction of the driveways shall be relocated at no cost to Council.

All existing levels at the boundary of the property shall remain, no fill or cut is to be proposed within Council land.

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 form part of the future road opening permit application.

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

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

21. A suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.

All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.

22. The required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

23. The following fees are to be paid prior to the issue of a Construction Certificate:-

Builders Security Deposit	\$2570.00
Development Control (Environmental Enforcement Fee)	\$1325.00
Footpath Inspection Fee	\$155.00

24. The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
25. A Waste Management Plan prepared in accordance with Part 3N of Council's DCP 2013 shall be prepared and submitted to the satisfaction of the PCA, prior to the release of the Construction Certificate. The Waste Management Plan shall include the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities.

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

26. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
- Written notice, indicating the date when demolition of the building is to commence.
  - This persons full name and address.
  - Details of Public Liability Insurance.

27. 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 person's 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.
28. 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;
29. The Council also must be informed if: -
- a) A contract is entered into for the work to be done by a different licensee; or
  - b) Arrangements for the doing of the work are otherwise changed.
30. Dewatering is not permitted on this site without NSW-EPA approval.
31. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
  - b) If necessary, underpin and support such building in an approved manner;
  - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished.

- d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, 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.
- 32. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 33. In order to ensure that (Tree # 7) one (1) *Jacaranda mimosifolia* (Jacaranda) (identified in the Arboricultural Root Investigation Report by Urban Arbor Ref 19/09/23/31ASB) located adjoining the southern boundary, is retained and protected during construction, and its health and structural stability ensured, prior to commencing demolition/any works on site, a Tree Protection Zone shall be established as follows:
  - a) Engage a AQF Level 5 Arborist for all tree root and canopy work to trees, where approved by Council.
  - b) Before any works commence on site, the Applicant is required to contact Council for an inspection of the fenced Tree Protection Zone (TPZ). Council approval is required prior to the commencement of any work.
  - c) Prior to commencing demolition/ any works the tree is to be physically protected in accordance with AS 4970-2009 Protection of Trees on Development Sites.
  - d) In accordance with AS4970-2009 protective fences consisting of chain wire mesh temporary fence panels with a height of 1.8m shall be erected to mark the TPZ. 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 weekly deep watering program undertaken.
  - e) 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.
  - f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- 34. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.

35. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
36. Soil and Water Management Plan shall be prepared in accordance with *Soil and Water Management for Urban Development Guidelines* produced by the Southern Sydney Region Organisation of Councils and a copy of the Plan submitted to Council's Customer Service Centre for registration. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site and must be kept on site at all times and made available upon request.

Sediment control devices shall not be located beneath the dripline of any trees nominated for retention.

37. Soil and sedimentation controls are to be put in place prior to the commencement of any work on site. The controls are to be maintained in effective working order during construction.
38. A licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

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

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
- j) Working hours, in accordance with this Development Consent;
- k) Confinement of demolished materials in transit;
- l) Proposed truck routes, in accordance with this Development Consent;

- m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
  - n) Sewer – common sewerage system ad08
39. 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

#### **CONDITIONS TO BE SATISFIED DURING WORKS**

40. 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 PCA including an after-hours contact telephone number.
  - b) Any such sign is to be removed when the work has been completed.
41. 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.
42. 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.
43. All recommendations contained in the Geotechnical Investigation report prepared by Morrow Geotechnics Pty Ltd, Ref: P1584\_01, Dated 4 December 2018 shall be implemented prior to the issue of the Construction Certificate.
44. All absorption trenches/modular drainage cell installations 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.
45. 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.
46. In order to ensure that the health and structural stability are ensured to (Tree # 7) (identified in the Arboricultural Root Investigation Report by Urban Arbor Ref 19/09/23/31ASB) is protected during construction, and its health and structural stability ensured, the following is required:
- 1. The TPZ is a "No-Go" zone. There shall be no access, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
  - 2. Where unavoidable foot access is required in the fenced area (after approval), the Arborist is to provide temporary ground access with timber sheets to minimise soil compaction, spillage or root damage and wrap the tree trunk with hessian or carpet underlay and timber palings to the first lateral branch.
  - 3. Excavation for all piers and footings shall be carried out manually using hand tools to minimise root damage or disturbance.
  - 4. Ensure that there is no damage to the canopy, trunk or root system, including the surrounding soil, of the tree.
  - 5. There shall be no walls - retaining or otherwise, paving, change in levels, trenching for new services or any alteration of ground levels within the dripline (TPZ) of the tree under any circumstances.

6. All waste concrete and debris shall be removed from the TPZ to minimise soil contamination.
  7. The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at the completion of construction.
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47. No demolition material shall be burnt or buried on the site.
  48. 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 Council. The use of any part of Council's road reserve must also have prior approval of Council.
  49. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
  50. 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.
  51. Stockpiles are not permitted to be stored on Council property (including the nature strip) unless prior approval has been granted. In addition, stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
  52. Demolition operations shall not be conducted on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  53. Building and demolition operations such as brickcutting, washing tools or paint brushes and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  54. 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.
  55. 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).
56. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008; and
  - e) No demolition materials shall be burnt or buried on the site.
57. 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.
58. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
59. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- Note: The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.
60. 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.
61. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.

- ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
    - 1 The additional load on the system; and
    - 2 The relocation and/or adjustment of the services affected by the construction.
- 62. 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. 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. As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) Protect and support the adjoining premises from possible damage from the excavation, and
  - b) Where necessary, underpin the adjoining premises to prevent any such damage.
- 65. The following shall be complied with during construction and demolition:
  - a) Construction Noise
    - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
    - ii) Level Restrictions
 

Construction period of 4 weeks and under:

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

Construction period greater than 4 weeks and not exceeding 26 weeks:

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

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

No Construction to take place on Sundays or Public Holidays.

c) Silencing

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

66. 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 Centres.

67. 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,

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.

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.

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.

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

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

69. For compliance with the conditions of consent, a separate application must be made for a subdivision certificate. The application is to be accompanied by documentary evidence demonstrating compliance with all conditions of consent. Submission of a subdivision certificate application must be accompanied by a linen plan with six (6) copies and appropriate fee.

70. Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the 'e-developer' icon or telephone 13 20 92.

a) Following application a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time

consuming and may impact on other services and building, driveway or landscape design.

- b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan or occupation of the development.
- 71. Prior to the issue of a Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary

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

- 72. Prior to the issue of any Occupation Certificate, the approved subdivision is to be registered. The linen plans are to be submitted to Council, prior to the release of the Occupation Certificate, and proof of registration with the Land and Property Information office is to be submitted prior to occupation and use of any building.
- 73. The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicants cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider.
- 74. 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.
- 75. A certificate from a registered Surveyor shall be provided to the Principal Certifying Authority certifying that the habitable floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (AEP) flood level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
- 76. 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.
- 77. A Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by the Botany DCP Part 10 – Stormwater Management Technical Guidelines. The Certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the Certificate and works-as-executed plan shall be supplied to the satisfaction of the PCA. A copy shall be provided to Council for registration if Council is not the PCA.
- 78. All absorption trenches must be inspected, and a compliance certificate under Part 4A of the EP&A Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the principal certifying authority and be made available to Council officers upon request.

79. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority certifying that the garage/parking level is either constructed at or above 15 AEP Flood level OR (in the case of the garage floor/parking level being below the 1% AEP flood level the garage floor/parking level is protected from inundation to a minimum of 500mm above the 1% AEP flood level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
80. Flow through open form fencing (louvres or pool fencing) is require for all new front fence and all internal fences and gates up to 1% AEP flood level. Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Documentation shall be provided to the Principal Certifying Authority. Details of approved types of flow through fencing can be obtained from Council.
81. The development shall comply with the Botany Development Control Plan (DCO 2013, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council 22 August 2018, Ref: FA-2018/94 and Flood Investigation Report and Flood Risk Management Plan prepared by ACOR consultants, Ref: SY181046, dated 17 December 2018.  
  
The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
82. A silt/litter arrestor pit as detailed in Botany DCP Part 10 – Stormwater Management Technical Guidelines shall be provided prior to discharge of stormwater from the site.
83. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - a) The overflow from the rainwater tank shall be directed to the stormwater system.
  - b) 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”.
  - c) A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
84. 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 and all landscaping on the site. First flush device shall be installed and overflow from the rainwater tank shall be connected to the proposed site drainage system.
85. Documentation from a professional 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.
86. A restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E ) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information;

- a) Positive Covenant and Restriction on Use of Land for On-Site Infiltration System. Refer to appendix A of the Stormwater Management Technical Guidelines for suggested wording.
87. The pool area shall be enclosed by a 1200mm high pool safety fence all associated gates shall be fitted with a self-latching device in accordance with AS1926.
- Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS 1926.
88. A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young children should be supervised when using this swimming pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio-Pulmonary Resuscitation" published by the Australian Resuscitation Council. The warning notice may be purchased from Bayside Council or the Royal Life Saving Society.
89. Pool covers are to be installed to minimise evaporation.
90. In order to soften the impact of the development, one (1) tree with a minimum mature growth height of four (4) metres shall be planted at the front setback of each proposed dwelling prior to occupation. The trees shall be supplied at a minimum contained size of 45 litres, planted within a mulched bed, and installed with stakes.
91. Prior to 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 (refer to Condition 1) 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 landscape conditions in this consent.

#### **CONDITIONS TO BE SATISFIED DURING ONGOING USE**

92. 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 desludged and all contents from the desludging process disposed.
- Solids shall be disposed to the waste disposal,
  - De-sludged liquid shall be disposed to the sewer.
93. The use of mechanical plant including air conditioners, fans, compressors, freezers, swimming pool or spa pumps shall not give rise to an 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act, 1997.

94. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environmental (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
95. All proposed lights shall comply with the Australian Standard As4282 – 1997 "Control of Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises, including swimming pools, shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Application Details

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Application Number:	2018/1161
Date of Receipt:	31.8.2018
Property:	31 Albert Street, Botany
Lot & DP/SP No:	Lot 20 DP 60879
Owner:	RK Investment Holdings Australia Pty Ltd
Applicant:	David DeChiara
Applicant Address:	111 St Georges Road, Bexley
Proposal:	Demolition of existing structures, Torren title subdivision into two (2) lots, removal of trees and construction of two x 2 storey semi-detached dwellings and one swimming pool.
Property Location:	East side of Albert Street, between William and Hambly Streets, Botany
Value:	\$499,323.00
Zoning:	Botany Bay Local Environmental Plan 2013 R2 Low Density Residential
Author:	Petra Blumkaitis
Date of Report:	9 May 2019
Classification of Building:	1a – Dwelling 10b – Swimming pool
Present Use:	Residential
No. of submissions:	Nil

#### Key Issues

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The key issues for this development application are:

- Non-compliance with the maximum permitted floor space ratio (FSR).



# BAYSIDE COUNCIL

## Planning Assessment Report

### Recommendation

1. That the Bayside Planning Panel consider the Clause 4.6 request to vary the FSR standard contained in Clause 4.4 of Botany Bay LEP 2013 and is satisfied that the variation will result in consistency with the objectives of the FSR standard and the objectives of the R2 Low density residential zone, and is therefore in the public interest to vary the control.
2. That Development application DA-2018/1161 for the demolition of existing structures, Torrens title subdivision into two (2) lots and the construction of two semi-detached dwellings and one swimming pool at No. 31 Albert Street, Botany, be APPROVED pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

### Site Description

The site, legally identified as Lot 20, Sec E, DP 60879, is located on the eastern side of Albert Street, between Swinbourne and Hambly Streets. The site is relatively flat, pentagonal in shape and has a total area of 635m<sup>2</sup>. The site is currently accommodated by a single storey brick dwelling house and a garage and pool at the rear of the site. There is no significant vegetation on site and no street trees adjacent to the site. See locality map below.



Figure 1. Site location

Surrounding development comprises of low density residential development of one and two storey dwelling houses of mixed architectural styles.

# BAYSIDE COUNCIL

## Planning Assessment Report

### Site History

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The subject DA was lodged with Council on 1 September 2018. No previous applications are recorded by Council for the site.

### Description of Development

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Council is in receipt of the subject application which seeks consent for the following:

- Demolition of existing structures being a detached dwelling, detached garage and a swimming pool, and associated site clearing,
- Subdivision of the existing one lot into two lots,
- Construction of two x 2 storey semi-detached dwellings consisting of:
  1. Ground floor; double garage, laundry, powder room, kitchen, pantry, dining and living rooms
  2. First floor; four bedrooms, two bathrooms and a rumpus room; and
- One swimming pool on the proposed southern lot (Lot A), and
- Landscaping.

### Statutory Considerations

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#### *Environmental Planning and Assessment Act, 1979*

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

#### **S.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**

The application is accompanied by BASIX Certificate Number 948096M dated Thursday 26 July 2018. The Certificate demonstrates the proposed development satisfies the relevant water; thermal comfort and energy commitments as required by SEPP (BASIX).

The provisions of the SEPP are satisfied in this instance.

# BAYSIDE COUNCIL

## Planning Assessment Report

### State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the application, along with the requirements of Part 3K- Contamination of the Botany Bay Development Control Plan 2013 (BBDCP 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.

Council's Tree Management Officer has recommended appropriate conditions that have been imposed in the consent, regarding the removal of existing trees and planting new trees.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017.

### Botany Bay Local Environmental Plan 2013

The application is considered under the remit of the Botany Bay Local Environmental Plan 2013 (BBLEP 2013) and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance	Comment
2.1 Landuse Zone		The site is zoned R2 – Low Density Residential under the BBLEP 2013.
2.2 Zoning of land. Is the proposed use/works permitted with development consent?	Yes	The proposed use of semi-detached dwellings is permissible with Council's consent under the BBLEP 2013.
2.3 Zone objectives. Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the following objective in the BBLEP 2013: <ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low density residential environment.</li> </ul>

## BAYSIDE COUNCIL

### Planning Assessment Report

Principal Provisions of BBLEP 2013	Compliance	Comment
<b>2.7 Demolition requires consent.</b> Demolition of a building or work may be carried out only with development consent.	Yes	The proposal includes demolition of the existing detached dwelling house and ancillary structures on site.
<b>1.3 Height of Buildings</b> 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.	Yes	Clause 4.3 permits a maximum building height of 8.5 metres as measured from NGL (existing) for the subject site.  The proposed development seeks a building height of 7.8m at the highest point.
<b>1.4 Floor space ratio</b> 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.	No	The site is in the 'N' area on the BBLEP 2013 FSR map, within an identified Area 3.  Clause 4.4A(3)(d) permits an overall FSR of 0.5:1 for the subject site. The proposed development seeks an FSR of 0.59:1 for the semis, which is a variation of 20% from the development standard. The applicant has submitted a Section 4.6 variation request to support the non-compliance. This addressed later in this report.  A detached dwelling house on the same proposed subdivided lots of between 301m <sup>2</sup> and 350m <sup>2</sup> would be granted a FSR of 0.7:1  The FSR is calculated in accordance with Clauses 4.4A and 4.5 of BBLEP 2013.
The following provisions in <b>Part 6</b> of the LEP apply to the development– <ul style="list-style-type: none"> <li><b>6.1 – Acid sulfate soils</b></li> <li><b>6.2 – Earthworks</b></li> <li><b>6.3 – Stormwater Management</b></li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>6.1 – Acid sulfate soils: Class 4. The proposed works will involve minimal excavation to prepare the site for new dwellings. Further investigation is not warranted.</p> <p>6.2 – Earthworks on site will be required for site preparation. The anticipated impact from the earthworks is acceptable.</p> <p>6.3 – Council's Development Engineer has reviewed the application and supports the</p>

## BAYSIDE COUNCIL

### Planning Assessment Report

Principal Provisions of BBLEP 2013	Compliance	Comment
<ul style="list-style-type: none"> <li>6.9 – Development in areas subject to aircraft noise</li> </ul>	N/A	<p>proposal, subject to recommended conditions.</p> <p>6.9 – The subject site is outside the 20 ANEF contour.</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 4.6 Variation to Floor space ratio**

The site has a maximum floor space ratio (FSR) of 0.5:1 on the BBLEP 2013 FSR map. The proposed semi-detached dwellings will result in a FSR of 0.59:1, which is a variation of 20%.

The applicant has provided a written Clause 4.6 variation request, providing justification for the proposed variation to the 0.5:1 FSR requirement, stating that it is unnecessary and unreasonable in the particular circumstances.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

- 1 The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
- 2 The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
- 3 The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
- 4 The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- 5 The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

## BAYSIDE COUNCIL

### Planning Assessment Report

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of Botany Bay Local Environmental Plan 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) are considered below.

#### 4.6 Variation request assessment

##### Clause 4.6(3)

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

- (a) That the compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The applicant has argued the FSR standard is unreasonable or unnecessary in the following:

- *"...this requirement is unfair because a single dwelling is able to build on a 0.7:1 and this bulk and scale would be much greater than a 0.5:1 for a semidetached dwelling."*
- *"Notwithstanding non-compliance with the numerical controls of the standard, the proposal meets the objectives of the standard...  
The variation to the FSR standard is consistent with the potential environmental impacts that may otherwise be reasonably expected by a complying development with regards to:*
  - *the desired future character of the locality,*
  - *the preservation of the residential amenity of surrounding development having particular regard to overshadowing and privacy impact,*
  - *achieving general compliance with the other applicable planning controls, and*
  - *providing acceptable rear and front setbacks when compared with the prevailing setbacks and likely future setbacks in the area.*

##### Comments:

The proposed development has been assessed as resulting in acceptable impacts to neighbouring properties in regard to overshadowing and loss of privacy. The bulk and size of the proposed semi-detached dwellings is consistent with the future character of Botany and the scale is also consistent with the emerging development character of subdivided lots. A strict application of the FSR development standard in this case is assessed to be unreasonable and unnecessary.

- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

The written S4.6 variation request submitted to support the FSR non-compliance includes the following, which addresses the planning grounds on which the development standard may be varied:

## BAYSIDE COUNCIL

### Planning Assessment Report

*"The proposed use is aligned with Council's, and the wider community's, objectives and demands for creating appropriately located accommodation. The development will achieve its objective of providing additional accommodation opportunities for the area. The proposed development satisfies the guidelines of the Act through providing an efficient land use, and makes orderly and efficient usage of existing infrastructure within the locality. Moreover, there are no significant adverse impacts on the 'public goods' such as air quality, noise, views and amenity."*

#### Comments:

There are no physical factors on the site which may justify a variation from the development standard, such as a steep slope, contamination, flood affectation, critical habitat, heritage items or the like. There are planning grounds on which the development standard may be varied; these are the compliances of the proposal with all other relevant development controls and that the proposal is otherwise assessed as resulting in a satisfactory development and use of the land which is consistent with the locality and has minimal impacts on the site and neighbouring properties.

#### Clause 4.6(4)

Clause 4.6(4) states consent may not be granted for development that contravenes a development standard unless:

(a) The consent authority is satisfied that:

- (i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

#### Comments:

Council is satisfied that the written request has adequately addressed the matters required to be demonstrated in subclause (3).

- (ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment: The following matters pursuant to Clause 4.6 are therefore also considered:-

- Objectives of the Floor space ratio standard
- Objectives of the R2 Low density residential zone
- Public interest
- Objectives of Botany Bay LEP 2013 Clause 4.6

#### Objectives of Clause 4.4 Floor space ratio

The objectives of Clause 4.4 FSR of the Botany Bay Local Environmental Plan 2013 are:

- To establish standards for the maximum development density and intensity of land use,
- To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,

## BAYSIDE COUNCIL

### Planning Assessment Report

- 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 submitted variation request notes the following:

*"The bulk and scale of the building, whilst more extensive than that of the immediately adjoining dwellings, is consistent with that of other semi-detached developments in the LGA and provides a characteristic form and streetscape.*

*The development does not detract from the character of the local area. In order for the development to be compatible it does not necessarily need to be the same.*

*The development does not impact upon the visual relationship between adjoining buildings and has been designed to limit the height of the building to retain a consistent roof line along Albert Street.*

*The proposal incorporates a modern and contemporary design which will add innovation and visual interest to the streetscape, similar to other recent semi-detached developments in the immediate area.*

*The design of the proposal including its setbacks, limited roof form, and materials has had regard to the potential adverse impacts on adjoining neighbours and has sought to mitigate impacts of overshadowing and privacy.*

*There are no additional adverse impacts which stem directly from the FSR departure.*

*It is considered that an appropriate correlation between the size of the site and the size of the proposed development has been achieved."*

Comments:

The proposal is consistent with the objectives of the FSR development standard because it is compatible with the bulk and scale of the character of the area, does not adversely affect the streetscape and results in minimal adverse impacts on adjoining properties.

#### Objectives of the R2 Low density residential zone

The objectives of the R2 Low density residential zone are:

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

The submitted variation request argues the proposal is consistent with the objectives of the R2 zone in:

*"it is considered that the development satisfies the objectives of the R2 zone. The development provides additional housing in the form of two separately titled residential dwellings to accommodate*



## BAYSIDE COUNCIL

### Planning Assessment Report

*the future housing needs of the community within a low density environment. The scale, bulk and height of the development does not detract from the existing one-two storey character of dwellings in the area and has done everything to limit the extent of potential environmental impacts to adjoining properties.*

#### Comments:

The proposed development is consistent with the objectives of the R2 Low density residential zone because it provides additional housing to serve the housing needs of the community and is consistent with the low density scale of development in Albert Street.

The proposal may encourage walking and cycling as it is located within a reasonable proximity to employment, recreation and retail opportunities.

#### Public Interest and Public Benefit

The proposed variation is considered to be in the public interest as the proposed development will provide additional housing to the community.

During the public notification period for the development application no submissions about proposal were received by Council.

#### Objectives of Clause 4.6 Exceptions to development standards

The objectives of Clause 4.6, pursuant to Clause 4.6(1) of Botany Bay Local Environmental Plan 2013) are:

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

#### Comments:

The subject site is not constrained by any particular environmental issues which would warrant flexibility in applying development standards to achieve better outcomes for and from development of the site. Nevertheless a degree of flexibility, being a 20% variation of the FSR standard is considered acceptable for the development proposed, on the subject site.

#### Summary

The Clause 4.6 variation request to the floor space ratio control has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council (2007) NSW LEC 827* and *Four2Five Pt Ltd v Ashfield Council (2015) NSWLEC 1009 & NSW LEC 90 (Four2Five)*.

The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against Councils' Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 controls and is compliant with all controls except for the FSR development standard.

It has been established that the proposed development is appropriate and adherence to the development standard in this instance is unreasonable and unnecessary.

## BAYSIDE COUNCIL

### Planning Assessment Report

The applicant's Clause 4.6 request is well-founded and the departure from the FSR development standard for 31 Albert Street, Botany is in the public interest. On this basis it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the Botany Bay Local Environmental Plan 2013 should be varied.

#### 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 application has been assessed against the controls contained in the BBDCP 2013. The discussion below compares the proposal with the relevant provisions of this Policy.

#### Part 3A – Parking & Access

The table below compares the proposal with the relevant provisions of this Part of the DCP.

Control	Proposed	Complies
<b>3A.2 – Parking provisions of specific uses</b>		
<b>C2 – Semi-detached dwelling</b>		
One space per dwelling	Each dwelling is provided with a double garage.	Yes
<b>3A.3.1 – Car park design</b>		
<b>C10</b> – Off street parking facilities are not permitted within the front setback	Both double garages are behind the front building line.	Yes
<b>C13</b> – Pedestrian entrances and exits shall be separated from vehicular access paths	A pedestrian path to the front doors of the dwellings are not proposed. The site plan and landscape plan show the likely location for paths to be grassed areas.	No
<b>C28</b> – Min 3m wide access driveway for dwelling houses	The width of each vehicle crossover is 3m.	Yes

#### Part 3E – Subdivision and Amalgamation

The table below compares the proposal with the relevant provisions of this Part of the DCP.

Control	Proposed	Complies
<b>C1</b> - Development applications shall demonstrate that the proposed subdivision is consistent with the Desired Future Character of the area.	Two allotments are proposed. One is rectangular with front	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

Control	Proposed	Complies
	and rear boundaries of 9m and side boundaries of 33.5m The second lot is nearly rectangular, widening towards the rear. The front boundary is 6.4m and the rear 13.4m Figure 1 (pg. 3) in this report shows that the proposed subdivision is consistent with the existing pattern in the street and locality and will be consistent with the Desired Future Character of the area.	
<b>C2</b> – Subdivision must not compromise any significant features of the existing or adjoining sites including streetscape character, landscape feature or trees.	No significant features exist.	Yes
<b>C3</b> – Proposed Subdivision must have characteristics similar to the prevailing subdivision pattern of lots fronting the same street, in terms of area, dimensions, shape and orientation	The proposed lots will have site areas of 302m <sup>2</sup> and 332m <sup>2</sup> . The lots are oriented east-west with a frontage to Albert Street. They are consistent with lot shape, orientation and dimension of the subdivision pattern in the street and locality.	Yes
<b>C4</b> – Development applications shall demonstrate that future development for the site can comply with all Parts of the DCP.	Building plans for the proposed development of the new lots with semi-detached dwellings form part of the application.	Yes
<b>C5</b> – Applications must demonstrate that the following has been considered:  i) Site topography and other natural and physical features ii) Existing services iii) Existing vegetation iv) Existing easements or the need for new easements. v) Vehicle access vi) Any land dedications required vii) Potential flood affectation and stormwater management requirements. viii) Contamination of the land ix) Existing building or structures	The application has been assessed as being appropriate for the site and the street, with all relevant matters considered.	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

Control	Proposed	Complies
x) Heritage items, Conservation Areas and adjoining Heritage items		
<b>C7</b> All lots created shall have at least one (1) frontage to the street.	Both lots have a frontage to Albert Street.	Yes

#### 3E.2.2 (C3) – Residential Torrens Title subdivision – prevailing pattern.

Council generally considers the prevailing subdivision pattern to be the typical characteristic of up to ten allotments on either side of the subject site and a corresponding number of allotments directly opposite the subject site.

Properties located in the surrounding streets do not usually form part of the streetscape character and therefore not taken into consideration when determining the prevailing subdivision pattern.

As part of this development application, the site will be subdivided into two (2) individual allotments as follows:

Proposed Lot	Frontage	Area
A	6.443m	332.09m <sup>2</sup>
B	9.026m	302.76m <sup>2</sup>

An assessment of the existing subdivision pattern within the locality has been undertaken below:

Address	Area (m <sup>2</sup> )	Frontage (m)	Address	Area (m <sup>2</sup> )	Frontage (m)
29 Albert Street	408	12.4	30 Albert Street	356	11.9
27 Albert Street	419	12.2	32 Albert	424	12.5
25 Albert Street	197	5.8	34 Albert	408	12.5
23 Albert Street	206	6	36 Albert	408	12
19 Albert Street	415	12	38 Albert	339	10.2
			40 Albert	313	13.6
13A Swinbourne Street	332	9.1			
13 Swinbourne Street	316	8.9			
15 Swinbourne Street	253	5.9			
17 Swinbourne Street	345	10.6			

The proposed subdivision will result in lot sizes and frontages which are slightly below the averages (see below) present in Albert Street. An examination of the subdivision pattern including the streets surrounding Albert Street show a subdivision pattern of lot sizes and frontages with smaller averages.

Albert Street subdivision pattern averages:

Average site area: 343m<sup>2</sup>

## BAYSIDE COUNCIL

### Planning Assessment Report

Average site frontage: 10.3m

The proposed subdivision is not inconsistent with existing subdivided properties in context of the site and the proposed subdivision is deemed to be satisfactory given;

- a) The proposed subdivision pattern is not dissimilar to lots which exist and have been previously subdivided within context of the site. The proposed subdivision is consistent with the existing and future subdivision pattern in the immediate vicinity of the subject site.
- b) The proposal is compatible with surrounding properties, the emerging 2-storey built form streetscape and the desired future character of the area.
- c) There are no adverse streetscape impacts as the widths of the proposed lots are in keeping with the widths of other lots within the immediate area.
- d) The lot size and width are consistent with the shape and size of other allotments within the Botany area. In addition to consistency with the subdivision pattern, it is also important to consider the other subdivision objectives including demonstration that development for the site can comply with the relevant parts of BBDCP 2013.
- e) The proposed lots are capable of supporting dwelling houses which achieve compliance with relevant controls such as building height, landscaping, setbacks, private open space, privacy, car parking, overshadowing and solar access. This is achieved without compromising on the quality of the design of the dwellings.
- f) The proposed layout of the lots does not contravene the desired future character of the Botany precinct. The lots retain and preserve the rectilinear pattern.
- g) The proposal will not result in adverse amenity impacts on neighbouring properties in terms of overshadowing, solar access and privacy.
- h) The subject site falls within a R2 zone, Torrens title subdivision is common in this area.

Given the above, the resultant subdivision is considered satisfactory with respect to the provisions and objectives of Botany Bay Local Environmental 2013 and Part 3E- Subdivision & Amalgamation of Botany Bay Development Control Plan 2013.

#### **Part 3G – Stormwater Management**

The table below compares the proposal with the relevant provisions of this Part of the DCP.

Control	Proposed	Complies
<b>C1</b> – 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.	The application is accompanied by Concept Stormwater Plans prepared by APEX design and construction Pty Ltd, dated 23 July 2018 which Council's Development Engineer supported subject to suitable conditions.	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Part 3H – Sustainable Design

The table below compares the proposal with the relevant provisions of this Part of the DCP.

Control	Proposed	Complies
<b>C1</b> – For all proposed residential development where BASIX applies, the application is to be accompanied by a BASIX Certificate.	An assessment against the relevant provisions of the SEPP (BASIX) is undertaken in S. 4.15(1)(a)(i) above.	Yes

#### Part 3K – Contamination

The table below compares the proposal with the relevant provision of this Part of the DCP.

DCP Requirement	Proposed	Complies
<b>O1</b> – <i>To ensure that the development of contaminated or potentially contaminated land does not pose a risk to human health or the environment.</i>	An assessment against the relevant provisions of the SEPP 55 is undertaken in S. 4.15(1)(a)(i) above.	Yes

#### Part 3L- Landscaping and Tree Management

The table below compares the proposal with the relevant provision of this Part of the DCP.

Control	Proposed	Complies
<b>3L.1.2 – Submission Requirements</b>		
<b>C1</b> – Landscape documentation is required to be submitted in accordance with Table 1.	The application is accompanied by Landscape Plan, Drawing No. DA – 1000 Issue B, dated 11/07/2018	Yes
<b>C3</b> – Landscape plan to include sufficient detail to enable Council to evaluate adequacy and suitability.	The Landscape plan is of sufficient detail to enable an appropriate assessment	Yes
<b>3L.2 – General Requirements</b>		
<b>C1</b> – Existing trees including street trees must be preserved	There are no existing street trees in front of the property.	Yes
<b>C2</b> – Landscaping will be designed to reduce the bulk, scale and size of buildings and to shade and soften hard paved areas.	The proposed planting in the front gardens, and the planting in the rear garden will mitigate impacts from the bulk and size of the proposed dwellings by a small amount. There is sufficient space to support large tree species (up to 10m height) in the front gardens, which would further reduce impacts as well as provide shade from the western sun. A condition will	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

Control	Proposed	Complies
	be included to require appropriate planting.	
<b>C4</b> – Landscape screening or buffers are to be included and designed so as to enhance privacy between properties and softening of walls and facades.	Landscaping planting is provided around the perimeter of the site, where possible. This will assist in maintaining privacy and softening the appearance of the buildings.	Yes
<b>C9</b> – A deep soil landscape zone is required for all developments.	Each semi-detached dwelling is provided with an area of approximately 55m <sup>2</sup> in the rear garden which is capable of supporting lateral root growth, water penetration and air exchange and are therefore deep soil landscape zones.	Yes

#### **Part 3N- Waste Minimisation and Management**

The application is accompanied by a Waste Minimisation and Management Plan, prepared in accordance with the BBDCP 2013. The Plan addresses works involved including minor excavation and fill to the site, in addition to the construction of the works proposed and is acceptable with regards to the relevant parts of this Part of the BBDCP 2013.

## BAYSIDE COUNCIL

### Planning Assessment Report

#### Part 4A- Dwelling House

The table below compares the proposal with the relevant provision of this Part of the DCP.

Control	Proposed	Complies
<b>4A.2.1 Design Excellence</b>		
<b>C1</b> – To achieve excellence in urban design, development should do (i) to (xvii) as listed in the DCP.	In general the proposal takes into account, is complementary to and ensures minimal impact on surrounding development, the streetscape, and the local character.	Yes
<b>C2</b> – A development application for a new dwelling house or a major alteration to a dwelling must include a written statement to demonstrate how design excellence will be achieved in the proposed development.	A design excellence statement was not submitted. Design elements are addressed in the Statement of Environmental Effects.	No
<b>4A.2.2 Site Analysis</b>		
<b>1</b> – A Site Analysis Plan shall be submitted with all Development Applications to Council.	A site analysis plan was submitted with the development application.	Yes
<b>4A.2.3 Local Character</b>		
<b>C2</b> – Development must comply with the relevant Desired Future Character Statements in Part 8 – Character Precincts.	The application is assessed against the desired future character for the Botany Character Precinct later in this report.	Yes
<b>4A.2.4 Streetscape Presentation</b>		
<b>C2</b> – Development must be designed to reinforce and maintain the existing character of the streetscape.	The streetscape of Albert Street is that of detached one and two dwellings with pitched roofs. The proposed development is a semi-detached, near-flat roof design which does not reflect the current streetscape, however as older housing stock is replaced in future and is reasonably likely to utilise the permissible development controls it is anticipated the streetscape will change to a modern design aesthetic similar to that proposed in the application.	Yes
<b>C3</b> - Development must reflect dominant roof lines and patterns of the existing streetscape (refer to Figure 3.)	The development proposes a pitched roof behind a parapet, which appears from the street to therefore be a flat roof, which is inconsistent with the dominant pitched roofs along Albert Street. On balance, the gradual introduction of varied roof forms in the locality mean the	No



## BAYSIDE COUNCIL

### Planning Assessment Report

	proposed near-flat roof with street frontage parapet is acceptable.	
<b>C4</b> – Buildings must appropriately address the street.	The proposed semi-detached homes address the street for both vehicular and pedestrian access.	Yes
<b>C6</b> – The entrance to a dwelling must be readily apparent from the street.	The pedestrian access to the dwellings is readily apparent from the street.	Yes
<b>C7</b> - Dwelling houses are to have windows to the street from a habitable room to encourage passive surveillance.	Both dwellings propose a bedroom and a balcony on the first floor facing the street.	Yes
<b>C10</b> - Development must retain characteristic features prevalent in houses in the street, including verandas, front gables, window awnings, bay windows, face brickwork or stone details.	Albert Street contains dwellings from a range of architectural periods and styles. There are no prevalent characteristic features to be repeated in the proposed development.	Yes
<b>C15</b> – A two storey dwelling is not considered appropriate where the majority of surrounding dwelling houses in a street are single storey.	The street contains a mix of one and two storeys dwellings. The proposed two storey semi-detached dwellings will not be located in a majority single storey dwelling street.	Yes
<b>C20</b> – The two dwellings that constitute the semi form must be as consistent as possible in scale and material.	The proposed semis are largely mirror images of each other and are consistent in scale and material.	Yes
<b>4A.2.5 Height</b>		
<b>C1</b> – The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the BBLEP 2013.	The height of the proposed buildings (7.8m) complies with the LEP control of 8.5m maximum.	Yes
<b>C3</b> – New buildings are to consider and respond to the predominant and characteristic height and storeys of buildings within the neighbourhood; and consider the topography and shape of the site.	The proposal is for two storey dwellings. This design responds to the mix of one and two storey dwellings along the street.	Yes
<b>4A.2.6 Floor space ratio</b>		
<b>C1</b> – The maximum FSR of development must comply with the Floor Space Ratio Map and Clause 4.4 and 4.4A of the BBLEP 2013	The FSR of the proposed semi-detached dwellings (0.59:1) does not comply with the LEP control of 0.5:1. The non-compliance is addressed previously in this report.	No
<b>C3</b> - In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse	The proposed development is not anticipated to result in unacceptable impacts to adjoining dwellings or the streetscape from loss of privacy, natural	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

impacts within the development or on adjoining dwellings or the streetscape in terms of: (i) Loss of privacy (ii) Overshadowing/ loss of natural light (iii) Loss of views (iv) Visual amenity (bulk and scale) and (v) Increased traffic generation	light, views, visual amenity or traffic generation.	
<b>4A.2.7 Site Coverage</b>		
<b>C3</b> - For sites greater than 300m <sup>2</sup> the maximum site coverage is 50% of the site.	The proposed subdivision would result in two lots of 332.09m <sup>2</sup> and 302.76m <sup>2</sup> .  The proposed site coverage is 48% for each lot.	Yes
<b>4A.2.8 Building Setbacks</b>		
<b>C1</b> - Dwelling houses must comply with the minimum setbacks as set out in Table 1; Lot width less than 12.5m:  Front = comply with prevailing in street or 6m  Side = merit  Rear = 4m  Eaves = 450mm	The proposed subdivision will result in lots with frontages of 6.4m and 9m.  Front = 6m  Side = 900mm  Rear = 7.6  Eaves = 900mm	Yes
<b>C5</b> Side and rear setbacks should be stepped or walls articulated to avoid the appearance of bulky or long walls.	Modulation is provided in the proposal along both the side and rear of the proposal, through stepped walls and the incorporation of varying building materials and colours.	Yes
<b>4A.2.9 Landscape Area</b>		
<b>C2</b> Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2: 250-350m <sup>2</sup> – 20%	The proposed landscape areas (in the rear yard) are: Lot A = 26% Lot B = 22% of the site areas.	Yes
<b>C3</b> Landscaped Area is to be fully permeable deep soil zones which are areas of natural ground or soil, not planter boxes (refer to definition in Part 3L – Landscaping).	The proposed landscaped area (the rear garden and a portion of the front garden) is fully permeable, deep soil zones.	Yes
<b>C8</b> The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	Lot A will benefit from 51% of the front setback being landscaped Lot B will benefit from 55% of the front setback being landscaped.	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

	This allows sufficient space for deep soil planting including a canopy tree.	
<b>C9</b> – The front setback area must contain at least one tree for frontages up to 11.5 metres in width.	A single tree could be grown successfully in the front setback of each dwelling. An appropriate condition will be included in the consent to require planting a tree of minimum 45 litre pot size.	Yes
<b>4A.3.1 Materials and Finishes</b>		
<b>C1</b> – A Schedule of Finishes and a detailed Colour Scheme for the building façade must accompany all Development Applications involving building works.	A Schedule of Finishes including colours was submitted with the application.	Yes
<b>C10</b> The exterior walls of new dwellings must incorporate different materials, colours and textures to add interest and articulate the façade.	The materials, colours, architectural detail and finishes are sympathetic to the surrounding locality, and add interest to the façade.	Yes
<b>4A.3.2 Roofs and Attics/Dormer</b>		
<b>C1</b> Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch.	The development will include a pitched roof, however it is concealed behind a parapet on the street-facing elevation, resulting in the appearance of a flat roof which is inconsistent with the predominantly pitched roofs in the street. Future development as housing stock is renewed is anticipated to include more flat or near-flat roofs and possibly parapets, along the street. As such the current non-compliance is acceptable.	No
<b>4A.3.3 Fences</b>		
<b>C1</b> Front fences are to compliment the period or architectural style of the existing dwelling house.	No front fencing is proposed.	N/A
<b>C7</b> Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style to allow for passive surveillance (refer to Figure 19).	No front fencing is proposed.	N/A
<b>C17</b> – Access gates must be hung so that the direction of swing is inward.	No gates are proposed	N/A
<b>C18</b> – Side fences of a height 1.8 metres are not to extend beyond the front building line. The side fence is to step or taper to the point	The site adjoins the rear of No. 13A Swinbourne Street, which has a rear yard single garage accessed from Albert	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

where it joins the front fence. Side fences behind the building line must comply with the <i>Dividing Fences Act</i> .	Street. The garage wall forms a portion of the side boundary fence for No. 31 Albert Street. The garage wall is forward of the Albert Street building line and approximately 2.5m in height.	
<b>4A.3.5 Voids</b>		
<b>C1</b> – Void spaces must be designed so as not to be reasonably capable of future infill. Voids in development which exceed the permitted FSR will not be supported.	A void is proposed above the staircase in both dwellings. The void area in the north side dwelling is slightly larger than the stairwell space and could not reasonably be filled in, in future. The void within the south side dwelling is larger than the stairwell, and is important in the design to ensure light penetration to the ground floor of the semi on the south side. The void could not be infilled without compromising the amenity of the ground floor of the dwelling.	Yes
<b>C2</b> - Voids shall only be supported where they are provided to increase the amenity to primary living area or circulation area, and not unreasonably impact on the amenity of adjoining properties.	The proposed voids increase the amenity of the dwellings by ensuring natural light penetration to the primary living and circulation areas.	Yes
<b>C3</b> – Voids are to connect related uses and spaces, and should not compromise the useability of spaces.	The proposed voids connect living spaces on the ground and first floors as well as providing visual cues for circulation in the dwellings.	Yes
<b>4A.4.1 Visual Privacy</b>		
<b>C2</b> Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> <li>▪ using windows which are narrow or glazing which is translucent or obscured;</li> <li>▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings;</li> <li>▪ Screening opposing windows, balconies and courtyards; and</li> <li>▪ Increasing sill heights to 1.5 metres above floor level.</li> </ul>	The window selection and location are considered appropriate in providing internal amenity to the proposal, whilst minimising privacy impacts to neighbouring properties.  First floor bedroom and rumpus room windows proposed to the side elevations will have a sill height of at least 1.5m. These measures are appropriate given the rumpus room window of the northern semi will permit overlooking of the neighbouring property.	Yes
<b>C3</b> First floor balconies are only permitted when adjacent to a bedroom.	The proposed first floor balconies to the front of the semi-detached dwellings are accessed from a bedroom. The size and location of the balconies are unlikely to create adverse privacy impacts for neighbouring properties.	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

<b>4A.4.3 Solar Access</b> <b>C1</b> Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	The adjoining properties to the south will experience increased overshadowing during mid-winter. However 2 hours of solar access between 9am and 3pm to windows in living areas and principal open space areas during mid-winter will be maintained.	Yes
<b>4A.4.4 Private Open Space</b>		
<b>C1</b> Each dwelling is to have a private open space that: (i) Has at least one area with a minimum area of 36m <sup>2</sup> ; (ii) Is located at ground level with direct access to the internal living areas of the dwelling; (iii) Maximises solar access; (iv) Is visible from a living room door or window of the subject development; (v) Minimises overlooking from adjacent properties; (vi) Is generally level; (vii) Is oriented to provide for optimal year round use; (viii) Is appropriately landscaped; and (ix) Is located or screened to ensure privacy; Note: Private open space is not to include: (i) Non-recreational structures (including garages, tool sheds and such like structures); (ii) Swimming pools; and (iii) Driveways, turning areas and car spaces, drying areas and pathways.	Each proposed semi-detached dwelling will be provided with a private open space area in the rear garden which is accessed via a living room, is level, can be appropriately landscaped, and is greater than 36m <sup>2</sup> .	Yes
<b>C5</b> – The primary private open space area is to be located at the rear of the property.	The primary private open space is located at the rear of the property.	Yes
<b>4A.4.7 Vehicle Access</b>		
<b>C1</b> Driveways within a property shall have a minimum width of 3 metres. Note: An additional clearance of 300mm is required (for each side) if the driveway is located adjacent to a solid structure (i.e. masonry wall).	The proposed driveways are a minimum width of 3m, and are not adjacent to a solid structure.	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

<b>C6</b> The number of vehicle crossings is to be limited to one (1) per allotment.	One (1) vehicle crossing is proposed to each of the proposed allotments in accordance with the provisions of this Clause.	Yes
<b>4A.4.8 Car Parking</b>		
<b>C1</b> Development must comply with Part 3A – Car Parking	The proposed development incorporates two (2) off street parking spaces in accordance with the provisions of this Clause.	Yes
<b>C3</b> Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building alignment.	A rear lane is not present. Parking is provided from Albert Street, behind the front building alignment.	Yes
<b>4A.4.9 Parking on Narrow Lots</b>		
<b>C1</b> – Double garage will not generally be permitted for development on sites with less than 12.5 metres frontage due to the impact on the streetscape	Lot A will have a frontage of 6.4m and Lot B a frontage of 9m. The impact on the streetscape from the proposed double garages to each semi-detached dwelling has been softened through design elements of the dwellings which intend to lessen the obtrusiveness of the garages, and landscaping including the planting of canopy trees in the front setbacks.	Yes

#### Part 70 – Swimming Pools

The table below compares the proposal with the relevant provision of this Part of the DCP.

DCP Requirement	Proposed	Complies
<b>C1</b> – Development must comply with the maximum site coverage requirements. Lot size >300m <sup>2</sup> = 50%.	The proposal will result in site coverage of 48% for both lots.	Yes
<b>C2</b> – Swimming pools must be located at ground level	The site is level and the proposed pool is located at ground level.	Yes
<b>C7</b> – Swimming pools are to be located at the rear of the property	The proposed pool is located in the rear garden area of the south side semi.	Yes
<b>C8</b> – The following minimum setbacks area required for swimming pools: (i) 1m from side boundaries (ii) 1.5m or greater if adjoining a habitable room of a neighbouring dwelling (iii) Accommodate existing trees and root systems including trees on adjoining properties.	The proposed pool is setback a minimum of 1m from all boundaries. There are no existing trees on site or adjoining sites which may be affected.	Yes

## BAYSIDE COUNCIL

### Planning Assessment Report

DCP Requirement	Proposed	Complies
<b>C12</b> – Equipment associated with a swimming pool must be located in a soundproof enclosure and setback from adjoining buildings.	The equipment for the proposed pool is shown as being within a sound proof enclosure and separated from buildings on adjoining lots.	Yes
<b>C15</b> – Swimming pools are to be orientated to the northern aspect of the site to maintain a sufficient level of solar access or incorporate energy efficient heating systems if the swimming pool is to be heated.	The pool is located in the south east corner of the lot and will benefit from a northern orientation.	Yes

#### Part 8 – Botany Character Precinct

Part 8.4.2 Desired Future Character of the Botany Precinct has been considered in the assessment of the application in the below table and generally complies with the controls contained therein.

The following comments are made with respect to the relevant character guidelines desired by the DCP:

Item	Comment
<i>Function and Diversity</i>	The proposed development is considered to enhance the public domain and contribute to the existing low density residential amenity.
<i>Form, Massing, Scale and Streetscape</i>	The proposed development maintains low density residential development with the proposed massing, scale and roof pitch reflecting the likely future characteristics of Albert Street.
<i>Setbacks</i>	The proposed development complies with the prevailing street setbacks for Albert Street. The proposed side setbacks are appropriate for the street.
<i>Landscaping</i>	Appropriate landscaping is provided within the primary setbacks and rear private open space areas for each allotment. The scale and form of landscaping contributes to the privacy and amenity of adjoining dwelling houses.
<i>Heritage</i>	The site is not affected by heritage requirements.
<i>Fencing</i>	Fencing is to comply with the DCP.
<i>Noise</i>	The site is not affected noise criterion listed in this control.
<i>Subdivision</i>	The subject site is proposed to be subdivided into two lots which are generally rectilinear. This is in keeping with the existing subdivision pattern in the street and locality.
<i>Public Domain and Environment</i>	The proposed development will not raise any inconsistencies with the provisions of this control.
<i>Solar Access</i>	Matters relating to solar access are discussed in Part 4A.4.3 above.
<i>Traffic and Access</i>	Adequate off-street parking arrangements are provided for each dwelling house with negligible traffic and parking impacts to the surrounding street network.
<i>Views</i>	The proposed development does not detract from existing views to, from and across the site.
<i>Risk</i>	Not applicable in this instance.

## **BAYSIDE COUNCIL**

### **Planning Assessment Report**

#### **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**

These matters have been considered in the assessment of the application and determined to have negligible environmental; social and/or economic impacts.

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

These matters have been considered in the assessment of the development application. The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

Accordingly, it is considered that the site is suitable to accommodate the development.

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

In accordance with Part 2 of the BBDCP 2013, the development application was notified to surrounding property owners for a 14 day period from 6 September 2018 to 24 September 2018. 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.

#### **Section 94 Contributions**

The proposal attracts a s7.11 development contribution of \$20,000.00.

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#### **Conclusion**

Development Application No. 2018/1161 for the demolition of existing structures and construction of two x 2 storey semi-detached residential dwellings at No. 31 Albert 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.

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# BAYSIDE COUNCIL

## Planning Assessment Report

### Attachment

### Schedule 1 – Conditions of Consent

Premises: 31 Albert Street, Botany

DA No: 2018/1161

### SCHEDULE OF CONSENT CONDITIONS

#### GENERAL CONDITIONS

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

Drawing	Author	Dated
<b>Architectural Plan Set</b>		
Ground floor plan Drawing No. 1000 Sheet 2/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
First floor plan Drawing No. 1000 Sheet 3/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Roof plan Drawing No: 1000 Sheet 4/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Front and Rear elevation Drawing No. 1000 Sheet 5/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Side elevations Drawing No: 1000 Sheet 6/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Section B.B and A.A Drawing No: 1000 Sheet 7/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Site plan and sediment control Drawing No: 1000 Sheet 8/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Landscape plan Drawing No: 1000 Sheet 10/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Subdivision Plan Drawing No: 1000 Sheet 13/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
Pool Section and Driveway Sections Drawing No: 1000 Sheet 14/17 Issue E	David Dechiara	11/07/2018 Rec: 29/04/2019
<b>Stormwater Plans</b>		
Stormwater Drainage and Retention Details, Drawing No: HY-01 Issue A	Apex Design and Construction Pty Ltd	23 July 2018 Rec: 21/12/2018

Reference Documents	Author	Dated
BASIX Certificate No. 948096M	Sustainability – Z Pty Ltd	26 July 2018

## BAYSIDE COUNCIL

### Planning Assessment Report

2. This Consent relates to land in Lot 20 Sec E DP 60879 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;
4. 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 dwellings. The installation must satisfy the following:-
  - a) smoke alarms must comply with AS3786 - 1993;
  - b) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and  
be located in a position as required by Vol 2. BCA.
5. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificates for the development are fulfilled.

Note: Relevant BASIX Certificate means:

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

BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.

6. The consent given does not imply that works can commence until such time that:
  - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
    - i) The consent authority; or,
    - ii) An accredited certifier; and
  - b) The person having the benefit of the development consent:-
    - i) Has appointed a Certifying Authority; and
    - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and

## BAYSIDE COUNCIL

### Planning Assessment Report

- c) 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.

#### **DEVELOPMENT SPECIFIC CONDITIONS**

7. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the retention system. The registered proprietor will:
  - a) Permit stormwater to be retained by the system;
  - b) Keep the system clean and free of silt, rubbish and debris;
  - c) Maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so, complete the same within the time and in the manner specified in written notice issued by the Council;
  - d) Carry out the matters referred to in paragraphs (ii) and (iii) at the proprietors expense;
  - e) Not make any alterations to the system or elements thereof without prior consent in writing of the Council;
  - f) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this Clause;
  - g) Comply with the terms of any written notice issued by the Council in respect to the requirements of this Clause within the time stated in the notice.
8. If the swimming pool is to be heated an energy efficient heating system is to be installed.

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

9. A section 7.11 contribution of \$20,000.00 shall be paid to Council. The contribution is calculated according to the provisions contained within Council's adopted Former City of Botany Bay s7.11 Development Contributions Plan 2016 (Amendment 1) and having regard to the Ministerial Directive of 21 August 2012 (the \$20,000 cap). The amount to be paid is to be adjusted at the time of payment, in accordance with the review process contained in the Contributions Plan. The contributions 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.

Total levy.....	\$20,000.00
Community facilities.....	\$1,637.16
Recreation and open space.....	\$16,890.83
Transport facilities.....	\$1,326.38
Administration.....	\$145.62

## BAYSIDE COUNCIL

### Planning Assessment Report

10. First floor windows on side elevations shall have a minimum sill height of 1.5m.
11. An application for Property Address Allocation and the associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with AS/NZ 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application. The manual is available for download at:

[http://www.gnb.nsw.gov.au/data/assets/pdf\\_file/0007/199411/2018\\_NSW\\_Addressng\\_User\\_manual.pdf](http://www.gnb.nsw.gov.au/data/assets/pdf_file/0007/199411/2018_NSW_Addressng_User_manual.pdf)

12. Any portion of the proposed structure within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
13. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Botany DCP Part 10 – Stormwater Management Technical Guidelines.
14. Detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for assessment and approval. 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 Apex Design and Construction Pty Ltd, Drawing No. HY-01, Issue a, dated 18/12/2018,
- b) The provision for an On-site Stormwater Infiltration System designed to retain all 1 in 100 year storm events and satisfying all relevant Council and Australian Standards. The design must utilize the soil absorption rate determined through geotechnical testing,
- c) In order to contribute to environmental sustainability and apply Water Sensitive Urban Design (WSUD) principles, a rainwater tank system shall be provided with a minimum capacity of 3000L capacity for each lot. The rainwater tanks must be designed to service the toilets, clothes washers and all landscaping in accordance with the requirements of Sydney Water and AS/NZS 3500 –

## BAYSIDE COUNCIL

### Planning Assessment Report

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,

- d) Detailed calculations supporting the proposal.

All plans and documentation shall be certified by a suitably qualified engineer as specified in Botany DCP Part 10 Section 2.1.

15. Any part of the proposed building within 3m of the proposed underground rainwater tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
16. A longitudinal driveway profile shall be submitted to the Principal Certifier for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%), clearances and lengths. All existing levels at the boundary of the property shall remain, no fill or cut is to be proposed within Council land.
17. All 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. All services within the verge and road reserve that need to be relocated for the construction of the driveways shall be relocated at no cost to Council.

All existing levels at the boundary of the property shall remain, no fill or cut is to be proposed within Council land.

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 form part of the future road opening permit application.

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

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

## BAYSIDE COUNCIL

### Planning Assessment Report

19. A suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.

All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.

20. 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.

21. The following fees are to be paid prior to the issue of a Construction Certificate:-

Builders Security Deposit	\$2570.00
Development Control (Environmental Enforcement Fee)	\$1325.00
Footpath Inspection Fee	\$155.00

22. The applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.
23. A Waste Management Plan prepared in accordance with Part 3N of Council's DCP 2013 shall be prepared and submitted to the satisfaction of the PCA, prior to the release of the Construction Certificate. The Waste Management Plan shall include the size and storage of bins, the collection point for the waste contractor recycling contractor, maintenance of the bins and the provision of recycling and composting facilities.

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

24. Where demolition is proposed, the following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
- Written notice, indicating the date when demolition of the building is to commence.
  - This persons full name and address.
  - Details of Public Liability Insurance.
25. The Principal Certifying Authority must be satisfied that: -

## BAYSIDE COUNCIL

### Planning Assessment Report

- 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 person's 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. 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;
27. The Council also must be informed if: -
- a) A contract is entered into for the work to be done by a different licensee; or
  - b) Arrangements for the doing of the work are otherwise changed.
28. Dewatering is not permitted on this site without NSW-EPA approval.
29. 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;

## BAYSIDE COUNCIL

### Planning Assessment Report

- 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.
- 30. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 31. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
- 32. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 33. Soil and Water Management Plan shall be prepared in accordance with *Soil and Water Management for Urban Development Guidelines* produced by the Southern Sydney Region Organisation of Councils and a copy of the Plan submitted to Council's Customer Service Centre for registration. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site and must be kept on site at all times and made available upon request.

Sediment control devices shall not be located beneath the dripline of any trees nominated for retention.
- 34. Soil and sedimentation controls are to be put in place prior to the commencement of any work on site. The controls are to be maintained in effective working order during construction.
- 35. A licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

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

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



## BAYSIDE COUNCIL

### Planning Assessment Report

- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
  - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
  - e) Disconnection of Gas and Electrical Supply;
  - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
  - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
  - h) Waterproofing of any exposed surfaces of adjoining buildings;
  - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";
  - j) Working hours, in accordance with this Development Consent;
  - k) Confinement of demolished materials in transit;
  - l) Proposed truck routes, in accordance with this Development Consent;
  - m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
  - n) Sewer – common sewerage system ad08
36. 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

## **BAYSIDE COUNCIL**

### **Planning Assessment Report**

#### **CONDITIONS TO BE SATISFIED DURING WORKS**

37. 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 PCA including an after-hours contact telephone number.
  - b) Any such sign is to be removed when the work has been completed.
38. 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.
39. 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.
40. All recommendations contained in the Geotechnical Investigation report prepared by Morrow Geotechnics Pty Ltd, Ref: P1584\_01, Dated 4 December 2018 shall be implemented prior to the issue of the Construction Certificate.
41. All absorption trenches/modular drainage cell installations must be inspected prior to back filling and proceeding to subsequent stages of construction to the satisfaction of

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### Planning Assessment Report

principal Certifying Authority. Supporting evidence shall be issued by a professional Civil Engineer experienced in stormwater system design and construction.

42. 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.
43. No demolition material shall be burnt or buried on the site.
44. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of Council. The use of any part of Council's road reserve must also have prior approval of Council.
45. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
46. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
47. Stockpiles are not permitted to be stored on Council property (including the nature strip) unless prior approval has been granted. In addition, stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
48. Demolition operations shall not be conducted on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
49. Building and demolition operations such as brickcutting, washing tools or paint brushes and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
50. 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.
51. 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;

## BAYSIDE COUNCIL

### Planning Assessment Report

- c) Protection Of the Environment Operations Act 1997 (NSW); and
  - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
52. 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 10m<sup>2</sup> of bonded asbestos and/or any friable asbestos;
  - b) Protection of the Environment Operations Act 1997;
  - c) Protection of the Environment Operation (Waste) Regulation;
  - d) DECC Waste Classification Guidelines 2008; and
  - e) No demolition materials shall be burnt or buried on the site.
53. 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.
54. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos building materials is strictly prohibited.
55. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
- Note: The Applicant may be liable to prosecution under the Environmental Planning and Assessment Act 1979 for a breach of an approval condition, or under the Protection of the Environment Operations Act 1997, if its employees, agents or sub-contractors allow sediment, including soil, excavated material, building materials, or other materials to be pumped, drained or allowed to flow to the street, stormwater pipes or waterways. The Applicant shall ensure that its employees, agents or sub-contractors understand and maintain sediment control measures.
56. 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.
57. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

## BAYSIDE COUNCIL

### Planning Assessment Report

- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
  - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
    - 1 The additional load on the system; and
    - 2 The relocation and/or adjustment of the services affected by the construction.
58. 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. 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.
60. As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) Protect and support the adjoining premises from possible damage from the excavation, and
  - b) Where necessary, underpin the adjoining premises to prevent any such damage.
61. The following shall be complied with during construction and demolition:
- a) Construction Noise
    - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.
    - ii) Level Restrictions

Construction period of 4 weeks and under:

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

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).

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### Planning Assessment Report

b) Time Restrictions

Monday to Friday 07:00am to 05:00pm

Saturday 08:00am to 01:00pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

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

62. 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 Centres.

63. 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,

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.

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.

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.

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

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

65. For compliance with the conditions of consent, a separate application must be made for a subdivision certificate. The application is to be accompanied by documentary evidence demonstrating compliance with all conditions of consent. Submission of a subdivision certificate application must be accompanied by a linen plan with six (6) copies and appropriate fee.
66. Prior to the issue of a Subdivision Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made

## BAYSIDE COUNCIL

### Planning Assessment Report

through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the 'e-developer' icon or telephone 13 20 92.

- a) Following application a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
  - b) The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the release of the linen plan or occupation of the development.
67. Prior to the issue of a Subdivision Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority showing all the structures are wholly located within the property boundary

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

68. Prior to the issue of any Occupation Certificate, the approved subdivision is to be registered. The linen plans are to be submitted to Council, prior to the release of the Occupation Certificate, and proof of registration with the Land and Property Information office is to be submitted prior to occupation and use of any building.
69. The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicants cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider.
70. 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.
71. A certificate from a registered Surveyor shall be provided to the Principal Certifying Authority certifying that the habitable floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (AEP) flood level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
72. 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.
73. A Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by the Botany DCP Part 10 – Stormwater Management Technical Guidelines. The Certificate shall include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the

## BAYSIDE COUNCIL

### Planning Assessment Report

completed works. A copy of the Certificate and works-as-executed plan shall be supplied to the satisfaction of the PCA. A copy shall be provided to Council for registration if Council is not the PCA.

74. All absorption trenches must be inspected, and a compliance certificate under Part 4A of the EP&A Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the principal certifying authority and be made available to Council officers upon request.
75. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority certifying that the garage/parking level is either constructed at or above 15 AEP Flood level OR (in the case of the garage floor/parking level being below the 1% AEP flood level the garage floor/parking level is protected from inundation to a minimum of 500mm above the 1% AEP flood level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
76. Flow through open form fencing (louvres or pool fencing) is require for all new front fence and all internal fences and gates up to 1% AEP flood level. Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Documentation shall be provided to the Principal Certifying Authority. Details of approved types of flow through fencing can be obtained from Council.
77. The development shall comply with the Botany Development Control Plan (DCO 2013, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council 22 August 2018, Ref: FA-2018/94 and Flood Investigation Report and Flood Risk Management Plan prepared by ACOR consultants, Ref: SY181046, dated 17 December 2018.

The approved recommendations from the Flood Management Report shall be implemented prior to occupation.

78. A silt/litter arrestor pit as detailed in Botany DCP Part 10 – Stormwater Management Technical Guidelines shall be provided prior to discharge of stormwater from the site.
79. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
  - a) The overflow from the rainwater tank shall be directed to the stormwater system.
  - b) 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".
  - c) A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
80. 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



## BAYSIDE COUNCIL

### Planning Assessment Report

and all landscaping on the site. First flush device shall be installed and overflow from the rainwater tank shall be connected to the proposed site drainage system.

81. Documentation from a professional 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.
82. A restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information;
  - a) Positive Covenant and Restriction on Use of Land for On-Site Infiltration System. Refer to appendix A of the Stormwater Management Technical Guidelines for suggested wording.
83. The pool area shall be enclosed by a 1200mm high pool safety fence all associated gates shall be fitted with a self-latching device in accordance with AS1926.

Note: A dividing fence will be accepted as part of the pool safety fence provided the fence complies with the requirements of AS 1926.
84. A warning notice must be erected near swimming pools/spas. There shall be at all times maintained, in a prominent position in the immediate vicinity of the swimming pool, a sign erected and bearing the notice: "Young children should be supervised when using this swimming pool", together with details of resuscitation techniques (for adults, children and infants) in accordance with the document entitled "Cardio-Pulmonary Resuscitation" published by the Australian Resuscitation Council. The warning notice may be purchased from Bayside Council or the Royal Life Saving Society.
85. Pool covers are to be installed to minimise evaporation.
86. At least one (1) native or ornamental tree of at least 45 litre pot size and capable of growing to a minimum height of three (3) metres shall be planted in the front setbacks of each lot on completion of the building works and prior to the final inspection.
87. At least one replacement street tree, *Tristaniaopsis laurina*, is to be planted in Council's nature strip adjoining the property.
88. All landscape works are to be carried out in accordance with the approved Landscape Plan and certified by a suitably qualified Landscape Architect.

#### ONGOING USE

89. 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.

## **BAYSIDE COUNCIL**

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The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely desludged and all contents from the desludging process disposed.

- Solids shall be disposed to the waste disposal,
- De-sludged liquid shall be disposed to the sewer.

90. The use of mechanical plant including air conditioners, fans, compressors, freezers, swimming pool or spa pumps shall not give rise to an 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act, 1997.
91. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environmental (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
92. All existing and proposed lights shall comply with the Australian Standard As4282 – 1997 "Control of Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises, including swimming pools, shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.

#### **ADVISORY NOTES**

The water from the rainwater tank should not be used for drinking. Sydney Water shall be advised of the installation of the approved rainwater tanks.



ISSUE	AMENDMENT	DATE	DRAWN
A	ISSUED FOR CLIENT APPROVAL	11/07/2018	D.D
B	DA PLANS	17/08/2018	D.D
C	DA PLANS (CHANGES)	17/12/2018	D.D
D	DA PLANS (CHANGES)	17/02/2019	D.D
E	DA PLANS (CHANGES)	07/03/2019	D.D
F	DA PLANS (CHANGES)	19/07/2019	D.D

Sheet Number	Sheet Name
1	COVER PAGE
2	GROUND FLOOR PLAN
3	FIRST FLOOR PLAN
4	ROOF PLAN
5	FRONT AND REAR ELE...
6	SIDE ELEVATIONS
7	SECTIONS
8	SITE PLAN & SEDIME...
9	SITE ANALYSIS PLAN
10	AREAS
11	DEMOLITION PLAN
12	SUBDIVISION PLAN
13	POOL PLAN AND SECT...
14	LANDSCAPE PLAN
15	21ST JUNE SHADOW ...
16	21ST MARCH AND SEPT
17	SITE SETBACK PLAN
18	BASIX
19	AS SHOWN

Proposed new  
Semi Detached  
dwelling and  
subdivision

CLIENT

Mathew Kraljevic

JOB:

31 Albert street  
Botany 2019, lot  
20 DP 60879

DRAWING

COVER PAGE

SHEET SIZE  
TO SCALE:

A3

DATE:

11/07/2018

DRAWING No:

1000

SHEET:

1/19

ISSUE:

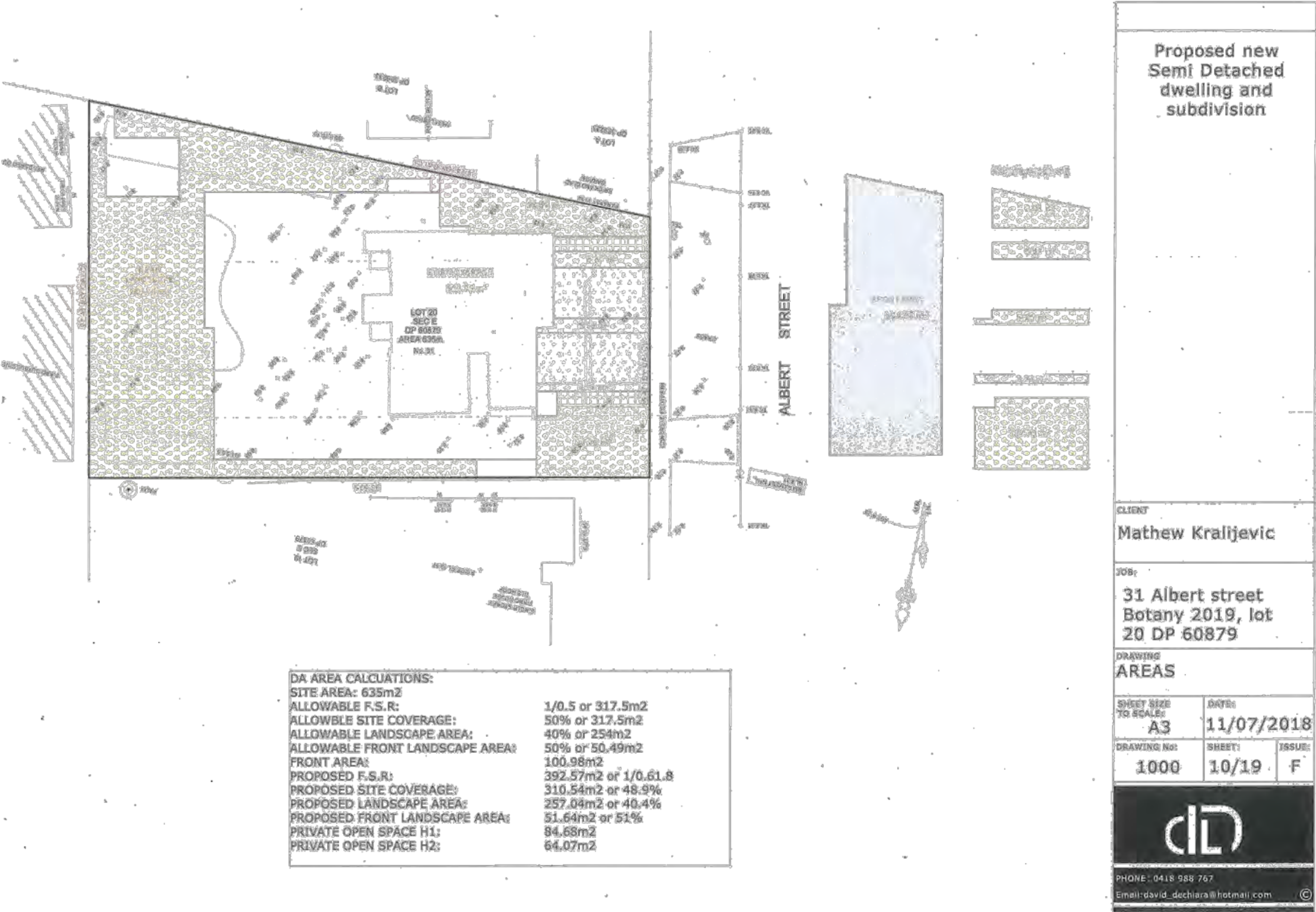
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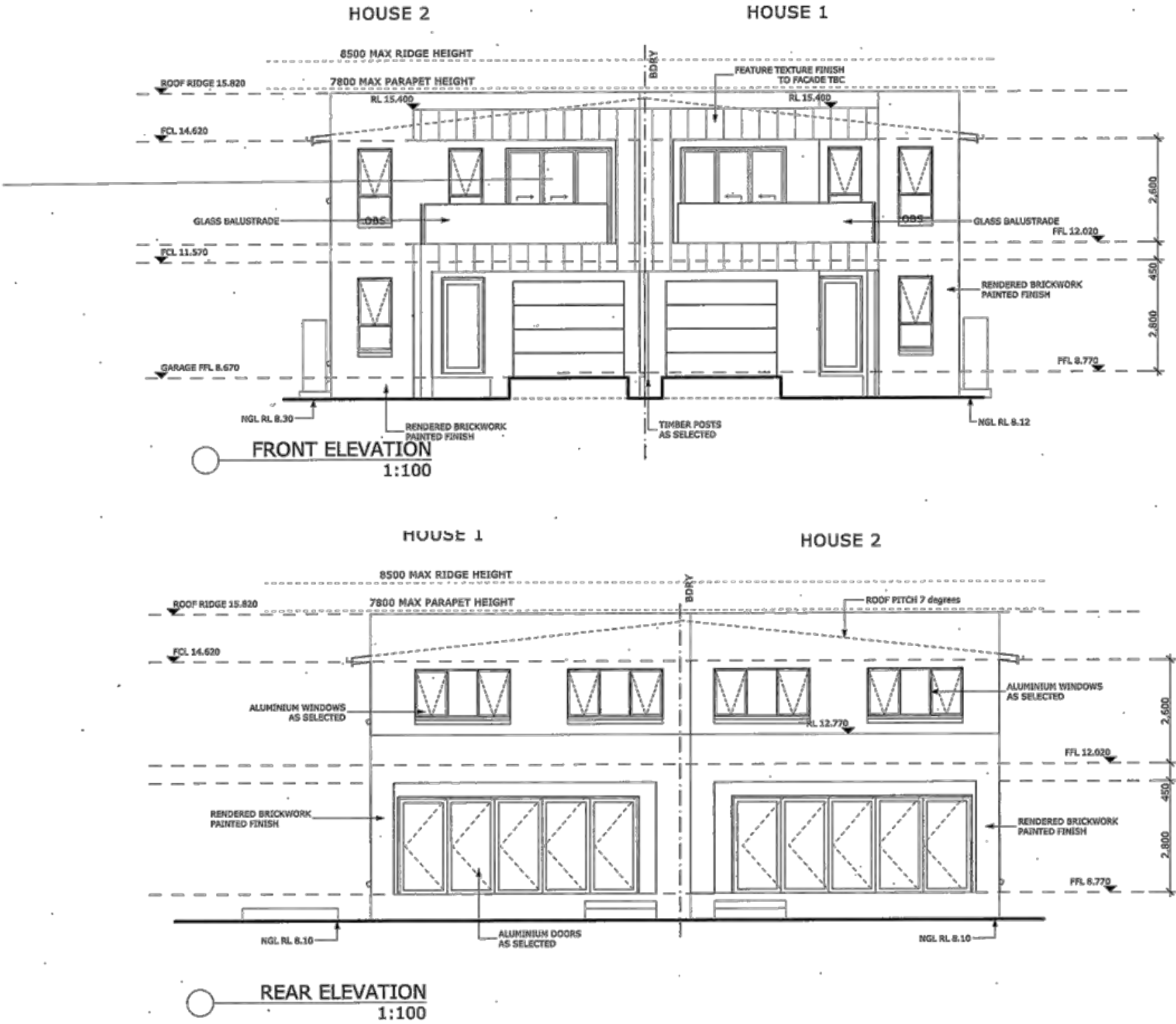
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Proposed new  
Semi Detached  
dwelling and  
subdivision

CLIENT  
**Mathew Kraljevic**

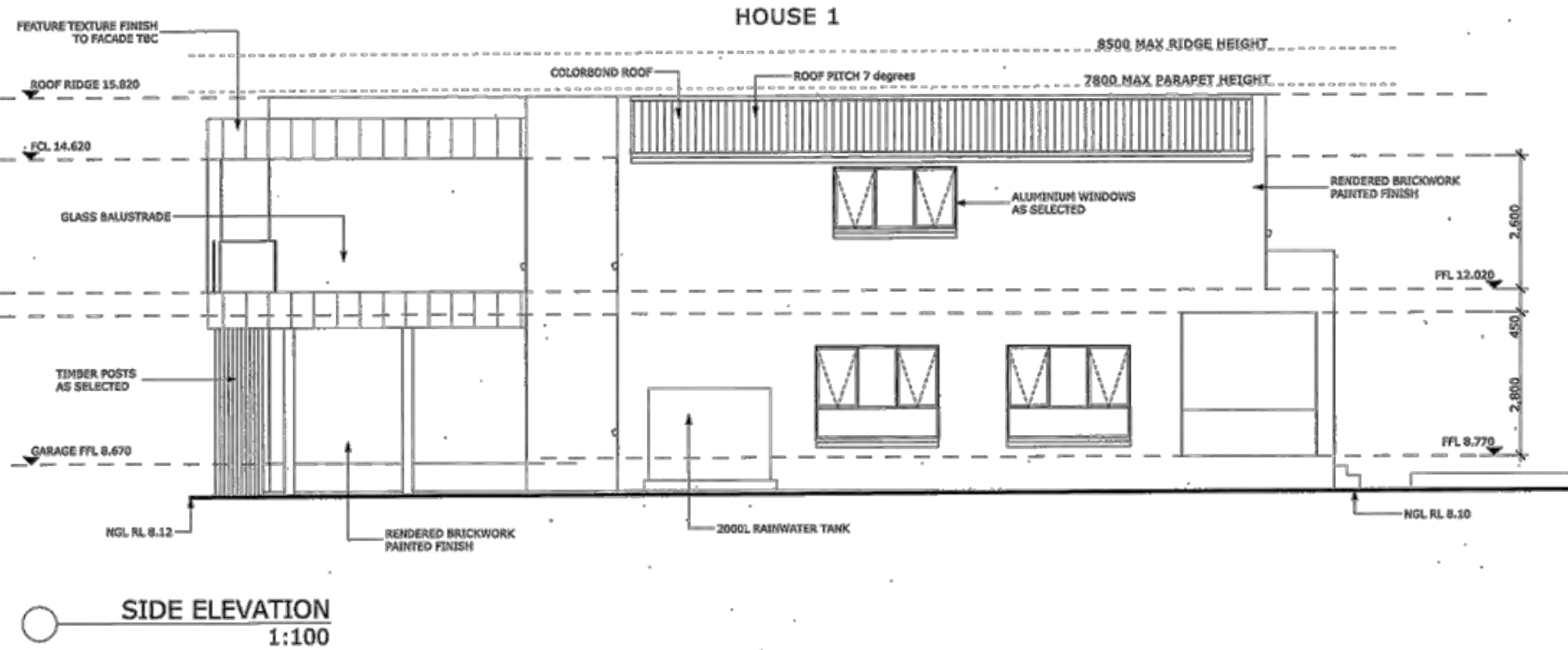
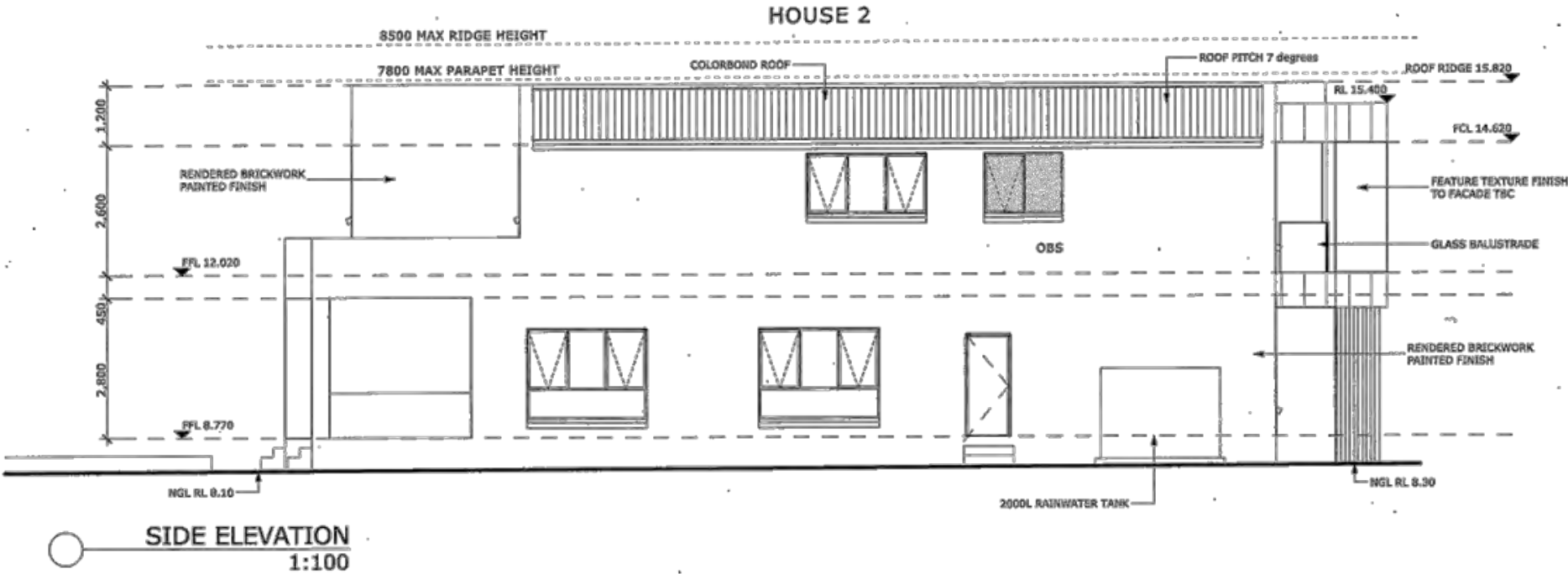
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**31 Albert street  
Botany 2019, lot  
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DRAWING  
**FRONT AND REAR  
ELEVATIONS**

SHEET SIZE TO SCALE: <b>A3</b>	DATE: <b>11/07/2018</b>	
DRAWING No: <b>1000</b>	SHEET: <b>5/19</b>	ISSUE: <b>F</b>



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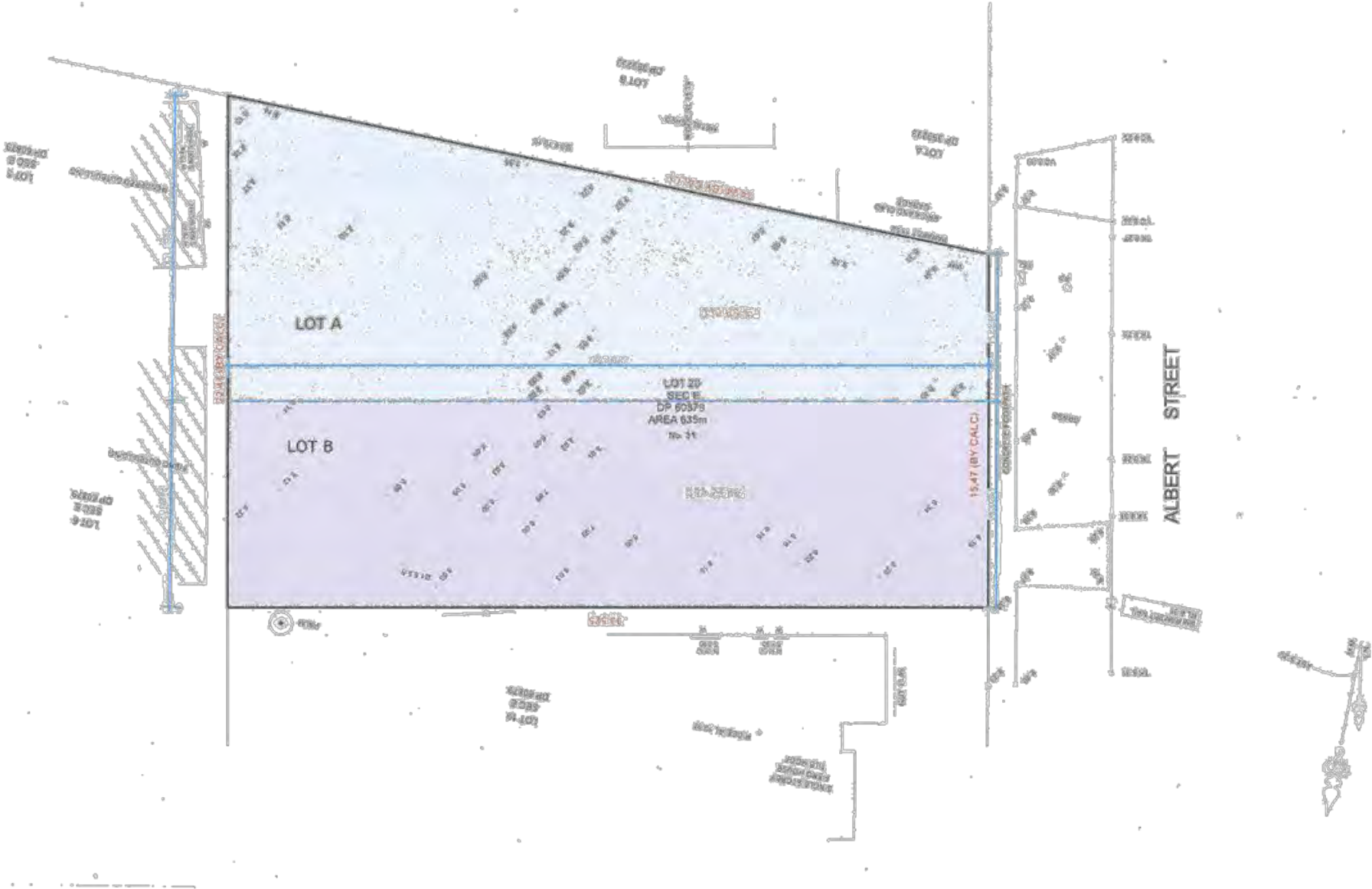
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Botany 2019, lot  
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DRAWING  
SIDE ELEVATIONS

SHEET SIZE TO SCALE: A3	DATE: 11/07/2018	
DRAWING No: 1000	SHEET: 6/19	ISSUE: F



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**Proposed new Semi Detached dwelling and subdivision**

CLIENT  
**Mathew Kraljevic**

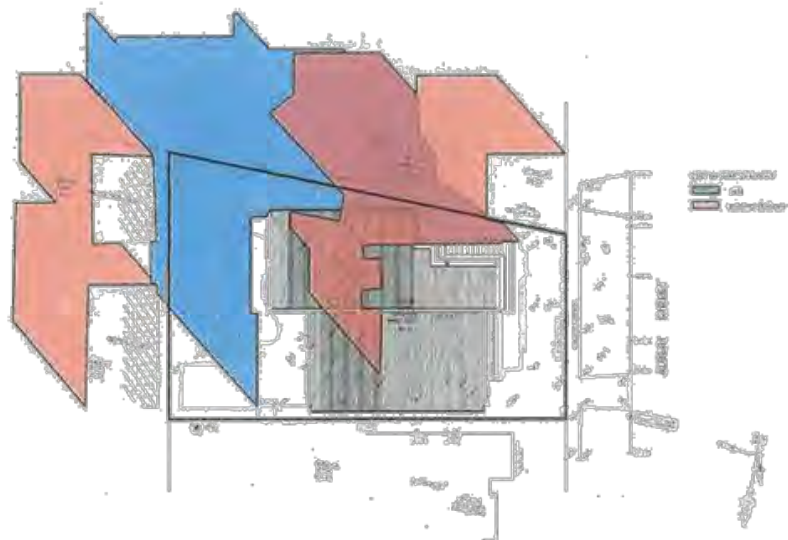
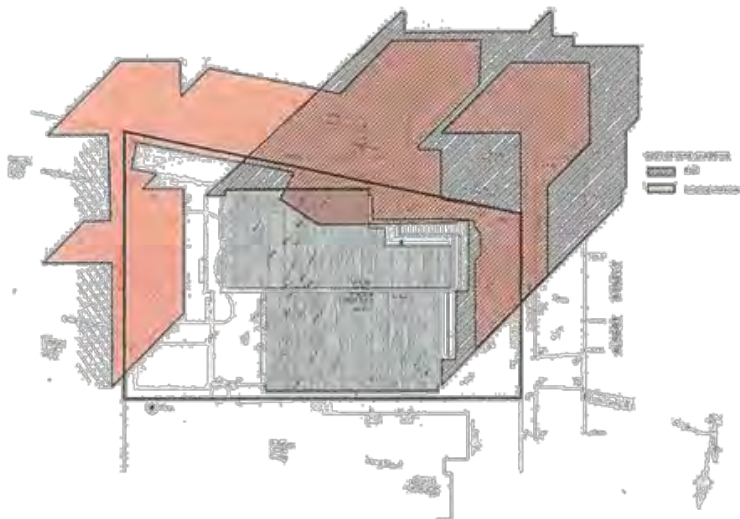
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Botany 2019, lot  
20 DP 60879**

DRAWING  
**SUBDIVISION PLAN**

SHEET SIZE TO SCALE: <b>A3</b>	DATE: <b>11/07/2018</b>
DRAWING No: <b>1000</b>	SHEET: <b>12/19</b>
ISSUE: <b>F</b>	

**cd**

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Proposed new  
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dwelling and  
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CLIENT  
Mathew Kraljevic

JOB:  
31 Albert street  
Botany 2019, lot  
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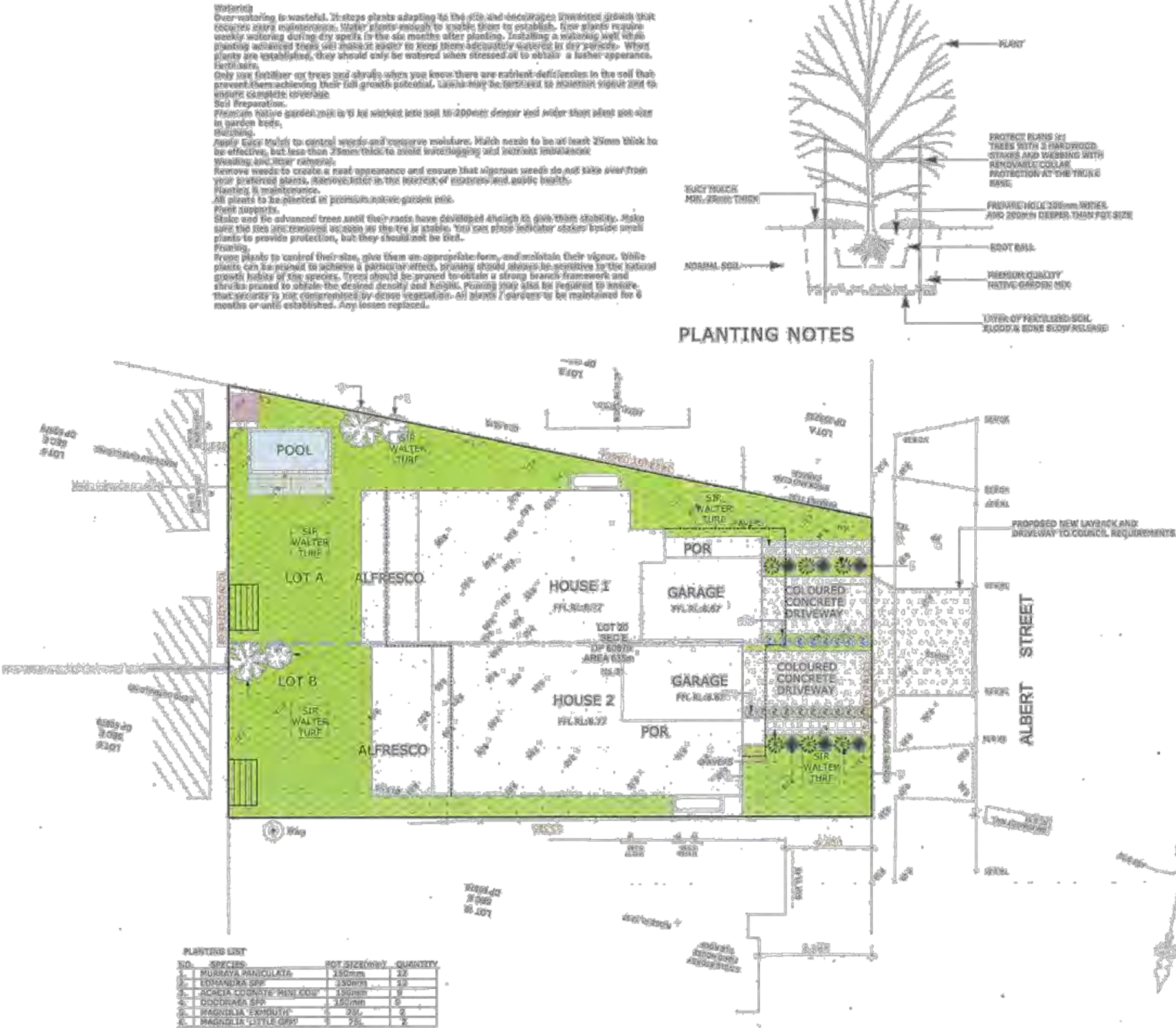
DRAWING  
21ST JUNE SHADOW  
DIAGRAMS

SHEET SIZE TO SCALE:	DATE:
A3	11/07/2018

DRAWING No:	SHEET:	ISSUE:
1000	15/19	F

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DRAWING  
LANDSCAPE PLAN

SHEET SIZE TO SCALE: A3	DATE: 11/07/2018	
DRAWING No: 1000	SHEET: 14/19	ISSUE: F

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# Arboricultural Root Investigation Report

**Site location:**  
31 Albert Street  
Botany NSW

**Prepared for:**  
Stan Kralijevic

**Prepared by:** Bryce Claassens  
Urban Arbor Pty Ltd PO Box 450  
Turramurra NSW 2074  
**Date Prepared:** 23 September 2019  
**Our Ref:** 19/09/23/31ASB



## Table of Contents

1. INTRODUCTION .....	3
2. SCOPE OF THE REPORT .....	3
3. LIMITATIONS .....	4
4. METHODOLOGY .....	4
5. OBSERVATIONS .....	5
6. CONCLUSIONS .....	6
7. PHOTOGRAPHS .....	7
8. BIBLIOGRAPHY/REFERENCES.....	12
9. LIST OF APPENDICES.....	12

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Report on trees at: 31 Albert Street, Botany, NSW.  
Prepared for: Stan Kraljivic.  
Prepared by: Bryce Claassens, Urban Arbor Pty Ltd, sales@urbanarbor.com.au, (02) 8004 2802.  
Date of prepared: 23 September 2019.



## 1. INTRODUCTION

- 1.1 Urban Arbor have been instructed by Stan Kraljevic to carry out root investigations to determine if significant roots are located within an area of proposed construction adjacent to one tree located within the adjoining property.
- 1.2 Below is a list of all documents and information provided to assist in preparing this report;
  - A) Architectural Plans, David Dechiara Architects, Including sheets 1 – 19, Issue F, 19 July 2019.
  - B) Arboricultural Impact Assessment Report, 13-17 Swinbourne Street Botany, Urban Arbor Pty Ltd, Revision: A, Ref: 19/07/26/1317SSB, 26 July 2019.
- 1.3 Urban Arbor carried out a site inspection and completed the root investigations on 23 September 2019. Access was available to the subject site and adjoining public areas only. The tree information has been duplicated from the Arboricultural Impact Assessment Report by Urban Arbor, dated 26 July 2019.

## 2. SCOPE OF THE REPORT

- 2.1 This report has been undertaken to meet the following objectives.
  - 2.1.1 Conduct root investigations to identify if significant woody roots are present in the location of an area of proposed works within the Tree Protection Zone (TPZ) of tree 7, located within the adjoining property to the South of the site, 15 Swinbourne Street, Botany.
  - 2.1.2 The proposed works within the TPZ of tree 7 include excavations for the new dwelling footings/drop edge beam within the site.
  - 2.1.3 For the purpose of the investigations, a significant root is a root with a diameter equal to or greater than 30mm.
  - 2.1.4 Determine if tree 7 will require canopy pruning to accommodate the proposed development and if required specify pruning recommendations.

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Date of prepared: 23 September 2019.



### 3. LIMITATIONS

- 3.1 The observations and recommendations are based on one site inspection. The findings of this report are based on the observations and site conditions at the time of the inspection.
- 3.2 The report reflects the subject tree as found on the day of inspection. Any changes to the growing environment of the subject tree, or tree management works beyond those recommended in this report may alter the findings of the report. There is no warranty, expressed or implied, that problems or deficiencies relating to the subject tree, or subject site may not arise in the future.
- 3.3 All diagrams, plans and photographs included in this report are visual aids only, and are not to scale unless otherwise indicated.
- 3.4 No specific tree risk assessment has been undertaken for the trees at the site.
- 3.5 Alteration of this report invalidates the entire report.

### 4. METHODOLOGY

- 4.1 The following information was collected during the assessment and root investigations of the subject tree.
  - 4.1.1 Tree common name
  - 4.1.2 Tree botanical name
  - 4.1.3 Location of roots
  - 4.1.4 Diameter of roots
  - 4.1.5 Depth of roots
  - 4.1.6 Notes/comments
- 4.2 All DBH measurements, tree protection zones, and structural root zones were calculated in accordance with methods set out in AS4970 Protection of trees on development sites (2009) <sup>1</sup> and in some cases estimated.
- 4.3 Non-destructive root investigations were undertaken by the means of hand excavation, using digging shovels, small trowels and a digging knife. Root investigations were completed within the area of the proposed excavations within the TPZ of tree 7 (see appendix 1).
- 4.4 Tree root diameter was measured using a DBH tape or in some cases estimated. The other tools used during the assessment were a nylon mallet, compass, camera, steel tape, wheel tape and a steel probe.

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<sup>1</sup> Council Of Standards Australia, *AS4970 Protection of trees on development sites* (2009).  
Report on trees at: 31 Albert Street, Botany, NSW.  
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Date of prepared: 23 September 2019.





## 5. OBSERVATIONS

### 5.1 Tree Information

#### 5.1.1 Tree 7 Observations – Jacaranda

Tree 7 is a mature Jacaranda (*Jacaranda mimosifolia*). The tree is located within the adjoining property to the South of the site, 15 Swinbourne Street, Botany (Image 1). The tree has a DBH of 580mm and a DAB of 600mm. Tree 7 has a TPZ of 7.0m and an SRZ of 2.7m, both measured in radius from the centre of the trunk.

### 5.2 Root Investigations Information

5.2.1 Root investigations were completed in one location within the site, referred to as trench 1. See appendix 1 for a plan showing the location of trench 1.

5.2.2 Trench 1 was completed in the location of the proposed excavations for the dwelling footings/drop edge beam within the TPZ of tree 7. Trench 1 was 9.5m in length, 300mm in width and 600mm in depth (Image 2).

#### 5.3 Trench 1 Observations

5.3.1 Root investigations for trench 1 involved removing the existing vegetation within the garden bed area within the site, rolling back the astro-turf and excavating to the depth of the proposed retaining wall footings. Eight roots were identified during the root investigations in trench 1, including root 1, 2, 3, 4, 5, 6, 7 and 8 (Image 3, 4, 5, 6, 7 and 8).

5.3.2 Root 1 - 8 appeared to be emanating from tree 7 and have cambium consistent with that of tree 7. Root 1 - 8 are located within the TPZ of tree 7 but not within the SRZ of tree 7.

5.3.3 **Table:** All roots identified have been listed in the table below (see section 7 Photographs for root images and locations).

Root No.	Root diameter (mm)	Depth (mm)	Distance from centre tree (m)	Location along trench (m)
1	35	400	3.0	2.5
2	30	260	2.8	3.3
3	80	180	2.85	3.65
4	30	300	2.85	3.65
5	55	300	3.0	4.8
6	50	280	3.4	5.65
7	50	450	3.8	6.2
8	40	400	4.8	7.4

#### Notes:

- Root diameter measured adjacent to side of trench closest to tree.
- Depth of root measured from top of root to existing grade.
- Location along trench measured from the East side of the trench to the West side of the trench.

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## **6. CONCLUSIONS**

### **6.1 Tree 7 Conclusions**

- 6.1.1 To conclude, eight significant roots were identified within root investigation trench 1, including root 1, 2, 3, 4, 5, 6, 7 and 8.
- 6.1.2 Root 1 - 8 appeared to be emanating from tree 7 and have cambium consistent with that of tree 7. Root 1 - 8 are located within the TPZ of tree 7 but not within the SRZ of tree 7.
- 6.1.3 For tree 7 to be retained in a viable condition, root 1- 8 must be retained. Design modifications to the proposed dwelling footings are recommended. The drop edge beam type footings must be deleted and replaced with the tree sensitive construction method of pier and beam type footings. All piers are to be excavated manually using hand tools only. All piers are to be located outside the SRZ. Pier location must be flexible to avoid roots 1, 2, 3, 4, 5, 6, 7 and 8 and any additional significant roots 30mm or greater in diameter. The piers must be set back from any significant roots by 200mm minimum. All beams are to be located on or above existing soil grades.
- 6.1.4 If the footings can be installed in accordance with the above recommendations, tree 7 will not be significantly impacted by the proposed works and the tree can be retained in a viable condition providing adequate tree protection is installed and maintained throughout the construction period. Tree protection recommendations should be agreed upon with the project arborist prior to the commencement of development works, including demolition.

### **6.2 Tree 7 Pruning Specifications**

- 6.2.1 Canopy pruning for tree 7 will be required to accommodate the proposed building/scaffolding. The pruning for tree 7 will result in removing less than 5% of the overall live foliage area. The pruning will not significantly impact the condition or amenity value of tree 7. All pruning works can and must be completed in accordance with AS4373-2007 Pruning of Amenity Trees, pruning class 'S' for selective pruning. See Image 9 for pruning specifications and final cut locations.

### **6.3 Site Plan**

- 6.3.1 A site plan has been included in Appendix 1, where the indicative TPZ/SRZ of the tree assessed has been overlaid onto the proposed site plan provided by the client. This plan includes the location of the root investigation trench.

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## 7. PHOTOGRAPHS



**Image 1:** Looking South West to tree 7 located within the adjoining property, 15 Swinbourne Street, Botany.



**Image 2:** Looking East along root investigation trench 1. Showing tree 7, the length of the trench and general location of root 1 – 8.

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Image 3: Looking North into the root investigation trench showing root 1.



Image 4: Looking North into the root investigation trench showing root 2, 3 and 4.

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Image 5: Looking North into the root investigation trench showing root 5 and service pipe.



Image 6: Looking North into the root investigation trench showing root 6 and service pipe.

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**Image 7:** Looking North into the root investigation trench showing root 7.



**Image 8:** Looking North into the root investigation trench showing root 8.

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**Image 9:** Looking South West to tree 7. The removal of the following branch (dashed red) will be required to accommodate the proposed building/scaffolding (final pruning cut location marked yellow):

- Limb A = 100mm diameter epicormic growth to the North at 3.5m above ground level.

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## 8. BIBLIOGRAPHY/REFERENCES

- Council Of Standards Australia, *AS4970 Protection of trees on development sites* (2009).

## 9. LIST OF APPENDICES

The following are included in the appendices:

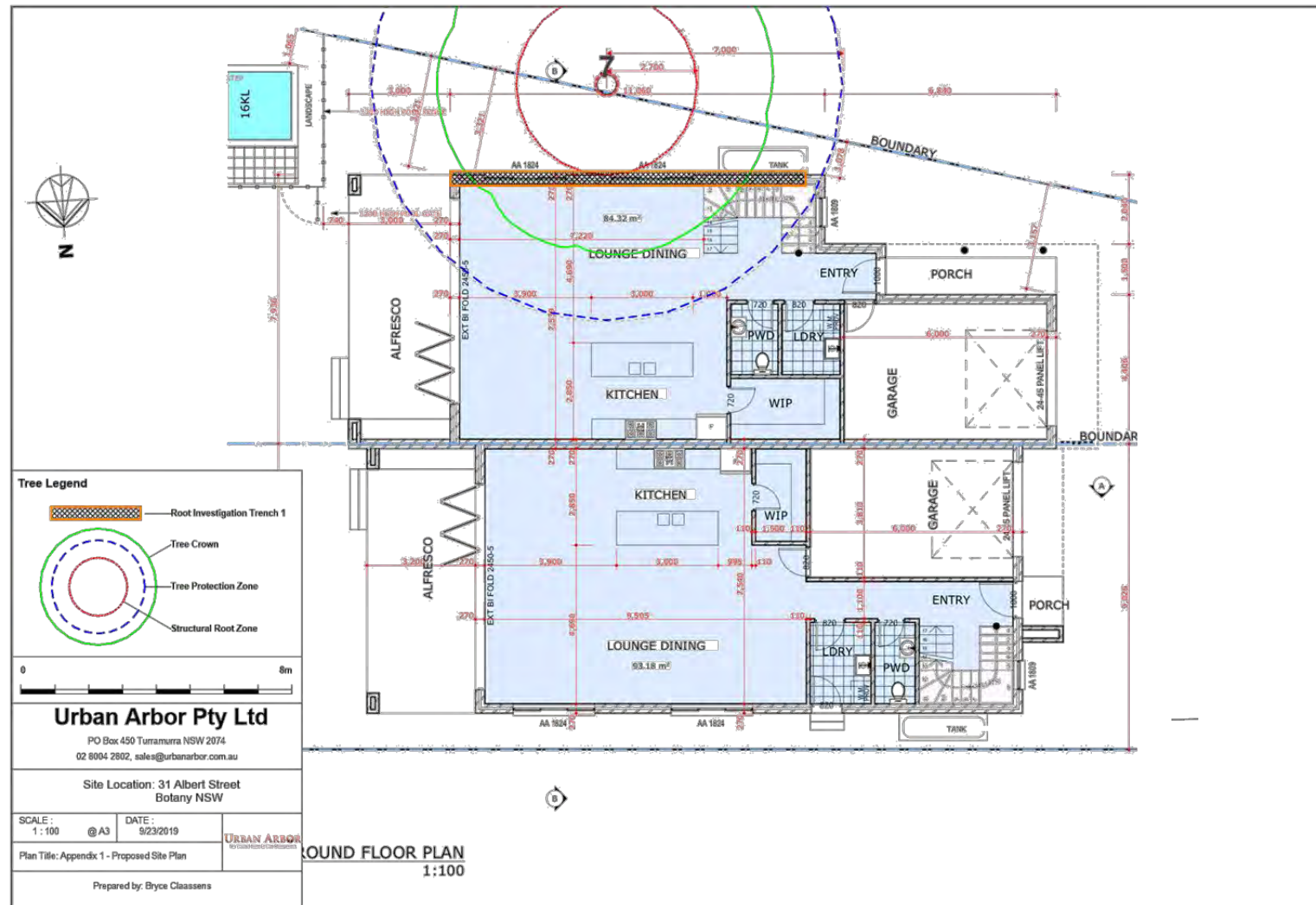
Appendix 1 - Proposed Site Plan

Appendix 2 - Further Information of Methodology

A handwritten signature in dark ink, appearing to read "Bryce Claassens".

Bryce Claassens  
Diploma of Arboriculture (AQF5)  
Cert III Landscape Construction  
QTRA Registered User  
Member Arboriculture Australia

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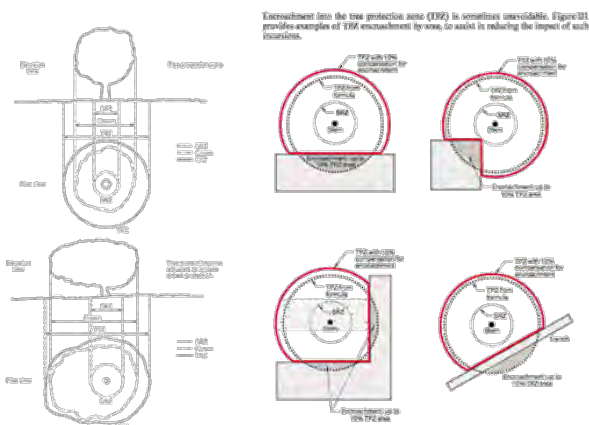


## Appendix 2 - Further Information of Methodology

1. **Tree Protection Zone:** The tree protection zone (TPZ) is the principle means of protecting trees on development sites. The TPZ is a combination of the root area and crown area requiring protection. It is an area isolated from construction disturbance, so that the tree remains viable. The radius of the TPZ is calculated for each tree by multiplying its DBH x 12. The derived value is measured in radius from the centre of the stem/trunk at ground level. A TPZ should not be less than 2.0 metres nor greater than 15 metres (except where crown protection is required). It is commonly observed that tree roots will extend significant further than the indicative TPZ, however the TPZ is an area identified AS4970-2009 to be extent where root loss or disturbance will generally not impact the viability of the tree. The TPZ is identified as a restricted area to prevent damage to trees either above or below ground during a development. Where trees are intended to be retained proposed developments must provide an adequate TPZ around trees. The TPZ is set aside for the tree's root zone, trunk and crown and it is essential for the stability and longevity of the tree. The tree protection also incorporates the SRZ (see below for more information about the SRZ). I have calculated the TPZ of palms, other monocots, cycads and tree ferns at one metre outside the crown projection. See appendices for additional information about the TPZ including information about calculating the TPZ and examples of TPZ encroachment.

**Minor encroachment into TPZ:** Sometimes encroachment into the TPZ is unavoidable. Encroachment includes but is not limited to activities such as excavation, compacted fill and machine trenching. Minor encroachment of up to 10% of the overall TPZ area is normally considered acceptable, providing there is space adjacent to the TPZ for the tree to compensate and the tree is displaying adequate vigour/health to tolerate changes to its growing environment.

**Major encroachment into TPZ:** Where encroachment of more than 10% of the overall TPZ area is proposed the project Arborist must investigate and demonstrate that the tree will remain in a viable condition. In some cases, tree sensitive construction methods such as pier and beam footings, suspended slabs, or cantilevered sections, can be utilised to allow additional encroachment into the TPZ by bridging over roots and minimising root disturbance. Major encroachment is only possible if it can be undertaken without severing significant size roots, or if it can be demonstrated that significant roots will not be impacted.



2. **Structural Root Zone:** This is the area around the base of a tree required for the trees stability in the ground. An area larger than the SRZ always need to be maintained to preserve a viable tree as it will only have a minor effect on the trees vigour and health. There are several factors that determine the SRZ which include height, crown area, soil type and soil moisture. It can also be influenced by other factors such as natural or built structures. Generally work within the SRZ should be avoided.  
An indicative SRZ radius can be determined from the diameter of the trunk measured immediately above the root buttresses. Root investigation could provide more information about the extent of the SRZ. The following formula should be used to calculate the SRZ.  
$$\text{SRZ radius} = (D \times 50)^{0.42} \times 0.64 \text{ (D = Diameter above root buttress).}$$

**F.S.R Variation:****Clause 4.6 Variation to Clause 4.4 Floor Space Ratio**

The applicant requests a variation to the Floor Space Ratio (FSR) development standard, as prescribed in clause 4.4 of Botany Bay LEP 2013. This request is made pursuant to clause 4.6 Exceptions to Development Standards.

The following is a summary of the proposal for easy reference:

<b>Requirement</b>	FSR: 0.5:1
<b>Proposed</b>	FSR: 0.618:1
<b>Is the planning control in question a development standard?</b>	Yes
<b>Is the non-compliance with the clause requirement a Numerical and / or Performance based variation?</b>	Numerical
<b>If numerical enter a % variation to requirement</b>	Change in FSR is 23.6%

**Introduction**

A Development Application is submitted to Bayside Council for demolition of an existing dwelling and construction of two semi-detached dwellings on the development site. The development site currently comprises two lots, therefore each will be sited on its own allotment. Any minor boundary adjustment to site the two dwellings evenly on the land will be Exempt Development under SEPP (ECDC) 2008.

This submission contends that strict compliance with the maximum floor space ratio is unreasonable and/or unnecessary in the circumstances of the case and that the variation sought can be supported and that the Clause 4.6 exception to the development standard should be supported.

**Clause 4.4 of the Botany Bay LEP 2013 provides:****4.4 Floor space ratio**

*(1) The objectives of this clause 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.*

*(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

*(2A) Despite subclause (2), if an area of land in Zone R3 Medium Density Residential or Zone R4 High Density Residential exceeds 2,000 square metres, the floor space ratio of a building on that land may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map but must not exceed 1.5:1.*

*(2B) Subclause (2A) does not apply to land identified as "Area 1" on the Floor Space Ratio Map.*

*(2C) Despite subclause (2), if an area of land identified as "Area 2" on the Floor Space Ratio Map has a site area exceeding 1,900 square metres, the maximum floor space ratio for a building on that land may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by no more than 0.65:1.*

*(2D) Despite subclause (2), if a building is permissible under clause 9A of Schedule 1 on land identified as "Area 4" on the Floor Space Ratio Map, the maximum floor space ratio for the building must not exceed*

*1.5:1.*



Figure 1: Extract of BBLEP 2013 Floor Space Ratio map (1:1)

#### Reason for a variation

The Botany Bay LEP 2013 contains provisions under Clause 4.6 which allow for the consent authority to consider certain variations to the principal development standards listed under Part of the LEP. The variations may only be considered reasonable where they have been suitably justified by an applicant to be 'unreasonable or unnecessary' in the circumstances of the case, pertaining to site conditions, surrounding character of the built form, etc. The provisions of Clause 4.6 are reproduced below:

#### 4.6 Exceptions to development standards (1)

*The objectives of this clause are as follows:*

*to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*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:*

*that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless:*

*(a) the consent authority is satisfied that:*

*the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*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.*

*(5) In deciding whether to grant concurrence, the Secretary must consider:*

*whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and the public benefit of maintaining the development standard, and*

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

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*

*the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

**Note.**

*When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E3 Environmental Management or Zone E4 Environmental Living.*

*After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

*This clause does not allow development consent to be granted for development that would contravene any of the following:*

*a development standard for complying development,*

*a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated, (b1) clause 4.3 (2A), (b2) clause 4.4B (3), clause 5.4.*

**Response:**

Having regard to the above, in summary a development standard can be varied if a submission is made (in writing) by the applicant justifying a contravention to the development standard on the grounds that:

*compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*that there are sufficient environmental planning grounds to justify contravening the development standard.*

The consent authority must however be satisfied that:

*the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3), and*

*the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

The current LEP map identifies No. 31 Albert Street being within an "Area 3".

This means we must also take into account clause 4.4A of the BBLEP2013.

Clause 4.4A (3)(d) states "the maximum floor space ratio for all other development for the purpose of residential accommodation is 0.5:1"

Semis are "other development for the purposes of residential accommodation." Also An FSR of 0.7:1 is permitted for a dwelling house under clause 4.4A (3)(a), but Unfortunately the DA proposes semidetached dwellings, not a dwelling house.

In our opinion this requirement is unfair, because a single dwelling is able to build on a 0.7:1 and this bulk and scale would be much greater than a 0.5:1 for a semidetached dwelling as indicated for a semidetached dwelling.

If we were to subdivide the block, each block would be able to build two house of 0.7:1, this show that a greater bulk and scale development can occur, showing that our variation only minor.

The proposed semidetached dwelling is now currently 0.61:1 which sit between 0.5:1 and 0.7:1 and our opinion still meets design objectives for this area, but also has been design to have open plan living, good size rooms for the owners, we believe this is a small variation to consider as there are a number of development in the area which go to a 1:1 F.S.R.

#### **Is the planning control in question a development standard?**

Clause 4.4 provides inter-alia that (2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

'Development Standards' has the following meaning ascribed to it under Section 4(1) of the Environmental Planning and Assessment Act, 1979:

*"development standards" means provisions of an environmental planning instrument in relation to the carrying out of development, being provision by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of -*

*the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point: the proportion or percentage of the area of a site which a building or work may occupy:*

*the character, location, siting, bulk, scale, size, height, density, design or external appearance of a building or work; the cubic content or floor space of a building;*

*the intensity or density of the land, building or work, the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles;*

*the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment;*

*the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles; the volume, nature and type of traffic generated by the development; (i) road patterns; drainage; the carrying out of earthworks; the effects of development on patterns of wind, sunlight, daylight or shadows; the provisions of services, facilities and amenities demanded by development;*

*the emission of pollution and means for its prevention or control or mitigation; and (o) such other matters as may be prescribed;”*

The Clause relevant in this instance is:

*(c) the character, location, siting, bulk, scale, size, height, density, design or external appearance of a building or work;*

On this basis, it is my opinion that Clause 4.4 of the Botany Bay LEP 2013, although referred to as a local standard is a development standard and not a “prohibition” in respect of development, and one amenable to an objection under Clause 4.6. This would be consistent with Council’s intention.

**Is compliance with the development standard unreasonable or unnecessary in the circumstances?**

It is considered that strict compliance with FSR controls on the site is unreasonable and unnecessary for the following reasons:

Notwithstanding non-compliance with the numerical controls of the standard (Clause 4.4 of BBLEP) the proposal meets the objectives of the standard, as demonstrated in the SEE.

The variation to the FSR standard is consistent with the potential environmental impacts that may otherwise be reasonably expected by a complying development with regards to:

- the desired future character of the locality;
- the preservation of the residential amenity of surrounding developments having particular regard to overshadowing and privacy impact; and
- achieving general compliance with the other applicable planning controls.
- providing acceptable rear and front setbacks when compared with the prevailing setbacks and likely future setbacks in the area.

The consideration of solar access, overshadowing and visual privacy is addressed within the SEE and also denoted on the architectural plans and solar diagrams submitted in support of this application. The site faces Albert Street. The shadow affectation on properties east and west of the site is somewhat mitigated by the combination of the overall depth of the site and the reduced height of the dwellings resulting directly from the low pitch roof form. This effectively internalises the overshadowing impacts to within the parameters of the site and relatively minor additional overshadowing to adjoining properties as a result of the development. Similar impacts would occur from a complying development large, two storey single dwelling on the site.

Habitable room windows at the upper level are narrow awning style openings that do not promote overlooking from those low traffic areas but allow natural ventilation and light to the rooms.

The attached rear timber deck areas are buffered by the existing rear shed on one side and average domestic rear yard space on the other. Screens along the edge of the terraces are not added as there is not perceived privacy affectation in this case.

A development under the Exempt and Complying Development SEPP would permit a similar if not larger dwelling

Council has supported similar variations for low scale, low density residential development in the surrounding area. A search on Council's clause 4.6 register has revealed five (5) DA's since July 2017 supported by Council with FSR variations, some over 25%.

The above factors demonstrate that strict compliance with the BBLEP FSR standard is unreasonable and unnecessary in this circumstance.

**Is it consistent with the objectives of the standard and objectives for the zone?**

**The objectives of the FSR standard are:**

*To establish standards for the maximum development density and intensity of land use.*

*To ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality.*

*To maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation.*

*To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.*

*To minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.*

*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.*

**Response:**

the bulk and scale of the building, whilst more extensive than that of the immediately adjoining dwellings, is consistent with that of other semi-detached developments in the LGA and provides a characteristic form and streetscape;

the development does not detract from the character of the local area. In order for the development to be compatible it does not necessarily need to be the same;

the development does not impact upon the visual relationship between adjoining buildings and has been designed to limit the height of the building to retain a consistent roof line along Albert Street;

the proposal incorporates a modern and contemporary design which will add innovation and visual interest to the streetscape, similar to other recent semi-detached developments in the immediate area;

the design of the proposal including its provided setbacks, limited roof form and materials has had regard to the potential adverse impacts on adjoining neighbours and has sought to mitigate impacts of overshadowing and privacy; there are no additional adverse impacts that stem directly from the FSR departure;

it is considered that an appropriate correlation between the size of the site and the size of the proposed development has been achieved particularly if one is to consider the housing shortage in Sydney at present (demand outstrips supply causing rising rental prices);

the redevelopment of the site for the purposes of a new architecturally designed building represents the orderly economic development of the site which ultimately contributes to the broader economic growth of the locality.

**The objectives of the R2 zone are:**

*To provide for the housing needs of the community within a low density residential environment.*

*To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

*To encourage development that promotes walking and cycling.*

**Response:**

As addressed previously, it is considered that the development satisfies the objectives of the R2 zone. The development provides additional housing in the form of two separately titled residential dwellings to accommodate the future housing needs of the community within a low density environment. The scale, bulk and height of the development does not detract from the existing one two storey character of dwellings in the area and has done everything to limit the extent of potential environmental impacts to adjoining properties.

**Conclusion**

The proposed use is aligned with Council's, and the wider community's, objectives and demands for creating appropriately located accommodation. This is clear from the above consideration of planning policies that apply to the land, and from the above consideration of potential impacts.

The development will achieve its objective of providing additional accommodation opportunities for the area. The proposed development satisfies the guidelines of the Act through providing an efficient land use, and makes orderly and efficient usage of existing infrastructure within the locality. Moreover, there are no significant adverse impacts on the 'public goods' such as air quality, noise, views and amenity.

The proposal is considered to be a suitable development for the site on which it is proposed and meets the relevant heads of consideration under Section 79(c) of the Act.

It is considered that the development will have no adverse environmental effects and has been designed to be cohesive with the characteristics of the site and the locality. The social and economic consequences on the locality are considered to be positive.

The variation to the FSR development standard is considered to be well founded and strict application of the 0.61.8:1 control is unnecessary in the circumstances of the case. The development is entirely consistent with the FSR objectives and the R2 zone. The proposal represents a modest increase in the residential density without detracting from the established low density, one-two storey character of dwellings in the area.

All potentially negative impacts arising from the development have been sufficiently considered during the design phases.

**As the above submission demonstrates that:**

compliance with the development standard are unreasonable or unnecessary in the circumstances of the case; and

there are sufficient environmental planning grounds to justify contravening the development standard; and the matters required to be demonstrated by 4.6(3) have been addressed;



the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

The variation to the standard is worthy of support, which is fundamental to the approval of the development application.

In summation, the development proposed is in the interest of both Council and the broader public, and it will provide significant benefits within the locality over the long term.

The proposal is recommended for this site and is considered positive and Council is requested to approve the application.

David De Chiara (BARCH)

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**Bayside Local Planning Panel**

**8/10/2019**

Item No	6.6
Application Type	Development Application
Application No	DA-2018/254
Lodgement Date	28/09/2018
Proposal	<b>8-18 Stoney Creek Road, Bexley - DA-2018/254 - Demolition of existing structures and construction of a part 5 and 6 storey mixed use building comprising 68 residential dwellings, two (2) ground floor commercial premises and two (2) level basement car park</b>
Ward	Bexley
Owner	Jana Pty Ltd
Applicant	Urban Link Pty Ltd
Property	8-18 Stoney Creek Road, Bexley
No. of Submissions	Four (4)
Cost of Development	\$27,227,364.00
Report by	Michael McCabe, Director City Futures

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**Officer Recommendation**

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2018/254 for the demolition of existing structures and construction of a part 5 and 6 storey mixed use building comprising 68 residential dwellings, two (2) ground floor commercial premises and two (2) level basement car park at 8-18 Stoney Creek Road, Bexley, 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 Photomontage [↓](#)
- 3 Site Plan [↓](#)
- 4 Elevations [↓](#)
- 5 Sections [↓](#)
- 6 Height compliance render [↓](#)
- 7 Schedule Colours and Finishes [↓](#)
- 8 Shadow Diagrams [↓](#)
- 9 Ground L1 Landscape [↓](#)
- 10 Landscape Roof [↓](#)
- 11 Landscape Sections [↓](#)
- 12 Sun Diagrams Midwinter [↓](#)
- 13 Lift Details [↓](#)
- 14 Plan of Management [↓](#)

# BAYSIDE COUNCIL

## Planning Assessment Report

### Application Details

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<b>Application Number:</b>	DA-2018/254
<b>Date of Receipt:</b>	28 September 2018
<b>Property:</b>	8 Stoney Creek Road, BEXLEY (Lot B DP 363190) 18 Stoney Creek Road, BEXLEY (Lot 68 DP 667002)
<b>Owner:</b>	Jana Pty Ltd
<b>Applicant:</b>	Urban Link Pty Ltd
<b>Proposal:</b>	8-18 Stoney Creek Road, BEXLEY NSW 2207 - Demolition of existing structures and construction of a part 5 and 6 storey mixed use building comprising 68 residential dwellings, two (2) ground floor commercial premises and two (2) level basement car park
<b>Recommendation:</b>	Approved
<b>No. of submissions:</b>	Four (4)
<b>Author:</b>	Fiona Prodromou
<b>Date of Report:</b>	13 September 2019

### Key Issues

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The subject site is zoned B4 - Mixed Use under Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed commercial and shop top housing development is permissible with consent.

A maximum height limit of 16m and FSR of 2:1 apply to the properties subject of this Development Application. As the subject site however comprises a combined site area of greater than 800sq/m, a 3m bonus height applies to the subject site, along with a bonus 0.5:1 FSR as permitted by Clauses 4.3(2A)(j) and 4.4(2C)(g) of RLEP 2011. Accordingly a 19m height limit and 2.5:1 FSR apply to the development site.

The proposed development complies in full with the height and FSR standards for the site.

The proposal indicates a variation to the floor to ceiling height of level 1 of a mixed use building, as required by the Apartment Design Guide (ADG), i.e. 2.7m proposed in lieu of 3.3m sought by the ADG to allow flexibility of use. The variation to level 1 is deemed to be acceptable, given the substantial degree of retail space provided within the ground floor level of the development, being 18.8% of the overall gross floor area of the proposal. It is noted that Rockdale DCP 2011 requires 10% of the overall gross floor area for the purposes of commercial within such a development.

The site adjoins the Bexley RSL Club to the west, this property is zoned B1 - Neighbourhood Centre and benefits from an FSR of 2:1 and Height of 13m. The proposal as designed is considered to provide an appropriate transition in bulk, height, setbacks and scale to this adjoining western site.

The proposal illustrates variations to the provisions of DCP 2011 with regard to unit mix within the development. This has been discussed within the report and the variation is deemed to be acceptable in this instance.

The development application has been notified in accordance with Council's Development Control Plan 2011. A total of four (4) submissions were received in relation to the proposed development. Issues raised are discussed in this report.

The proposed development is recommended for approval subject to the conditions attached to this report.

## Recommendation

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1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE development application DA-2018/254 for the demolition of existing structures and construction of a part 5 and 6 storey mixed use building comprising 68 residential dwellings, two (2) ground floor commercial premises and two (2) level basement car park at 8-18 Stoney Creek Road, Bexley, 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.

## Background

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### History

Nil previous applications for the subject site.

### Proposal

The proposal seeks to undertake the demolition of existing structures on all properties and the construction of a part 5 and 6 storey mixed use building comprising 68 residential dwellings, two (2) ground floor commercial premises and two (2) level basement car park. The proposal comprises as follows;

#### Basement 2

73 residential car parking spaces (7 x accessible), 5 motorbike, 7 bicycle spaces. Two lift cores, associated pedestrian and vehicular circulation, plant room and residential storage cages / spaces.

#### Basement 1

50 car parking spaces, being 36 commercial / 14 visitor (including 1 accessible, 1 dual carwash / visitor), 8 bicycle and 3 motorbike spaces. Two residential lift cores, associated pedestrian and vehicular circulation, plant room and residential storage cages / spaces. Two residential waste chutes and storage rooms. One commercial lift to retail space 1 at ground level.

#### Ground Level

Two retail spaces (1155sq/m & 265sq/m) two separate yet adjoining vehicular entries, one to service area (i.e. loading dock / garbage removal space within rear of ground level), second to basement levels. Two (2) residential entry foyers, fire booster & substation both recessed into retail tenancy 1, On



Site Detention service area, plant rooms for a/c and mechanical intake, commercial, residential and bulk waste store.

A deep soil area is provided within rear north eastern corner of the site. This area is proposed to be planted with 6 x cabbage tree palms (mature height 10m), 4 x Illawarra Flame (mature height 10m) and a mix of shrubs and grasses including but not limited to Gynea Lily (mature height 3m), Australian Indigo (mature height 2m) etc.

#### Level 1

16 units (15 x 2 bed / 1 x 3bed + study) with associated private open spaces, common circulation, garbage chutes, service cupboards, lobbies and foyer spaces. Non trafficable garden bed planting is proposed on slab below within the eastern, western and partial northern boundaries of the site. Mass planting is proposed with a range of groundcovers, shrubs and trees up to 8m in height i.e. Coastal Banksia.

6 x 2 bedroom units at this level will benefit from private courtyard spaces, provided with a mix of landscape beds, paving, timber decking and concrete seating. Fencing between courtyards is 1.2m high grey timber batten fence which sits atop a 1m high planter, thus an overall 2.2m total fence height will physically delineate the courtyards of these dwellings.

#### Level 2 & 3 (per floor)

16 units (15 x 2 bed / 1 x 3bed + study) with associated private open spaces, common circulation, garbage chutes, service cupboards, lobbies and foyer spaces.

#### Level 4

14 units (4 x 1 bed / 7 x 2 bed / 1 x 2 bed + study / 1 x 3 bed / 1 x 3 bed + study) with associated private open spaces, common circulation, garbage chutes, service cupboards, lobbies and foyer spaces. Platform lift access to rooftop communal open space opposite fire stairs at this level.

#### Level 5

6 units (2 x 1 bed / 1 x 1 bed + study / 2 x 2 bed / 1 x 3 bed) with associated private open spaces, common circulation, garbage chutes, service cupboards, lobbies and foyer spaces.

Rooftop communal open space is provided on the western rooftop portion of the development. Direct access is provided from level 5 via the common lobby and circulation area. Adjoining the rooftop Communal Open Space area and unit 5.03 is a small plant room incorporating a rainwater tank and a/c unit.

Communal Open Space area at rooftop incorporates a range of planters with groundcovers, shrubs and trees. A timber pergola structure is proposed above a communal bbq and kitchenette space, trained climbers are proposed to be planted on the pergola. Floor finishes proposed include timber decking, decomposed granite with stepping stones and paving. Communal Open Space area also incorporates various vegetable gardens and fixed seating around 2 x fire pits.



### Site location and context

The subject site comprises a total of 7 lots currently comprising detached and semi-detached single storey dwelling houses. The site has a frontage of 65.23m to Stoney Creek Road, a state road, and an overall site area of 3016sq/m. The site is generally rectangular in shape.



Two power poles are positioned along the frontage of the site, which is a clearway and no Parking is permitted as per current street signage. The site is positioned approximately 70m from the intersection of Forest and Stoney Creek Roads, which are both state roads. Several trees are scattered across the rear yards of the site. The subject site has a slight fall to the rear and cross fall to the west.

Directly adjoining the site to the west is the existing Bexley RSL Club. This is a two storey building with basement car parking area. Vehicular & pedestrian entry to this property is via Stoney Creek Road. A bus stop is positioned in front of the RSL club. The vehicular exit to the RSL is via the rear of the site to Abercorn Street.

Directly adjoining the site to the east is an existing two storey commercial building, with carparking within the front setback. Further to the east is the Forest Inn Hotel, a two storey hotel with bottle mart and associated below ground cellar. To the rear of the site are single storey detached dwelling houses, along with a lot which is currently vacant. These lots are 1 – 11 Kingsland Road South and 1 – 3 Abercorn Street.

To the north, north east and south east of the site, within the Bexley Town Centre (BTC) are a mix of 1 and 2 storey commercial buildings, with fragmented ownership patterns. The sites within the Bexley Town Centre are not developed to their full potential. In general properties within the Bexley Town Centre are zoned B4 Mixed Use, comprise a maximum height of 16m and FSR of 2:1. An FSR (0.5:1) & height (3m) bonus applies within the Bexley Town Centre where sites are amalgamated and form a site area >800sq/m. The below identifies the zoning of the site and surrounding area.



Opposite the site to the south is 9 – 17 Stoney Creek Road (within the BTC subject to height & FSR bonus), a public car parking area, single storey mechanical services business at 19 Stoney Creek Road and two storey building at 25 Stoney Creek Road, housing the Australian Licensed Aircraft Engineers Association.

Further to the south west and west along Stoney Creek Road are a number of 1 – 2 storey residential dwellings, and single storey older commercial buildings.

The subject site is affected by;

- Frontage to a State Road
- 15.24m Building Height Civil Aviation Regulations
- Class 5 - Acid Sulfate Soils
- Obstacle Limitation Surface
- 20 - 25 ANEF (2033) contours
- Minimum Floor Levels / Provision for surface flows
- Flooding



## Statutory Considerations

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### *Environmental Planning and Assessment Act, 1979*

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 964111M\_03 and the commitments made result in reductions in energy and water consumption. A condition has been imposed on the consent to ensure that BASIX requirements are adhered to.

##### **State Environmental Planning Policy (Infrastructure) 2007**

###### Clause 101 - Development with Frontage to Classified Road

The proposed development is located on land with a frontage to a classified road i.e. Stoney Creek Road. In this regard, clause 101- Development with frontage to a classified road, of the SEPP must be considered before consent can be granted.

The proposed development involves access to and from the site from Stoney Creek Road, given nil alternative secondary street access is available.

Accordingly, the proposal was referred to the Roads & Maritime Service (RMS). The authority has responded granting approval for the development subject to several conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

###### Clause 102 - Impact of Road Noise or Vibration on Non-Road Development

The proposed development incorporates shop top housing on land adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration. Accordingly, Clause 102 - Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment.

*for residential use:*

*The consent authority must not grant consent to the development for residential use unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

*(a) in any bedroom in the building-35 dB(A) at any time between 10 pm and 7 am,*

*(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)-40 dB(A) at any time.*

The proposal was accompanied by an Acoustic Report, prepared by Rodney Stevens Acoustics Revision 3, dated 8 April 2019, which considered the potential impact of road noise on the proposed development.

The report concludes that the development will satisfy the noise level requirements as outlined in the SEPP, should the recommendations in the report be incorporated into construction. Accordingly, the recommendations have been incorporated as conditions in the draft Notice of Determination.

#### Clause 104 - Traffic Generating Development consistent with SEPP

The proposal is classified as '*traffic generating development*' under Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 as the site proposes direct access to a classified road and seeks to accommodate carparking on site for in excess of 50 vehicles.

In accordance with clause 104(3) of the SEPP, RMS is required to be notified of the proposed development and any submissions provided by RMS are to be considered. The proposed development was referred to RMS who granted concurrence on 17 June 2019, subject to the imposition of standard conditions of consent, which have been incorporated into the Draft Notice of Determination.

Given the above, it can be confirmed that the proposed development will not have a detrimental impact upon the existing operation of the road network and is consistent with the provisions of this clause.

#### Clause 45 - Works within the Vicinity of Electricity Infrastructure

The application is subject to clause 45 of the SEPP as the development proposes works within the vicinity of electricity infrastructure and therefore in accordance with clause 45(2) the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and take into consideration any response to the notice that is received within 21 days after the notice is given.

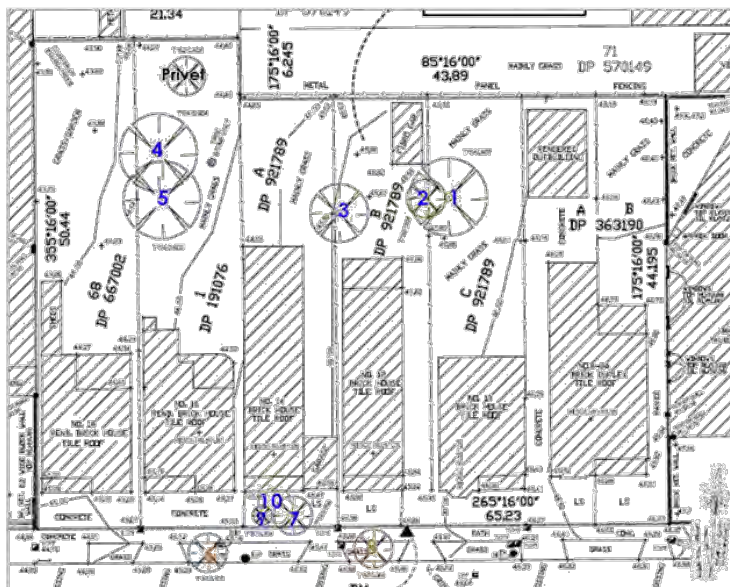
Accordingly, the proposal has been sent to Ausgrid. The authority has responded granting approval for the development subject to several conditions of consent, which have been imposed on the draft Notice of Determination. The application is consistent with the provisions of the SEPP and is acceptable in this regard.

#### **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.

Two street trees within the nature strip in front of 12 (*Ivory Curl*) and 16 (*Bottlebrush*) Stoney Creek Road, are proposed to be retained and protected, with eight (8) trees on site (*Jacaranda*, *Cocos Palm*, *Illawarra Flame*, *Firewheel*, *Crepe Myrtle*, *Golden Monterey Cypress*, 2 x *Savin Jupiter*) within the footprint of the development proposed to be removed.



An Arboricultural Impact Assessment report prepared by a qualified Arborist has been submitted with the application. The report provided recommendations for the removal and retention of trees, including tree protection measures for existing and retained trees.

Council's Tree Management Officer has recommended appropriate conditions that have been imposed in the draft Notice of Determination, regarding the protection and retention of existing trees and the removal of site trees subject to suitable replacement trees being planted in appropriate locations.

Subject to compliance with the conditions of consent, the proposal is satisfactory in relation to SEPP (Vegetation in Non-Rural Areas) 2017 and Clause 4.1.7 of the Rockdale DCP 2011.

#### **State Environmental Planning Policy No 55—Remediation of Land**

In accordance with the requirements of SEPP 55, a Detailed Site Investigation Report (DSI) and Remediation Action Plan (RAP) were submitted to Council for review, in order to confirm the suitability of the site for the proposed development. The DSI identified zinc and benzo(a)pyrene concentrations on site and subsequently the RAP was prepared to manage the aforementioned.

Council's Environmental Scientist reviewed the submitted documents and has accepted the recommendations contained within the report as being satisfactory, noting that subject to the completion of remediation the site will be suitable for the proposed development. Therefore, in accordance with Clause 7 (1)(b) of SEPP 55, Council is satisfied that the land is suitable for the purpose for which the development is proposed to be carried out and standard conditions of consent have been imposed to ensure the site is appropriately remediated and managed.

The proposed development satisfies the requirements & objectives of the SEPP.

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

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the

following:

*a. The advice of the Design Review Panel (DRP)*

The proposal was referred to the Design Review Panel on two occasions, initially on 13 December 2018, where the panel raised concerns in relation to non compliance with height and FSR standards, insufficient building setbacks, building design, transition to western neighbouring site, amenity and lack of deep soil provision on site. The Design Review Panel did not support the original scheme presented.

The proposal was substantially amended following the above and re referred to the DRP on 6 June 2019. The Panel were supportive of the revised scheme which complied in full with the relevant height, FSR and building setback requirements. The panel recommended minor modifications with respect of adaptability of retail tenancies, provision of ADG compliant setbacks to level 4 at eastern and northern boundaries, provision of additional rainwater tanks, solar panels and large scale trees on site.

Subject to modifications as recommended, the panel were supportive of the final revised scheme in context of SEPP 65 and the ADG.

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

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

Principle 1 – Context and Neighborhood Character

With respect of this principle, the Panel noted "*The Panel finds the proposal is generally acceptable in terms of context and neighbourhood character.*"

Comment: The subject site is zoned B4 Mixed Use and located within the Bexley Town Centre. The subject site is the first redevelopment proposed and supported for Approval, within a series of properties which were recently rezoned to B4 - Mixed Use. Adjoining sites within the rezoned area remain undeveloped to their full potential. Current planning controls permit shop top housing developments to a height of 16m and with an FSR of 2:1, this can accommodate 5 storey developments. Where sites are amalgamated, with a minimum site area of 800sq/m, greater FSR and Height incentives apply as is the case with the subject site. i.e. 2.5:1 FSR & 19m height limit.

The proposed development seeks to provide a building form which is sympathetic in its overall mass, scale and setbacks to the nature of the varied existing building forms within the local centre. The proposal provides an appropriate and well resolved design response to Stoney Creek Road, given its extensive frontage.

The proposal presents as a street wall periphery development for a height of 4 storeys with the top level and a half recessed from Stoney Creek Road, in order to reduce the visual prominence, bulk and scale of the development.

The design of the proposed building form is considered to achieve the future desired character of the local commercial centre, as envisaged by the current planning controls, is contextually appropriate and

does not result in unreasonable adverse built form or design impacts to neighbouring properties.

The DRP raised no objection to the proposed building form as designed with respect of context and future desired neighborhood character. The proposal is satisfactory with regards to this principle.

#### Principle 2 – Built Form and Scale

The Panel stated that the *"applicant has made significant improvements based on previous comments. The applicant has demonstrated an appropriate transition to the adjoining western B1 zone, and the reduced height is acceptable."*

*The Panel considers that the following comments have not been addressed and/or are required to be considered:*

- *Further detail to the retail tenancy/tenancies is required to demonstrate the flexibility and adaptability of the proposed commercial to ensure this is future proofed;*

Comment: Revised plans indicate an extensive and flexible retail floor plate at ground level, with a 3.8m floor to ceiling height, which will facilitate a number of commercial uses.

- *To achieve ADG compliance with Part 3F Visual Privacy to the eastern and northern boundaries, specifically to Level 4, a 9m setback must be provided."*

Comment: Plans have been amended to provide full compliance with respect of ADG building separation requirements to the east and northern boundaries of the site at level 4 and above.

Overall, the design of the proposal facilitates a pattern of built form that has regard to adjoining lots to the east, west and north, which are not as yet developed to their full potential. The proposal provides an appropriate transition in building height, setbacks, form and scale to the directly adjoining site to the west (Bexley RSL Club), which is zoned B1 - Neighbourhood Centre and benefits from a 2:1 FSR and height standard of 13m.

The proposal is consistent with the desired future character of the Bexley Town Centre in terms of its overall bulk, height, density and scale. The footprint and mass of the development fits appropriately within the local centre and is consistent with the scale & density of development anticipated by the applicable planning controls. The proposal is satisfactory in regards to this principle.

#### Principle 3 – Density

The Panel stated *"The Panel is now generally supportive of the density of the development based on the changes made."*

Comment: The proposal complies with the FSR standard for the site and is deemed to be satisfactory with regards to this principle.

#### Principle 4 - Sustainability

The Panel *"commends the amendments made and are supportive of the initiatives proposed, however would encourage consideration of:*

*1. The provision of additional rainwater tanks for landscape irrigation which would further increase the sustainable outcome.*

Comment: A rainwater tank is incorporated within the plant room at rooftop level, this will facilitate landscape irrigation on site.

*2. Additional solar panels to provide power generation for lighting to all common areas, including battery storage to enhance the efficiency of solar power generation."*

Comment: Solar panels have been incorporated at rooftop level, these shall facilitate lighting to common areas and provide for back up battery storage.

Further to the above, energy efficiency is appropriately addressed by the BASIX certificate requirements accompanying the application. The passive solar design of the proposal is appropriate with solar access maximised to the proposed dwellings, their balconies and communal open spaces given the orientation of the site and building design. The proposal is satisfactory with this principle.

#### Principle 5 – Landscape

The Panel considers that *"there have been significant improvements in the landscape design, including the relocation of the communal open space to rooftop level. The landscape design is supported subject to the inclusion of large canopy trees within the deep soil zone to replace the current species selection."*

Comment: Plans illustrate that the proposal complies with and exceeds the deep soil requirements (211sq/m) of the ADG, via the provision of 216sq/m of deep soil adjoining the northern rear boundary of the subject site. This will facilitate the planting of a range of landscaping including groundcovers, shrubs and large trees capable of a mature height of up to 10m i.e. Cabbage Tree Palms.

The proposal incorporates a well designed and oriented rooftop communal open space area. This communal space is attractively designed and landscaped so as to provide amenity for future occupants. i.e. visual amenity, shade, equitable access, opportunities for social interaction etc. The proposal incorporates automated irrigation to ensure the health and survival of landscaped areas on site.

The proposal is satisfactory with respect of this principle.

#### Principle 6 – Amenity

The Panel noted that the *"following matters remain unresolved:*

*1. Provide a solar access study showing the overshadowing of future potential development where neighbouring sites are planned for high density as per ADG Appendix 3 Checklist.*

Comment: The above has been submitted, given the orientation of the site, the proposal as designed does not adversely overshadow neighbouring sites to the east or west.

*2. The visual privacy at the internal corners with overlooking from bedroom areas to apartments located above and below any given floor. Use of extended slab edges to be considered.*

Comment: Appropriately located and designed privacy screens, shutters and slab edges are incorporated in order to minimise overlooking between dwellings and their private open spaces on site.

3. *Provision of windows to kitchens where kitchens are provided at the external façade of the building.*

Comment: Windows to kitchens adjoining the external facade of the building have been provided.

4. *Adaptable apartments should be located on the side of the building which contains the lift core (i.e. the eastern wing of the building)."*

Comment: Adaptable units are provided within the eastern wing of the development.

Overall, unit layouts are well designed, with appropriately dimensioned living areas and private open spaces. The configuration, layout and design of units, their overall size, spaces & rooms are practical and will allow future users to furnish their homes in a variety of ways. Appropriate storage is also provided within units, with supplementary at basement level. Security parking is provided at basement level with direct lift access. Sufficient and well designed communal open space is provided within the development at rooftop level, which will encourage social interaction and maximise amenity for future occupants. The proposal is satisfactory in regards to this principle.

#### Principle 7 - Safety

The Panel stated that consideration is to be given to the *"potential conflict between cars and service vehicles, including consideration of pylon locations and sight lines for access and egress."*

Comment: Sight distances have been provided and addressed to eliminate risks to pedestrian safety adjacent to the driveways. Further, the proposal has been conditioned to ensure that sight distances from the proposed vehicular crossings to vehicles on Stoney Creek Road are in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. The aforementioned will ensure that sight lines to and from the site are not hindered and pedestrian / vehicular safety including but not limited to motorists, pedestrians and cyclists is maximised.

Further to the above, the proposal has been conditioned to ensure monitored security cameras are incorporated at residential / vehicular entries & within basement levels & to require the provision of clear directional signage to advise users of security measures in place. With respect to the development overall, the proposal provides for easily identifiable, prominent & generous residential lobby entries from Stoney Creek Road, with retail tenancies comprising individual distinguishable pedestrian entries.

Residential apartments & car parking areas on site will be accessible via a secure electronic system. Common areas will be well lit with clearly defined legible pathways. The proposal is satisfactory with regards to this principle.

#### Principle 8 - Housing Diversity and Social Interaction

The panel supported the proposal in relation to this principle.



Comment: The proposal provides for a varied range and size of units within the development in an accessible area close to public transport and facilities, and is capable of accommodating a varied demographic and different household types. The proposal provides communal facilities on site which are designed to encourage social interaction. The assessing officer is supportive of the proposal in regards to this principle.

#### Principle 9 – Aesthetics

The panel supported the proposal in relation to this principle.

Comment: The proposal incorporates a varied palette of colours and materials to including but not limited to face brick, painted render, clear glazing and aluminium framed windows / doors. Materials proposed are satisfactory, and the aesthetic design of the proposal is well resolved. These materials will provide a modern, contemporary, high quality and visually appealing development on site.

The proposal provides a significant area of glazing to the ground floor which has the potential to contribute positively to the streetscape by allowing extensive views into the ground floor tenancies.

Further to the above, the proposal has been conditioned to require that planter boxes at level 4 adjoining the Stoney Creek Road boundary of the site be extended and/or constructed along the full width of balconies to units 4.09, 4.10, 4.01 and 4.02. Planters as conditioned are to incorporate automated irrigation and be planted with shrubs capable of growing to a minimum height of 1.2m. This will assist in softening the façade of the development and provide visual interest when viewed from the public domain.

The proposed design is considered to be of merit and it is deemed that the proposed development satisfies this principle.

#### *c. the Apartment Design Guide*

The proposal has been assessed against the Apartment Design Guide (ADG). The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3D - Communal Open Space	25% (754sq/m) site area 50% (377sq/m) COS to receive min 2 hours solar in midwinter 9am - 3pm	754sq/m at rooftop >2 hours of solar access	Yes
3E - Deep Soil Zones	7% (211.1sq/m) site area Min 3m dimensions	216sq/m with min dimensions of 3m at rear north eastern corner of site	Yes



3F Visual Privacy	Building Separation:		Up 4 Storeys 6m to sides & rear	Yes
	Building height	Habitable rooms & balconies Non habitable rooms	Above 4 Storeys 6m – western side setback – satisfactory given 13m building height applicable to western site.  7m– 9m Eastern side & northern rear setback – satisfactory given non habitable rooms.	Yes
4A – Solar and daylight access	Up to 12m (4 storeys)	6m	3m	
	Up to 25m (5-8 Storeys)	9m	4.5m	
4A – Solar and daylight access	Living rooms + POS of at least 70% (48 of 68) of apartments receive min 2hrs direct sunlight b/w 9am & 3 pm mid-winter		70% (48 of 68) 2 hours solar midwinter	Yes
	Max 15% (11 of 68) apartments receive no direct sunlight b/w 9am & 3pm mid-winter		13.2% (9 of 68) nil solar in midwinter	Yes
4B – Natural ventilation	Min 60% (41 of 68) of apartments are naturally cross ventilated in the first nine storeys of the building.		66% (45 of 68) naturally cross ventilated	Yes
	Depth of cross-over / cross-through not exceed 18m		Max Depth 15m	Yes
4C – Ceiling heights	Min ceiling heights		2.7m / 2.4m residential levels 3.8m ground floor / 2.7m first floor	Yes
	Habitable	2.7m		No – See discussion below.
4D – Apartment size and layout	Non-habitable	2.4m		
	Mixed use	3.3m ground & first floor		
4D – Apartment size and layout	Unit	Min internal area	1 bed - 50-64sq/m 2 bed - 75-86sq/m 3 bed – 96-101sq/m	Yes
	1 bed	50m <sup>2</sup>		Yes
4E – Private open space and balconies	2 bed	70m <sup>2</sup>		Yes
	3 bed	90m <sup>2</sup>		Yes
4E – Private open space and balconies	Dwelling	Min area	Min depth	1 bed – 8sq/m + 2 bed – 10sq/m + 3 bed – 12sq/m +
	1 bed	8m <sup>2</sup>	2m	Yes
4E – Private open space and balconies	2 bed	10m <sup>2</sup>	2m	Yes
	3+ bed	12m <sup>2</sup>	2.4m	Yes
4E – Private open space and balconies	Ground level / podium – Min 15m <sup>2</sup> & min depth of 3m.		Podium –20sq/m – 40sq/m with 3m dimensions.	Yes
4F – Common circulation & spaces	Max apartments off a circulation core on a single level is eight.		8 units per core	Yes

4G – Storage	<b>Dwelling</b>	<b>Volume</b>	Sufficient storage internally provided within dwellings. Supplementary provided in basement level.	Yes
	1 bed	6M²		
	2 bed	8m²		
	3 bed	10m²	Sufficient storage internally provided within dwellings. Supplementary provided in basement level.	Yes
	At least 50% of the required storage is located within apartment			

### **Non Compliance**

#### ***4C - Floor to Ceiling Heights***

The proposal does not strictly comply with the requirements of this clause, in that the first floor of the development is not provided with a minimum 3.3m floor to ceiling height, rather 2.7m is proposed. The development provides for a total of 18.8% (1420sq/m) of the overall gross floor area of the development as commercial space at ground level in the form of two (2) tenancies. Both ground level commercial / retail tenancies are provided with 3.8m floor to ceiling heights, which will facilitate a number of future uses.

Given the above, the proposal exceeds the 10% commercial / retail floor area requirement sought to be achieved by Councils Rockdale DCP 2011. It is considered unreasonable that an increased floor to ceiling height be provided at the first floor level of the development. It is reiterated that the proposed development is permissible in the zone and provides sufficient commercial space within the development without having to accommodate first floor commercial tenancies. In this regard, a variation to this requirement is not unreasonable given the circumstances of this application as the proposal supports the economic viability of the Bexley Town Centre given the level of commercial / retail space provided at ground level.

### **Rockdale Local Environmental Plan 2011**

<b>Relevant clauses</b>	<b>Compliance with objectives</b>	<b>Compliance with standard/provision</b>
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio	Yes	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.6 Flood planning	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

#### **2.3 Zone B4 Mixed Use**

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as shop top housing and commercial premises, which

constitute permissible uses subject to development consent.

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.*

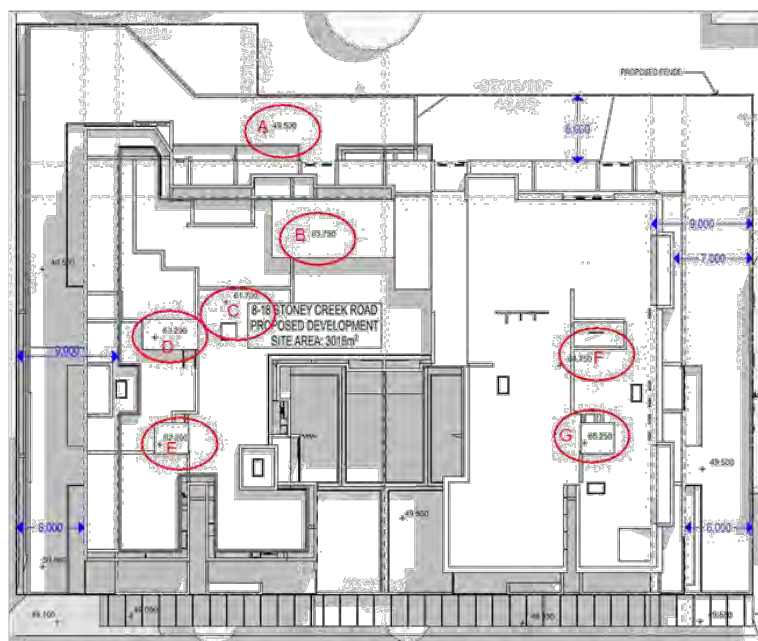
The proposed development is consistent with the objectives of the zone.

#### 4.3 Height of buildings

A maximum 19m height of building standard applies to the subject site, this is inclusive of the 3m bonus height permitted by clause 4.3(2A)(j) where the subject site comprises a site area greater than 800sq/m.

Plans illustrate varying building heights across the site as follows, with a maximum height of 18.96m to the top of the eastern most lift overrun identified as (G) below.

- A - 4.85m
- B - 18.75m
- C - 17.20m
- D - 18.79m
- E - 18.54m
- F - 18.75m
- G - 18.96m



The proposal complies with the height standard for the site and is acceptable in this regard.

#### 4.4 Floor space ratio

A maximum FSR of 2.5:1 applies to the subject site, inclusive of the 0.5:1 bonus FSR permitted by clause 4.4(2C)(g) where the subject site comprises a site area greater than 800sq/m. A total maximum gross floor area of 7540sq/m is permitted on site, given the 2.5:1 FSR permissible.

The proposal comprises a total GFA of 7540sq/m and subsequent FSR of 2.5:1 and as such complies with this development standard.

The proposed density is in accordance with the desired future character of the Bexley Town Centre, will have minimal adverse environmental effects on the use or enjoyment of adjoining properties, and will maintain an appropriate visual relationship between new development and the existing character of area. The proposal is satisfactory given the above.

#### 5.10 Heritage conservation

The proposed development is located in the vicinity of heritage item (I157) at 26 Stoney Creek Road, Bexley. This property comprises a stone dwelling which is listed in schedule 5 of Rockdale Local Environmental Plan 2011. Slightly more removed from the site is another heritage item (I94) a Stone Cottage, at 17A Abercorn Street.

The proposed building will be separated from the heritage item at 26 Stoney Creek Road by the Bexley RSL building. The loss of 7 houses of similar scale and history will impact upon the historic significance of the stone dwelling by removing it from its context to the east. To the west of the stone dwelling residential development remains intact, some of which is of a similar historic period. The historical context of the heritage item will still be perceived in the broader context of Bexley, in particular in surrounding streets where there are more intact groups of early 20th century houses.

With regards to the proposed demolition of seven houses upon the subject site, it is noted that none of these are heritage items. The existing houses are all Federation dwellings, with varying degrees of intactness. They are evidence of the early 19th century growth of Bexley and along the Bexley to Arncliffe tram line.

The Heritage Impact Statement submitted with the DA provides an analysis of the alterations to the houses from the original. The conclusion drawn from the analysis is that none of the houses are intact and most have undergone significant alterations. The streetscape presentation has been affected by painting the face brick walls, creation of off street parking in front of the buildings and removal of original joinery. The roof tiles have been removed in three instances and most of the original verandah detailing has been lost. All buildings have had rear additions. The context of the buildings has changed due to the increased intensity of traffic on Stoney Creek Road, the construction of the Bexley RSL adjacent to 18 Stoney Creek Road and two storey building with a large setback and front car parking adjacent to 8 Stoney Creek Road.

The buildings themselves have insufficient heritage significance to warrant protection in their own right as a heritage item group. The context is not sufficiently intact to warrant the making of a heritage conservation area. The group does have historical value and should be archivally recorded prior to demolition.

Given the above, the proposal has been conditioned to require that the dwellings on site be recorded prior to their demolition and it is concluded that the proposed development will not result in a detrimental impact to the heritage items nearby. The proposal is satisfactory with regards to this

clause.

#### 6.1 Acid Sulfate Soil - Class 5

Acid Sulfate Soils (ASS) – Class 5 affects the property. However, development consent is not required as the site is not within 500 metres of adjacent Class 1, 2, 3 or 4 that is below 5 AHD.

#### 6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

#### 6.4 Airspace operations

The subject site is affected by the 51AHD Obstacle Limitation Surface (OLS). The proposed maximum building height is at 65.25AHD.

The proposal was referred to Sydney Airport Corporation Limited given the above, whom responded granting concurrence to an overall maximum height on site of 68.15AHD and sought to impose standard conditions of consent.

In this regard the conditions required by SACL have been imposed and the proposal is satisfactory with regards to this clause.

#### 6.6 Flood planning

The site is affected by flooding and the proposal has therefore been designed to ensure that the driveway crossing, habitable floor levels and other relevant components of the development are in accordance with the requirements contained in Council's Flood Advice Letter. The plans have been assessed by Council's Development Engineer, and appropriate conditions of consent have been incorporated in the draft Notice of Determination, including compliance with the submitted Flood Management Plan. Subject to compliance with these conditions, the proposal is satisfactory in regards to flooding.

#### 6.7 Stormwater

The proposal involves the construction of an on site detention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

#### 6.12 Essential services

Services will generally be available on the site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

No relevant proposed instruments are applicable to this proposal or the subject site.

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

The following Development Control Plan is relevant to this application:



**Rockdale Development Control Plan 2011**

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.3 Water Management	Yes	Yes
4.1.3 Flood Risk Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.9 Lot size and Site Consolidation - Mixed use	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	No - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Parking Rates - Retail Premises	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	No - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	No - see discussion
5.3 Mixed Use - Front Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Ground Level Uses	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	Yes - see discussion
5.3 Mixed Use - Awnings	Yes	Yes - see discussion

**4.1.9 Lot size and Site Consolidation - Mixed use**

As per the requirements of this clause, for all development of 4 storeys or greater, a minimum frontage width of 18m is required.

The subject site comprises a frontage of 65.23m and as such complies with the requirements and objectives of this clause.

#### 4.1.9 Lot size and Site Consolidation - isolated sites

The subject site directly adjoins the Bexley RSL Club property at 24 Stoney Creek Road to the west. This site is zoned B1 - Neighbourhood Business and is subject to a 13m height limit and 2:1 FSR.

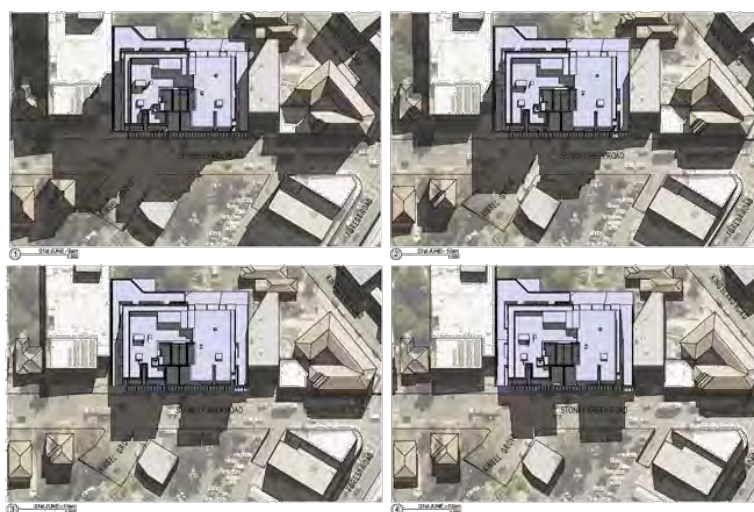
This property comprises an approximate site area of 3080sq/m with two street frontages, being approximately 29.5m to Stoney Creek Road and 45m to Abercorn Street to the north.

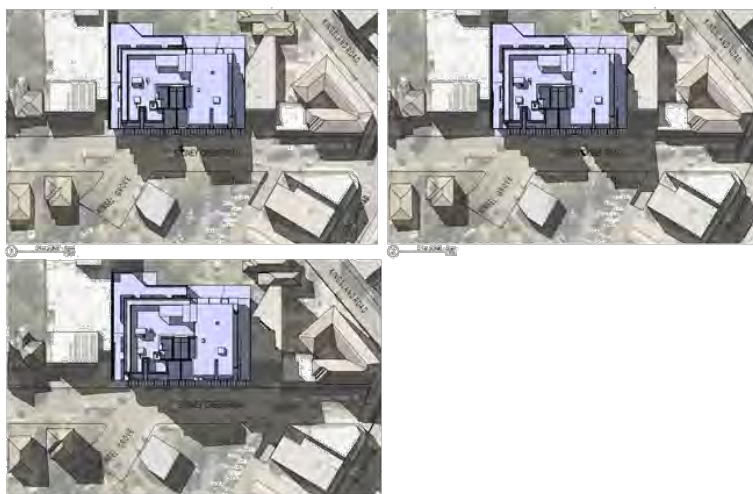
Given the overall site area, property width and dimensions and access to two street frontages, it is not considered that the proposed development results in the isolation of the adjoining western property.

#### 4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Rockdale DCP 2011 requires that living rooms and private open spaces for at least 70% of units within adjoining properties receive a minimum of 3 hours of solar access between 9am - 3pm in midwinter. Whilst the provisions of this clause require a minimum of 3 hours of solar access, it is noted that the Apartment Design Guide stipulates 2 hours and as such the ADG requirements supersede the 3 hours specified in this clause.

The subject site is oriented east west and does not adjoin any existing residential unit developments. The proposed redevelopment is the first within a newly rezoned cluster of properties at the southern end of the Bexley Town Centre. Given the orientation of the site, setbacks proposed and information derived from the submitted shadow diagrams, it is evident that the midwinter shadows arising as a result of the proposed development will not result in undue adverse impact onto future potential neighbouring residential developments which may be achievable on adjoining sites to the east or west.





The proposal complies with and satisfies the requirements of this clause.

#### 4.4.7 Wind Impact

The proposal was accompanied by a Wind Report and addendum Memo from Wind Tech which provided recommendations, in order to ensure appropriate wind amelioration to the development and adjoining public domain along the Stoney Creek Road frontage. The proposal has been conditioned to ensure that the recommendations of the wind report are illustrated upon construction certificate drawings prior to the issue of any Construction Certificate and implemented on site. The proposal as conditioned satisfies the requirements and objectives of this clause.

#### 4.5.1 Social Equity - Housing Diversity and Choice

The proposal is required to provide the following unit mix as per the provisions of this clause.

<i>Control</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Complies</i>
10%-30% Studio - 1 bed	7 - 21	7 10%	Yes
50%-75% 2 bed	34 - 51	56 82.6%	No
10% - 20% 3 bed	7 - 14	5 7.4%	No

The proposal indicates a minor non compliance with regards to the provision of both 2 and 3 bedroom units on site. Notwithstanding the above, the proposal provides for a varied range and size of units within the development in order to cater for a varied demographic and different household types. As such the proposed development satisfies the objectives of the requirement and is satisfactory in this regard.

#### 4.5.2 Social Equity - Equitable Access

As per the requirements of this clause a minimum of 10% (7) of residential units within the development are required to be provided as adaptable units. A total of 7 units (1.09 / 1.11 / 2.09 / 2.11 / 3.09 / 3.11 / 4.11) are proposed to be adaptable within the development. The proposal complies with the subject requirement.



Further to the above, equitable access is provided to, within and throughout the development including basement car parking levels, ground level retail spaces and communal open space areas allowing equitable access for persons with a disability / mobility impairment. Accessible car parking spaces and amenities are also provided.

An Access Report prepared by Vista Access Architects ref:18152 Issue C dated 03/05/2019 confirms compliance with relevant disability legislation. The proposal is consistent with the requirements and objectives of this clause.

#### 4.6 Parking Rates - Shop-top Housing

As per the provisions of this clause, the proposal is required to provide parking as follows on site for the residential component;

- a) Residential - 73 spaces
- b) Visitor - 14 spaces
- c) Loading / Unloading (removalist) - 1
- d) Bicycle - 7
- e) Motorbike - 5
- f) 1 car wash bay

The proposal seeks to provide 73 residential car spaces, 14 visitor spaces, 1 shared loading / unloading area, 7 bicycle, and 5 motorbike spaces and complies with the requirements of this clause.

#### 4.6 Parking Rates - Retail Premises

As per the provisions of this clause, car parking for retail uses on site is to be provided at a rate of 1 space per 40sq/m. The proposal comprises a total area of 1420sq/m retail area, thus requires 36 car parking spaces.

Plans illustrate the provision of a total of 36 dedicated retail spaces within basement level 1. The proposal satisfies the requirements of this clause.

#### 4.6 Design of Loading Facilities

Loading and unloading facilities as proposed on site are designed in accordance with requirements of this clause. The development accommodates loading and unloading for both the residential and retail components of the development and garbage collection will also occur on site.

The proposal has been conditioned to require as follows;

- All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.
- Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose. All loading and unloading activities for the ground level retail tenancies within the development shall be limited to between 8am - 6pm Monday to Sunday. No loading and/or unloading for retail tenancies is permitted beyond these times.
- The loading bay is to be maintained and coordinated by the building manager so as to ensure there is no conflict with respect to the collection of waste or loading/unloading of retail goods and residential vehicle movements.
- The loading / unloading bay on site is to be made available for use by all retail and residential

uses on site (including removalist vans).

The proposal is satisfactory in this regard.

#### 4.6 Car Wash Facilities

An appropriately designed and located car wash bay is provided within level 1 of the basement of the development. The proposal is satisfactory in this regard.

#### 4.7 Air Conditioning and Communication Structures

Plans do not illustrate details with respect of air conditioning units for residential units. Notwithstanding the proposal has been conditioned appropriately and satisfies the provisions of this clause.

#### 4.7 Waste Storage and Recycling Facilities

Appropriately designed and located residential and commercial waste storage areas are provided within basement and ground levels of the development. Consideration has been given to the provision of a bulk waste store for future residential occupants, garbage chutes are provided at upper levels, as is provision for a recycling bin at each level.

Given the design of the ground floor of the development, garbage collection will occur on site, sufficient head height clearance, turning areas and area is provided to enable this to occur. The proposal has further been conditioned to require that;

- Services or utility systems not be located in the garbage room.
- Hot and cold water hose cocks be installed to the garbage room.
- All waste be collected from within the subject site within the approved loading / unloading bay. The building manager is to ensure that the scheduling of all loading/unloading activities enables a minimum of one (1) of the two dedicated truck spaces on site be vacant during waste collection time.
- Waste be compacted at a maximum ratio of 2:1.

The proposal is satisfactory with regards to this clause.

#### 4.7 Service Lines/Cables

Plans illustrate the provision of a fire hydrant booster and substation recessed into the frontage of retail tenancy 1. These services will be appropriately screened with louvres in colours and finishes to match that of the completed development. The proposal is satisfactory in this regard.

#### 4.7 Laundry Facilities and Drying Areas

Internal laundries are depicted upon submitted plans within residential units. The proposed development complies with the provisions and objectives of this clause.

#### 4.7 Letterboxes

Letter boxes are proposed to be integrated into main residential entrance lobbies adjoining Stoney Creek Road. The proposal is satisfactory in this regard.

#### 4.7 Hot Water Systems

Plans do not illustrate details with respect of hot water systems for residential units. Notwithstanding the proposal has been conditioned appropriately and satisfies the provisions of this clause.

### 5.3 Mixed Use - Front Setbacks

As per the provisions of this clause, development on a busy road is to have a zero setback for at least the first three levels. A setback may be provided above the third level to ameliorate the impact of traffic noise and pollution. The proposed building form provides a nil building setback for a height of 4 storeys on site, with the upper 1-2 levels of the development recessed 3m from the floors below. This provides an appropriate break to the massing and scale of the development and the development provides an appropriate streetscape presentation in line with the future desired character anticipated by the planning controls and zoning for this site.

The proposal is satisfactory in this regard given the above and satisfies the objectives of this clause.

### 5.3 Mixed Use - Ground Level Uses

The proposal provides an active street frontage to the public domain adjoining Stoney Creek Road, via the incorporation of extensive retail frontages with floor to ceiling glazing. An appropriately designed awning shall also be provided, ensuring weather protection to pedestrians.

The proposal has been conditioned to ensure passive surveillance from within the development to the public domain is retained, requiring that front windows of ground level retail tenancies be kept free of shelves, and a maximum of 15% of the window display area be covered with promotional materials.

The proposal is satisfactory in regards to this clause.

### 5.3 Mixed Use - Retail

As per the provisions of this clause, a minimum of 10% (754sq/m) of the gross floor area of a mixed use development is to be for retail uses.

The proposal seeks to provide a total of 1420sq/m (18.8%) of retail space at ground level within the development and satisfies the requirements and objectives of this clause.

### 5.3 Mixed Use - Awnings

The provisions of this clause require the proposed awning to Stoney Creek Road to comprise a minimum soffit height of 3.3m. Plans illustrate the provision of an awning with a soffit height of 4m. The proposal complies with the requirements of this clause

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

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

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

### Safety & Security

The development provides for clearly identifiable and legible building entries from Stoney Creek Road. Residential entries comprise direct pedestrian access and a high level of visibility to the street.

Residential apartments, communal open space & car parking areas will be accessible via a secure electronic system. Common areas are to be well lit with clearly defined pathways. The proposal is considered to be satisfactory in this regard.

### Social Impact

The proposal will activate and enhance the public domain and includes residential units of adequate size and mix for the demographics of the locality. Proposed residential units have access to good public transport and the Bexley Town Centre. The proposal incorporates alternative transportation modes, via the provision of bicycle and motorbike parking.

The proposal further provides a well designed and located communal area with facilities which will encourage social interaction between future occupants on site. The proposed development is not considered to result in any adverse social impacts and is satisfactory for the site.

#### Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

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

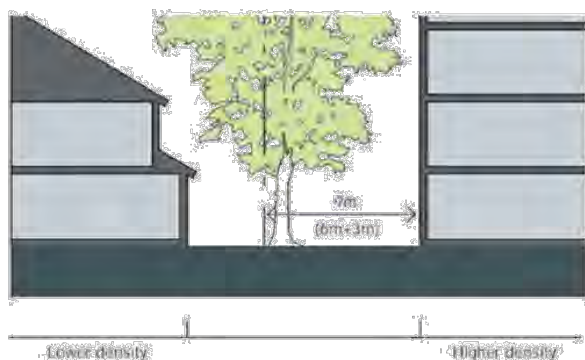
The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

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

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and a total of four (4) submissions opposing the proposed development were received. The issues raised in the submission are discussed below:

*Proposal provides insufficient building separation with B1 - Neighbourhood Centre transition zone adjoining to the west additional 3m is required / Insufficient building separation & transition will impede future redevelopment of Bexley RSL Club site / Future development of Bexley RSL site will need to consider the same provisions of the ADG as the adjoining lands to the west of the Club are Zoned R2 Low density Residential. The minimum building separation distance will therefore be 9m (up to four storeys) should the Club consider future residential development atop of the existing club.*

Comment: Figure 3F.5 of the ADG demonstrates the desired transition required by the ADG, where a high density building relates to two-storey form. In an instance such as this, concern of providing a suitable transition is relevant, as the difference in bulk and scale of development is significant between the two building types.



The neighbouring site (Bexley RSL Club) at 24 Stoney Creek Road benefits from a maximum height limit of 13m and 2:1 FSR. This would facilitate the future redevelopment of this property for a 4 storey built form. Given the increased height afforded to the subject site, i.e. 19m, the 6m side setback as proposed at level 5 of the proposed development is deemed satisfactory, given there will not be any direct visual or acoustic relationship with the adjoining western neighbour, as the current planning controls would restrict this neighbour to redevelop at a height consistent with level 4 of the proposed development.

Given the aforementioned, the proposal is considered to provide an appropriate transition and building separation with this adjoining western neighbour, particularly given that the planning controls for the Bexley RSL site permit a bulk and scale on this property that is not dissimilar to the proposed development. Therefore it is not considered that additional building separation as suggested is required.

*Adverse traffic and car parking issues, particularly given location of driveway so close to intersection of Stoney Creek and Forest Roads / Traffic struggles to merge from Stoney Creek onto Forest Roads this will get worse / Traffic study does not consider current and future peak traffic congestion times, proposal will hinder journey for current residents to their homes / Proposal doesn't consider the clearway in front of the site.*

Comment: Stoney Creek Road and the intersection with Forest Road are a Classified Road corridor managed by the RMS. The RMS have given concurrence to the proposal. The proposal does not generate traffic that is not otherwise capable of being accommodated within the surrounding classified and local road networks.

*Proposal inconsistent with DCP requirement seeking to minimise traffic hazards and potential for vehicles to queue on public roads / Applicant must demonstrate development would not conflict with traffic flow when vehicles enter and exit the site onto classified road*

Comment: The submitted proposal has no provision for security gates or similar mechanical means close to the boundary driveway of which would result in queuing on the frontage public road. If any queuing expected it will be accommodated within the internal aisles and ramps. It is reiterated that the proposal was supported by the RMS.

*The applicant has not considered the impacts of the electromagnetic energy (EME) generated from these existing telecommunication towers on the proposed development*

Comment: The applicant provided a report by Coreearth Australia Pty Ltd with respect to the existing telecommunication facilities located upon the adjoining Bexley RSL Club site. The report confirmed the panels located at the adjoining RSL club site are deemed as being of a low impact. The GPS units located at the RSL Club have been confirmed as not being an omnidirectional unit as they do not transmit. As such it is appropriate to solely consider the panels which are considered as being low impact. Therefore, the Panel can be satisfied that these telecommunication facilities are of a low impact in accordance with the relevant legislation with respect to the proposed development.

*Proposal is inconsistent with objectives of DCP which discourage excessive parking in areas close to public transport / Site is short walk to Rockdale station and bus stop outside RSL*

Comment: The proposal complies with DCP requirements with respect of on site parking provision. The proposal does not provide excessive parking, this would be the case should parking beyond the minimum be provided for the development.

*Insufficient information provided to confirm flood mitigation measures do not impact the Bexley RSL Club site*

Comment: A Flood Study has been prepared by external consultants which confirms that the proposal would not cause adverse flood impacts on adjacent properties. This has been peer reviewed by Councils Development Engineer who confirms the aforementioned. The proposal complies in full with Councils flooding requirements and further has been conditioned to ensure appropriate flood mitigation measures are implemented on site. The proposal does not adversely impact upon the adjoining properties with respect of flood management.

*Proposed entry to service level located directly adjacent to Club entrance poses safety risk pedestrians and Club patrons / How will the applicant manage pedestrian safety given the proposed driveways adjoining the Bexley RSL Club and its entry.*

Comment: Sight distances have been provided and addressed to eliminate risks to pedestrian safety adjacent to the driveways. Further, the proposal has been conditioned to ensure that sight distances from the proposed vehicular crossings to vehicles on Stoney Creek Road are in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. The aforementioned will ensure that sight lines to and from the site are not hindered and pedestrian / vehicular safety including but not limited to motorists, pedestrians and cyclists is maximised.

*Traffic and construction management impacts on Club and Stoney Creek Road (Classified Road) / Nil Construction Management Plan submitted this should be provided prior to determination*

Comment: The proposal has been conditioned to require the provision of a Construction Management Plan detailing construction vehicle routes, pedestrian and traffic management, number of trucks, hours of operation, access arrangements and traffic control to Council for approval prior to the issue of a Construction Certificate. This information is not a mandatory requirement at DA stage.

*Acoustic report is unclear where noise logger was located and does not consider background noise level generated by existing Registered Club*

Comment: The above matter was raised with the applicant. A revised Acoustic Report, specifically considering the operations of the club, including its rooftop mechanical plant. The Acoustic Report confirmed that glazing recommendations as proposed, due to traffic noise, would be more than sufficient to ensure acoustic amenity for future occupants of the development. The aforementioned was concurred by Councils Environmental Health Officer.

*Traffic report does not reference requirements under SEPP Infrastructure 2007 relating to traffic generating development*

Comment: The above is noted. A revised Traffic Report submitted to Council considered the projected traffic generation of the development based upon the Roads and Maritime Services publication Guide to Traffic Generating Developments, Section 3 - Landuse Traffic Generation (October 2002) and the updated traffic generation rates in the recently published RMS Technical Direction (TDT 2013/04a) document.

It is reiterated that the proposal was referred to the Roads and Maritime Service, given its location on a classified road and design triggers the requirements for Traffic Generating Development as previously discussed in this report. The RMS granted concurrence on 17 June 2019, subject to the imposition of standard conditions of consent, which have been incorporated into the Draft Notice of Determination.

*The Proposal does not consider RMS comments for a provided for the Planning proposal regarding potential road widening on the site / Requirement for a road widening would set building back further which would increase shadows cast upon solar panels on roof of Bexley RSL*

Comment: Current LEP maps do not indicate a road widening affecting the subject site. Referral to the Roads and Maritime Service did not raise this matter as a concern presently or in the near future.

*Impacts on the telecommunications devices installed on the roof of the Bexley RSL Club / The applicant should provide the appropriate certification prepared by a suitability qualified consultant to confirm the development as proposed will not impact on the existing towers ability to function.*

Comment: The proposal was referred to Telstra for comment. Whilst verbal discussions with Telstra noted that there may be a potential reduction in service, Telstra did not formally object to the proposed development.

*Increase in drug use and crime from the development*

Comment: The proposal is a residential and retail development. The submission raised cannot be substantiated.

*Increase in congestion, pollution (CO<sub>2</sub>) and traffic noise / Proposal will result in strain on local infrastructure / Adverse impact on health of local residents including elderly and families with young children*

Comment: Existing services to the site, including sewer, electricity, gas and water are capable of accommodating the proposed development. The surrounding road network has capacity to accommodate the proposed development given its classified nature. It remains unclear what adverse health impacts the objector may be referring to.



*No additional retail space is needed when there are vacant commercial properties on Forest Road / Nil benefit to the community / Why is development needed in such a saturated unit market*

Comment: The subject site is zoned B4 - Mixed Use. Residential and retail development are permissible within the subject zone. The proposal provides for 2 retail spaces with substantially larger floor plates than those likely to exist within the Bexley Town Centre, which is predominantly made up of smaller shop fronts. The proposal further increases and provides for a variety of housing options for families, singles and other households, whom may not necessarily be able to afford a detached dwelling house within the suburb of Bexley.

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

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls. As demonstrated in the assessment of the development application, the proposal will allow the development of the site in accordance with its environmental capacity. The proposed building is a high quality building which is consistent with the applicable planning controls and indicative of the future desired character of the locality. Furthermore, the proposal does not create unreasonable impacts on surrounding properties. As such it is considered that the development application is in the public interest.

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

A Section 7.11 Contribution Payment is payable in accordance with Council's Policy given the increase in residential density on the subject site, and accordingly a condition of consent has been imposed upon the draft Notice of Determination.

### **Schedule 1 - Draft Conditions of consent**

#### **General Conditions**

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

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

Plan/Dwg No.	Drawn by	Dated	Received by Council
External Finishes Schedule DA6001 Rev C	Urban Link Pty Ltd	03/05/2019	28/08/2019
Site Plan DA1002 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Basement 2 Plan DA2001 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019



Basement 1 Plan DA2002 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Ground Floor Plan DA2003 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Level 1 Floor Plan DA2004 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Level 2 Floor Plan DA2005 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Level 3 Floor Plan DA2006 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Level 4 Floor Plan DA2007 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Level 5 Floor Plan DA2008 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Roof Plan DA2009 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Elevations DA3001 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Sections DA4001 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Ramp Sections DA4002 Rev E	Urban Link Pty Ltd	31/07/2019	28/08/2019
Ground Floor and Level 1 Landscape Plan Issue C LS02	Melissa Wilson Landscape Architects	17/04/2019	06/05/2019
Level 5 Roof Terrace Landscape Plan Issue C LS03	Melissa Wilson Landscape Architects	17/04/2019	06/05/2019
Landscape Sections Issue C LS04	Melissa Wilson Landscape Architects	17/04/2019	06/05/2019

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 964111M\_03 other than superseded by any further amended consent and BASIX certificate.  
**Note:** Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
  - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."  
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. Further alterations and/or additions to the subject building shall not be undertaken without first obtaining approval. This includes the fitting of any form of doors and/or walls.

7. A separate development application shall be submitted for the specific use/uses of the property. Additional conditions may be imposed on any such consent.  
  
**Note:** Parking and loading provisions in a mixed use development may preclude certain uses.
8. Balconies, pergolas or car parking spaces on site, shall not be enclosed at any future time without prior development consent.
9. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
10. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
11. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
12. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

**Allocated Spaces**

Studio apartments, 1 bedroom apartments and 2 bedroom apartments 1 space per apartment

3 bedroom apartments and 3+ bedroom apartments 2 spaces per apartment

Retail / Commercial - 1 space per 40 m2 gross floor area

**Non-Allocated Spaces**

Residential Visitor Spaces 1 space per 5 apartments

Parking calculations that are not whole numbers must be rounded up to the nearest whole number.

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 4.18(1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

13. Pumps attached to the development must be housed in a soundproof enclosure.

**Development specific conditions**

The following conditions are specific to the Development Application proposal.

14. The hours of operation of the ground level retail tenancies shall be restricted to between 8.00am and 6.00pm Mondays to Sundays. The tenancies shall remain closed on public holidays.
15. The front windows of ground level retail tenancies shall be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.

16. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
  - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
  - c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
  - d) Graffiti resistant materials shall be used to ground level external surfaces.
  - e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
  - f) The front window of the ground floor tenancy must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancy.
17. Signs or goods shall not be displayed or placed on the public footpath or any other part of the public road at any time without Council's consent.
18. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
19. 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.
20. The use of mechanical plant including air conditioners, fans, compressors, condensers, freezers, swimming pool or spa pumps (whether commercial or domestic) shall not cause sound pressure levels in excess of the criteria given in the NSW Industrial Noise Policy – 2000.
21. Residential air conditioners shall not cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.
22. Temporary dewatering of the site to construct the subsurface structure is not permitted.
23. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.

24. All proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
25. In order to ensure the design quality of the development is retained:
  1. A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
  2. The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  3. Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.
  4. The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
26. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
27. Trees located within the footprint of the proposed buildings may be removed.
28. 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 (including installation) 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.
29. Prior to the issue of the Construction Certificate for the relevant stage of works, the following details shall be submitted to the Principal Certifying Authority in relation to the awning over the Stoney Creek Road frontage:
  - i. Detailed design plans and specifications, including structural details and,
  - ii. Design certificate.

The awning shall be designed by a Chartered Professional Engineer (Structural).  
Awning design shall comply with following requirement of Rockdale Development Control Plan section 5.3:

- a) minimum soffit height of 3.3m;
- b) maximum fascia height of 600mm;
- c) minimum setback from edge of kerb of 600 mm;
- d) maximum step of 900mm on sloping sites, which must not compromise environmental protection.

Following completion of the installation of the awning a certificate from a Chartered Professional Engineer (Structural) shall be submitted to Bayside Council stating that the awning has been constructed in accordance with the design plans and

specifications.

Subject to compliance with the requirements above, Bayside Council grants approval pursuant to Section 138 of the Roads Act 1993. Council's approval remains whilst the structure is in place and the structural stability of the awning is not compromised. Maintenance of the awning is the responsibility of the owner of the land.

30. A) The approved Landscape Concept Plans prepared by Melissa Wilson Landscape Architects, issue C, dated 17th April 2019 shall incorporate detailed landscape documentation to be submitted to and approved by Bayside Council Landscape Architect or Principal Certifier Authority prior to the issue of the Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council Landscape Technical Specifications and include the following amendments:

- A planting plan at 1:100 showing all plant locations/groupings and plant centres/species. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers in all of these areas.
- Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large trees.
- Show Top of walls, levels of finish floors and top of slabs in all built in planter boxes to assess the depth of soils supplied in each area.
- Indicate the location of all basement structures relative to the landscape areas.
- Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape handworks such as retaining walls, steps, planter walls, feature walls, skateboard restrictions, tree pits, tree grates, tree guards, and tree pit treat. Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Details of all fencing, privacy screening, arbors and the like- elevations and materials, impacting or visible to public domain areas.
- A Landscape Maintenance Schedule shall be submitted that covers a 12 month period to provide a guide to the landowner or occupier on how to best maintain the constructed landscaped areas; and include the following information: shrub pruning/trimming (frequency, plant requirements); Fertilising and pest control (soil testing, types, rate, frequency); Mulching, weeding and soil improvement (frequency, materials); Irrigation (checks, adjustments); tree maintenance (fertilising, mulching, tree stakes adjustments, special tree requirements); Maintenance of hard landscape elements (paving, edges, walls, pergolas, seats, and planter box walls); and planter boxes/roof gardens/green wall (specialised maintenance requirements).

B) Irrigation. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscaped areas. The system shall be installed by a qualified landscape contractor and provide full coverage of planted areas with no more than 300mm between drippers, automatic controllers and backflow prevention devices, and should be connected to a recycled water source. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.

C) A minimum soil/ planter box mix depth of 800mm is required for planted areas (other than turf) and planter boxes on podiums or roof-tops or any other concrete slab.

D) A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction Certificate. All public domain landscape works shall be carried out as per Council specifications. Awnings may be required to be redesigned to accommodate proposed street tree planting. Street trees shall be planted in a mulched bed of 100mm depth with a tree guard as detailed by Council Landscape Architect specifications in Frontage Works Brief.

31. (1) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screened to ensure drainage to a piped internal drainage outlet of minimum diameter 90 mm, with no low points elsewhere in the planter. There are to be no external weep holes.
  - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
  - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
  - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
  - e) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
  - f) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting.
- (2) Prior to 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 plans (refer to Condition 1) 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.
32. (A) The applicant is to submit payment of a Street Tree Maintenance Bond of \$5500.00. The duration of the Bond shall be limited to a period of 12 months after planting of the new street trees and a satisfactory inspection from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
- (B) The bond may be applied by Council to the establishment and maintenance of the landscaping in accordance with the plan and Council should be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the plan.

(C) The applicant is to note that the bond specified under this condition must be remitted to Council, either in the form of monies held in trust, or as a certified banker's guarantee, together with a sum of \$550 (cash or cheque) for disbursements associated with the preparation of the agreement, prior to the issue of an Occupation Certificate by the Principal Certifying Authority.

33. Plan of Management

Retail tenancies at ground level within the development shall at all times operate in accordance with the Plan of Management, Rev B, dated 2 May 2019, submitted to Council on 5th May 2019. The POM shall be revised annually and a copy shall be submitted to Council concurrently.

34. Loading / Unloading

(A) The provided loading facilities located at the ground floor level shall be available for use by the occupiers of the residential component of the proposed structure as well as the occupiers of the commercial component. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property.

(B) Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.

(C) All loading and unloading activities for the ground level retail tenancies within the development shall be limited to between 8am - 6pm Monday to Sunday. No loading and/or unloading for retail tenancies is permitted beyond these times.

(D) The loading bay is to be maintained and coordinated by the building manager so as to ensure there is no conflict with respect to the collection of waste or loading/unloading of retail goods and residential vehicle movements.

(E) The loading / unloading bay on site is to be made available for use by all retail and residential uses on site (including removalist vans).

35. Waste Disposal & Garbage Rooms

(A) Services or utility systems shall not be located in the garbage room. Hot and cold water hose cocks shall be installed to the garbage room.

(B) All waste shall be collected from within the subject site within the approved loading / unloading bay. The building manager shall ensure that the scheduling of all loading/unloading activities enables a minimum of one (1) of the two dedicated truck spaces on site be vacant during waste collection time.

(C) Waste shall be compacted at a maximum ratio of 2:1.

36. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.

**Prior to issue of the construction certificate**

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

37. The following fees shall be paid to Council prior to the issue of a Construction

Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

- i. A Footpath Reserve Restoration Deposit of \$27,755.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
  - ii. An environmental enforcement fee of 0.25% of the cost of the works.
  - iii. A Soil and Water Management Sign of \$19.00.
38. All recommendations contained in the Geotechnical Investigation report prepared by Benviron Group ref: G308 Rev 0 dated September 2018 shall be implemented on site prior to the issue of the construction certificate.
  39. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
  40. 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.
  41. Appointment of Site Auditor  
A Site Audit Statement will be required for this site prior to the issue of any Occupation Certificate. To ensure the necessary assessment and remediation is completed, a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse any additional investigation and remediation proposed prior to the commencement of any works.  
  
Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.
  42. Interim Site Audit Advice  
To ensure that the any Remedial Action Plan (RAP) proposed for the site are sufficient to enable the site to be made suitable for the proposed residential and commercial development, an Interim Site Audit Advice shall be completed by the accredited site auditor under the Contaminated Land Management Act 1997 and shall be submitted to Council clearly demonstrating that any proposed remediation and management is appropriate to make the development suitable for the proposed uses.  
  
This shall be provided prior to the issue of any construction certificate for excavation or construction.
  43. A Section 7.11 contribution \$652,240.81 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in



accordance with the contribution rates contained in Council's current Adopted Fees and Charges.

The contribution is to be paid prior to the issue of any construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Regional Open Space Fund \$53,774.95  
 City Wide Open Space Fund \$85,054.20  
 Bexley Local Open Space Fund \$414,901.51  
 City Wide Town Centre & Streetscape Fund \$9,560.01  
 Bexley Local Town Centre & Streetscape Fund \$2,909.49  
 Pollution Control Contribution \$49,198.76  
 Administration Bexley Planning Precinct \$3,667.06  
 Child Care Services \$2,004.30  
 Community Services \$2,147.98  
 Library services \$29,022.55

Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

44. In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance or owner builder's permit in force in accordance with Part 6 of that Act, that such a contract or permit is in place.
45. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
  - 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
  - 4 Star for timber flooring in any area.
  - 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

46. Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access. Access in accordance with the relevant Australian Standards must be provided to and within 7 residential units, and between these units and their allocated car parking spaces. The allocated parking space will be located in close proximity to the access points of the building. The adaptable units are to be unit numbers 1.09 / 1.11 / 2.09 / 2.11 / 3.09 / 3.11 / 4.11. Please note that compliance with this condition

requires the relevant unit(s) to be constructed to comply with all the essential (Type C) requirements of the relevant Australian Standards.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 – Requirements for Access and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

47. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the retail areas to be in accordance with Australian Standard 1428.1-2009.

**Note:** Compliance with Council's Development Control Plan (DCP) 2011 and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

48. The applicant shall confer with Ausgrid to determine if:

- installation of electricity conduits in the footway is required.
- satisfactory clearances to any existing overhead High Voltage mains will be affected.
- an electricity distribution substation is required.

Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

49. Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council prior to issuing a Construction Certificate.
50. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

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

51. If the proposed below ground substructure is found to be below the natural ground water table, the subsurface structures shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of the subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably qualified engineer. Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
52. Prior to the issue of the Construction Certificate, The development plans shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning

Considerations and Development Controls listed in the Flood Advice letter issued by Council on 26 February 2018.

53. The underground basement and substructures, access stairs, lift entry, windows etc. shall be flood proofed and protected to a minimum of 500mm above the 1% AEP flood level. The levels shall be certified by a registered surveyor or a suitably qualified engineer prior to construction of the driveway or other openings.
54. Prior to the issue of the Construction Certificate, the design and construction of the off-street car & bicycle parking facilities shall comply with Australian Standard AS 2890 parking series and shall be certified accordingly by a suitably qualified engineer.
  - (a) Loading and unloading within the site shall be designed and be restricted to commercial vehicles not exceeding the size and mass description of the HRV from AS2890.2:2018. Commercial vehicles greater in size and mass than the HRV are not permitted to enter the site.
  - (b) Car Wash Bay - The required car wash bay shall be a minimum 3.5m wide and shall be signposted and appropriately line- marked to state that this space shall be used as a car wash bay.
  - (c) Parking spaces must not be enclosed without further approval of the Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.2004.
  - (d) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of the relevant Australian Standard. Flood control and gutter flow analysis shall be incorporated in the design of the driveway profile.
  - (e) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS2890.1-2004.
55. Prior to the issue of Construction Certificate, If neighbouring properties or roadway are to be utilised for excavation support, the legal rights of any adjoining properties must be respected including for permanent and temporary excavation supports. In this regard, the written permission of the affected property owners must be obtained and a copy of the owner's consent for excavation support or other material in adjacent lands must be lodged to the principal certifier.

Where excavation support materials are proposed to be used in public land, an application must be made to Council for approval under Section 138 of the Roads Act 1993, via a permit application. The submission would need to be supported by an engineering report prepared by a suitably qualified engineer, with supporting details addressing the following issues:

Demonstrate that any structures will not adversely affect public infrastructure, and the proposed supports within the road reserve are of an adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.

The report must be supported by suitable geotechnical investigations to demonstrate the efficacy of all design assumptions.
56. A civil design plan must be prepared by a suitably qualified engineer and be approved by Council public domain section for all frontage works that are required to be constructed within the public domain. The frontage works shall be in accordance with Council technical manuals, master plans, town centre plans and standard design

drawings and specifications.

Preliminary consultation with Council public domain department is highly recommended.

57. Prior to the issue of the Construction Certificate, a suitably qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy up to 1% AEP flood event. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood event, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood.
58. A dedicated car wash bay is required. A tap shall be provided. A sign shall be fixed saying 'Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
59. All parking surface runoff shall be directed through a propriety oil and sediment filtration system prior to discharge. Details of the pit type, location, performance and manufacturer's maintenance and cleaning requirements shall be submitted and approved prior to the issue of the construction certificate.

The owners/occupiers are to undertake all future maintenance and cleaning to the manufacturer's requirements.

60. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.
61. Prior to the issue of a construction certificate, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves or improves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development*.
62. Prior to the issue of a Construction Certificate for the development, an application for Property Address Allocation and associated fee are required to be submitted to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

The general principles of addressing in NSW are described in the NSW Addressing User Manual, Ch.6 Addressing Principles. The manual is available for download at:

[http://www.gnb.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0007/199411/NSW\\_AUM\\_July2018\\_Fina](http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Fina)

The numbering (sub-addresses) of the individual units in multi-level sites should be

consistent with Australian Standards AS/NZS 4819:2011 Rural and Urban Addressing Standard & NSW Addressing User Manual.

Developers of multi-level buildings are required to submit their schedule of addresses to the Council for addressing approval prior to registration of the subdivision plan. Finalised architectural and survey plans of the site, identifying the location and nature of the development have to be submitted to Council. The applicant can suggest new street number allocation for the new development.

63. The plans submitted with the Construction Certificate shall demonstrate compliance with the following prior to the issue of the Construction Certificate:

a) All hot water and / or air conditioning systems/units which are located on the balcony of a dwelling/unit must be encased in a recessed box on the balcony with the lid/cover of the box designed to blend in with the building. All associated pipe work is to be concealed.

b) All vertical plumbing, other than roofwater heads and downpipes, shall be concealed within the brickwork of the building.

c) Glass balustrades shall be provided as frosted or opaque.

d) Ceiling heights for all habitable areas shall be a minimum of 2.7 metres as measured vertically from finished floor level to the underside of the ceiling. Ceiling heights for all non-habitable areas shall be a minimum of 2.4 metres as measured vertically from finished floor level to the underside of the ceiling.

e) The recommendations of the Wind Report ref: WE313-01F02(rev0) dated 15th August 2018 and Wind Addendum Memo ref:WE313-03F01(rev0) also prepared by Wind Tech dated 16 April 2019 are to be illustrated upon construction certificate drawings and implemented on site.

f) Acoustic Attenuation - The noise reduction measures specified in the acoustic report prepared by Rodney Stevens Acoustics ref: R170510R3 Revision 3 and dated 8 April 2019 shall be shown on construction plans and implemented on site.

g) The recommendations of the Access Report prepared by vista access architects ref:18152 Issue C dated 03/05/2019 are to be illustrated upon construction certificate drawings and implemented on site.

h) A single antenna shall be provided to the building for use of all residents.

i) Planter boxes at level 4 adjoining the Stoney Creek Road boundary of the site shall be extended and/or constructed along the full width of balconies to units 4.09, 4.10, 4.01 and 4.02. Planters shall incorporate automated irrigation and be planted with shrubs capable of growing to a minimum height of 1.2m. The landscape plan shall be modified accordingly. Plans shall be certified by the PCA, and submitted concurrently to Council, prior to the issue of any Construction Certificate.

64. Documentation shall be submitted to the Accredited Certifier demonstrating that the commercial component of the development complies with Part J of the Building Code of Australia.

All water fixtures installed within the commercial premises on site are to have a AAA water rating or more. A statement demonstrating compliance with this condition shall

be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

### **Prior to commencement of works**

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

65. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
66. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

67. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

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

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

Copies of the CMP and TMP shall be submitted to Council and the Roads and Maritime Service.

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

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

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

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

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

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

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

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

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

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

69. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
70. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - i. stating that unauthorised entry to the work site is prohibited, and
  - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
    - iii. building work carried out inside an existing building or
    - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
71. Dewatering – Water Quality Requirements



For any water from site dewatering to be permitted to go to the stormwater, the water must meet the relevant default guideline values (DGVs) in Australian & New Zealand Guidelines for Fresh & Marine Water Quality (ANZG 2018). 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.

72. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected at least 2.2 metres from the trunks around each street tree which are required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.
73. Prior to the commencement of any work on site, a sign shall be placed in a prominent position on each protective fence identifying the area as a Tree Protection Zone and prohibiting vehicle access, waste bins, storage of materials and equipment, site residue and excavations within the fenced off area.
74. Dewatering – Permit to Discharge to Stormwater

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.

75. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
76. (a) A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
  - (i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
  - (ii) building involves the enclosure of a public place,

(b) Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

(c) Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

  - (i) the vertical height above footpath level of the structure being demolished is less



than 4m; or

(ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

(i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

(ii) have a clear height above the footpath of not less than 2.1m;

(iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and

(iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa. The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids. Any such hoarding, fence or awning is to be removed when the work has been completed.

(d) The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

77. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

78. Prior to works commencing, a photographic record of the exterior views of 8, 8A, 10, 12, 14, 16 and 18 shall be carried out and lodged with Council for approval. This photographic record shall be submitted in electronic form on a USB, CD or DVD, containing the following:

i) a layout site plan for each of the existing buildings, to 1:100 scale, identifying features shown in the photographs and indicating on the plan where each photo was taken from;

ii) colour photographs of the exterior and streetscape view of the building.

Photographs should include any original features, decorations or fittings.

Photographs must be in either TIFF or JPEG format with a minimum resolution of 4 megapixels. Each photograph must be file-named to describe it and indicate its location.

79. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:

i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or

ii) where the erection of gates or fences has restricted access to metering equipment.

80. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense.

Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

**During demolition / excavation / construction**

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

81. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
82. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
83. Additional information – Contamination – Cease work addition  
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, the appointed Site Auditor (Contaminated Land) and the accredited certifier immediately. All work on site shall cease until the Council is notified and appropriate measures to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines is completed by an appropriately qualified and experienced environmental consultant and reviewed and approved by the Site Auditor (Contaminated Land).
84. Remediation Works – Specific RAP/Plan  
All remediation work must be carried out in accordance with:
  - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
  - d) the 'Remediation Action Plan, 8-8a & 10-18 Stoney Creek Road, Bexley NSW', (Report E1906-3, document 2, rev 0) by Benviron Group dated 21 August 2019, or as amended.
85. Dewatering Water Quality Requirements  
For any water from site dewatering to be permitted to go to the stormwater system, the water must meet the relevant default guideline values (DGVs) in Australian & New Zealand Guidelines for Fresh & Marine Water Quality (ANZG 2018). 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.
86. Dewatering – Permit to Discharge to Stormwater  
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.
87. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:

- i. after excavation for, and before the placement of, any footing, and
- ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
- iii. prior to covering any stormwater drainage connections, and
- iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

88. Waste Classification – Excavated Materials

All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site. Appropriate records must be retained to support this.

89. Upon inspection of each stage of construction, the Principal Certifying Authority (or other suitably qualified person on behalf of the Principal Certifying Authority) is also required to ensure that adequate provisions are made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
  - Sediment control measures
  - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
  - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.

90. Monitoring

Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

91. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
92. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.

93. Importation of Fill (General)

To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

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

94. All excavation and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards and guarded and protected to prevent them from being dangerous to life or property.

When excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building or an adjoining allotment of land, you shall:

- i. preserve and protect the building from damage and
- ii. underpin and support the building in an approved manner, if necessary and
- iii. give notice of intention to excavate below the level of the base of the footings of a building on an adjoining allotment of land to the owner at least 7 days prior to excavation and furnish particulars of the excavation to the owner of the building being erected or demolished.

Note: The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this conditions allotment of land includes a public road and any other public place.

Works shall not encroach onto or over adjoining properties, including retaining walls, fill material or other similar works. Soil shall not be lost from adjoining sites due to construction techniques employed on the subject site.

95. When soil conditions require it:
  - i. retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil shall be provided, and
  - ii. adequate provision shall be made for drainage.
96. All contractors shall comply with the following during all stages of demolition and construction:
  - A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
  - A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
  - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
97. All demolition work shall be carried out in accordance with AS2601 – 2001: The

Demolition of Structures and with the requirements of the WorkCover Authority of NSW.

98. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
  - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
  - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
  - iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
  - v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
  - vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
    - a) spraying water in dry windy weather
    - b) cover stockpiles
    - c) fabric fences
  - vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

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

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

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 99. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
- 100. The existing Ivory Curl and Callistemon street trees (trees 6 & 8 of the Consultant Arborist's report) located at the front of two of the properties is not to be removed or pruned, including root pruning, without the written consent of Council.
- 101. Two existing street trees within the nature strip in front of 12 (Ivory Curl) and 16 (Bottlebrush) Stoney Creek Road, are to be retained and protected during construction. These trees shall not be removed or pruned, including root pruning, without the written consent of Council.
- 102. Trees 1, 2, 3, 4, 5, 7, 9, & 10 (as per Consultant Arborist's report) located within the site may be removed.
- 103. Trees located within the footprint of the proposed buildings may be removed.
- 104. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
- 105. All recommendations contained in the Arborist's report by Neville Shields dated 8 August 2018 shall be implemented and complied with.
- 106. All recommendations contained in the Arborist's report by Redgum Horticultural ref:3909 dated 8 August 2018 shall be implemented and complied with.
- 107. The approved elements including driveways, stormwater connections, (etc.) prevail over the location of existing utility services and power poles. All services shall be adjusted at the applicant's cost to suit the construction of approved design elements. Applicants must seek approval from the relevant public utility, state authority or service provider.

#### **Prior to issue of occupation certificate or commencement of use**

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

- 108. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 109. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
- 110. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of

AS1428.4.

111. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
112. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.  
Note: Burning on site is prohibited.
113. A by-law shall be registered and maintained for the life of the development, which requires that :
  - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
  - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
  - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.
114. Contaminated Land – Site Validation Report  
A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
  - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
  - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
  - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority, and the Council if the Council is not the Principal Certifying Authority. The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.
115. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
116. Prior to the release of the Occupation Certificate the applicant is to provide remote access to the relevant waste contractor to enable access to the loading / unloading bay on site.
117. Site Audit Statement – Site Suitability  
To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the

site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, an application to amend the consent pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

118. Where the retail tenancies are occupied by a supermarket, all trolleys are to be equipped with a mechanism to ensure that they are returned to the premises after individual use in order to minimise their abandonment within the area.  
  
Details demonstrating that this has been implemented/installed shall be provided to the PCA prior to the issue of the Occupation Certificate. If Council is not the PCA, details shall also be provided to Council.
119. Lot 68 DP 66702, Lot 1 DP 191076, Lots A to C of DP 921789, Lots A to B of DP 363190 shall be consolidated into one allotment. Council requires proof of lodgement of the plan of consolidation with the Land and Property Information Office prior to occupation.
120. All landscape works are to be carried out in accordance with the approved landscape plans prior to the issue of an Occupation Certificate for the approved development. The landscaping is to be maintained to the approved standard at all times.
121. At least eight (8) native or ornamental trees of at least 75 litre pot size and capable of growing to a minimum height of three (3) metres shall be planted in suitable locations within the property on completion of the building works and prior to the final inspection. In this regard the proposed Landscape Plan should be adopted in regard to tree replacement.
122. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
123. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
124. Where an electricity substation is required by Ausgrid, a final film survey plan shall be endorsed with an area having the required dimensions as agreed with Ausgrid over the location of the proposed electricity distribution substation site. The substation must be located within the boundary of the development site, or within the building, subject to compliance with the BCA. The substation site shall be dedicated to Council as public roadway, or as otherwise agreed with Ausgrid. Ausgrid's requirements shall be met prior to release of the issue of the Occupation Certificate.
125. Vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 300mm x 200mm shall be permanently fixed to the inside skin of the front fence, or where there is no front fence a prominent place approved by the Principal Certifying Authority, stating the following: "Vehicle shall enter and exit the site in a forward direction at all times".
126. Driveway design shall comply the Council with Council's technical specification for



traffic, parking and access. the driveway width at boundary shall be in accordance with the the approved plans.

127. 123 off-street car spaces, being 73 residential, 14 visitor and 36 retail shall be provided in accordance with the submitted plans and shall be paved and linemarked.

36 retail spaces shall be made freely available at all times during business hours of the retail tenancies on site, for staff and visitors.

128. 123 off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed and linemarked to Council's satisfaction. The pavement of all car parking spaces, manoeuvring areas and internal driveways shall comply with Australian Standard AS3727 – Guide to Residential Pavements.
129. Prior to the issue of the Final Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

130. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
131. The noise reduction measures specified in the Acoustic Report prepared by Rodney Stevens Acoustics ref: R170510R3 Revision 3 and dated 8 April 2019 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
132. On completion of the building, a suitably qualified Consultant is to certify that The Environmental Criteria for Road Traffic Noise, May 1999 standard has been met or, where this standard would not practically or reasonably be met, the internal noise objectives of the Building Code of Australia have been met before an occupation certificate will be issued.
133. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
134. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
135. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
136. Prior to the issue of an Occupation Certificate, a certificate from a suitably qualified engineer shall be provided to the Principal Certifier certifying that the

- habitable/commercial floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level and the parking level is constructed at or above 1% A.E.P plus 300mm . A copy of the certificate shall be provided to Council where Council is not the Principal Certifier
137. Prior to occupation a Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
  138. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 26 February 2018.
  139. Prior to the issue of an Occupation Certificate for occupation or use of residential flat development, a design verification statement shall be submitted to the PCA from a qualified designer certifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued, having regard to Schedule 1 of *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*. A copy shall be issued to Council prior to the issue of any Occupation Certificate.
  140. Prior to the issue of an Occupation Certificate, The underground placement of all low voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner.
  141. Prior to the issue of an Occupation Certificate, a certificate from a suitably qualified engineer shall be provided to the Principal Certifier certifying that the habitable/commercial floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level and the parking level is constructed at or above 1% A.E.P plus 300mm . A copy of the certificate shall be provided to Council where Council is not the Principal Certifier

### **Integrated development/external authorities**

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

142. **Roads & Maritime Service NSW**
  1. All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Stoney Creek Road boundary.
  2. The redundant driveway on the Stoney Creek Road boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Stoney Creek 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.*

The design and construction of the gutter crossing on Stoney Creek 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*

3. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system on Stoney Creek Road 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.  
A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
4. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.  
The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Please send all documentation to *development.sydney@rms.nsw.gov.au*  
If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.
5. Entry and exit are to be by left turn movements only. Signage and delineation shall be provided to highlight prohibited turns. All works and signposting associated with the subject development shall be at no cost to Roads and Maritime.
6. All vehicles are to enter and exit the property in a forward direction.
7. 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, AS2890.6-2009 and AS 2890.2-2018 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
8. Sight distances from the proposed vehicular crossings to vehicles on Stoney Creek Road are to be in accordance with the Austroads Guide to Road Design: Part 4A: Unsignalised and Signalised Intersections (Section 3 – Sight Distance) and AS 2890. Vegetation and proposed landscaping/fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
9. The proposed development should be designed such that road traffic noise from Stoney Creek Road is mitigated by durable materials in order to satisfy the requirements for habitable rooms under Clause 102 (3) of State Environmental Planning Policy (Infrastructure) 2007.
10. 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.

11. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Stoney Creek Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
12. 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 Stoney Creek Road. All vehicles are to be contained on site before being required to stop.

143. **NSW Police**

1. Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas. Details to be provided prior to the issue of the Construction Certificate.
2. A lighting maintenance policy shall be established for the development. Details to be provided prior to the issue of the Construction Certificate.
3. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
4. Where applicable, security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
5. A street sign shall be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No 8.
6. Signage shall be erected at entry/exit points and throughout the development to assist users and warn intruders they may be prosecuted.
7. As malicious damage (graffiti) is often an offence committed at such developments, strong consideration is to be given to the use of graffiti resistant materials, particularly on fences and all ground floor areas. Details to be provided prior to the issue of the Construction Certificate. More information is required on submission of development applications for the proposed uses regarding the placement of public amenities, other than the proposed public toilets. The location of ATMs, public telephones, garbage bins etc, can impact greatly on how the area will be occupied and the level of crime it will absorb.
8. Intercom facilities shall be installed into entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
9. Monitored CCTV cameras shall be installed in and around the building to maximise surveillance opportunities. Digital or video technology should be used to record images from the cameras.

144. **Sydney Airport Corporation Limited (SACL)**

The maximum height of the proposed building shall be 68.15m AHD. This height is inclusive of all vents, chimneys, aerials, TV antennae and construction cranes etc. No permanent or temporary structure is to exceed this height without further approval from Sydney Airport Corporation Limited.

**Note:** Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed "controlled activity" and is punishable by a fine of up to 50 penalty units.

For further information on Height Restrictions please contact SACL on 9667 9246.

**145. Sydney Water**

**(A) Building Plan Approval** - The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.

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

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

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

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

**(B) Section 73 Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92. If you require any further information, please contact the Growth Planning and Development Team at [urbangrowth@sydneywater.com.au](mailto:urbangrowth@sydneywater.com.au).

**146. Civil Aviation Safety Authority**

1. The building must not exceed a maximum height of 68.15m AHD, inclusive of all life over-runs, vents, chimneys, aerials, antennas, lightning rods, any rooftop garden plantings, exhaust flues etc.
2. The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing, by emailing [ifp@airservicesaustralia.com](mailto:ifp@airservicesaustralia.com) and quoting YSSY-CA-128.
3. Separate approval must be sought under the Regulations for any equipment (i.e. Cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently may not be approved under the Regulations. Noting that the development is 7m under the approach surface, it is advisable that approval to operate construction equipment be obtained prior to any commitment to construct.
4. On completion of construction of the building, the Proponent must provide the airfield design manager with a written report from a certified surveyor on the

finished height of the building.

### Roads Act

147. The design and construction of the gutter crossing shall be in accordance with RMS requirements. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Blacktown (Ph 02 8814 2144).

Detailed design plans of the proposed gutter crossing are to be submitted to the RMS for approval prior to the commencement of any roadworks.  
It should be noted that a plan checking fee (amount to be advised) and lodgment of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RMS.

148. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

149. Prior to the issue of an Occupation Certificate, the following works will be required to be undertaken in the road reserve at the applicant's expense:
1. construction of a concrete footpath and /or grass verge along the frontage of the development site;
  2. construction of a new fully constructed concrete vehicular entrance/s;
  3. removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
  4. All other works identified by Council public domain section at work permit stage.

All footpath, or road and drainage modification and/or improvement work to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.

150. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
151. All works associated with the proposed development shall be at no cost to the RMS.

### Development consent advice

- a. Some forms of signage require separate development consent. Please refer to relevant planning policies for more information.
- b. A street/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- c. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- d. *Dial Before You Dig*

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

- e. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- f. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
  - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
  - Protection of the Environment Operations (Waste) Regulation 2005

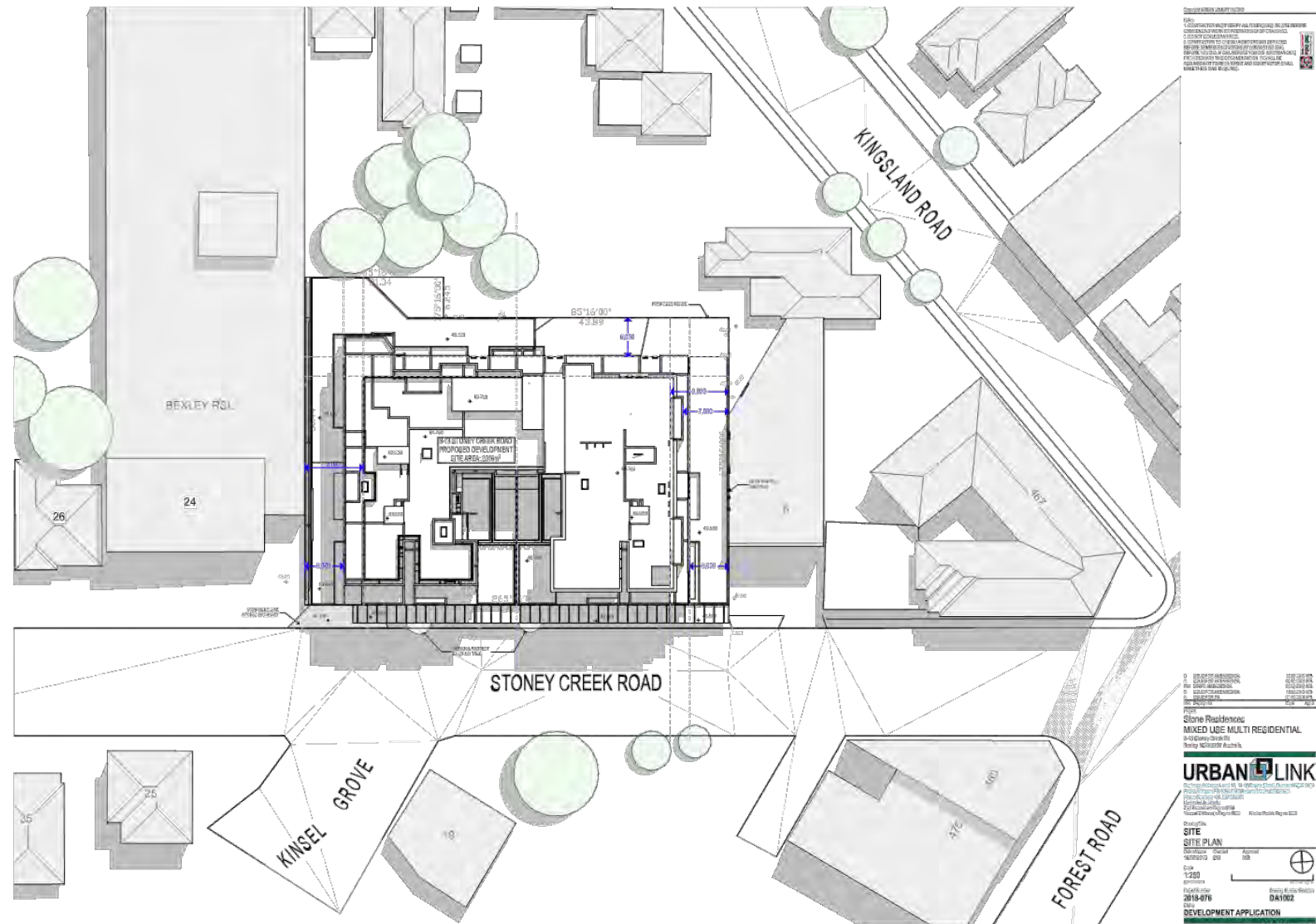
All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the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

- g. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
  - Work Health and Safety Act 2011
  - Work Health and Safety Regulation 2011
  - Protection of the Environment Operations (Waste) Regulation 2005.

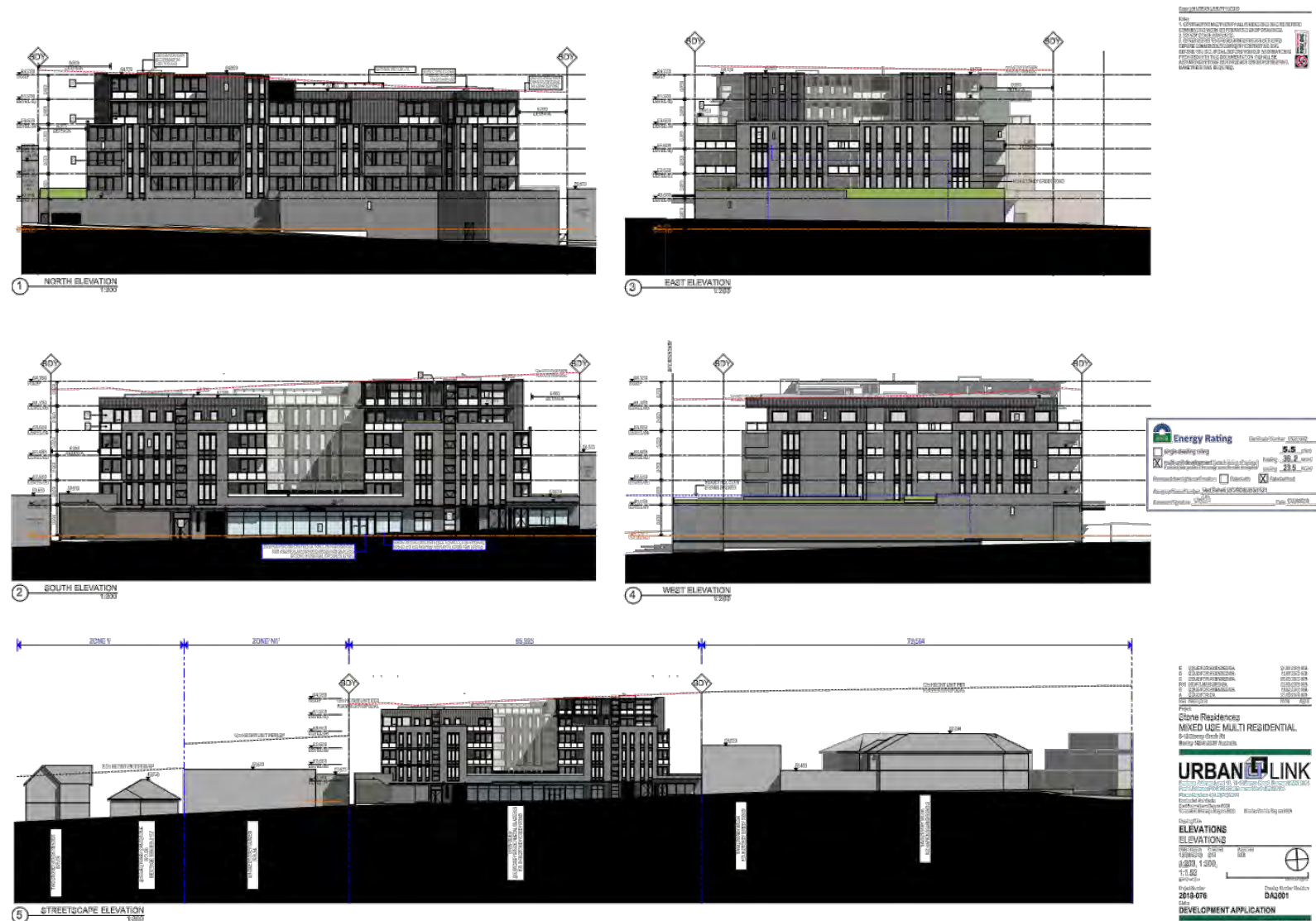
- h. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
  - choosing alternatives to noisy activities
  - relocating noise sources away from affected neighbours
  - educating staff and contractors about quiet work practices
  - informing neighbours of potentially noise activities in advance
  - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- i. The removal, cleaning and disposal of lead-based paint shall conform with the requirements of the NSW Environment Protection Authority's guideline - "Lead Alert - Painting Your Home".
- j. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- k. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

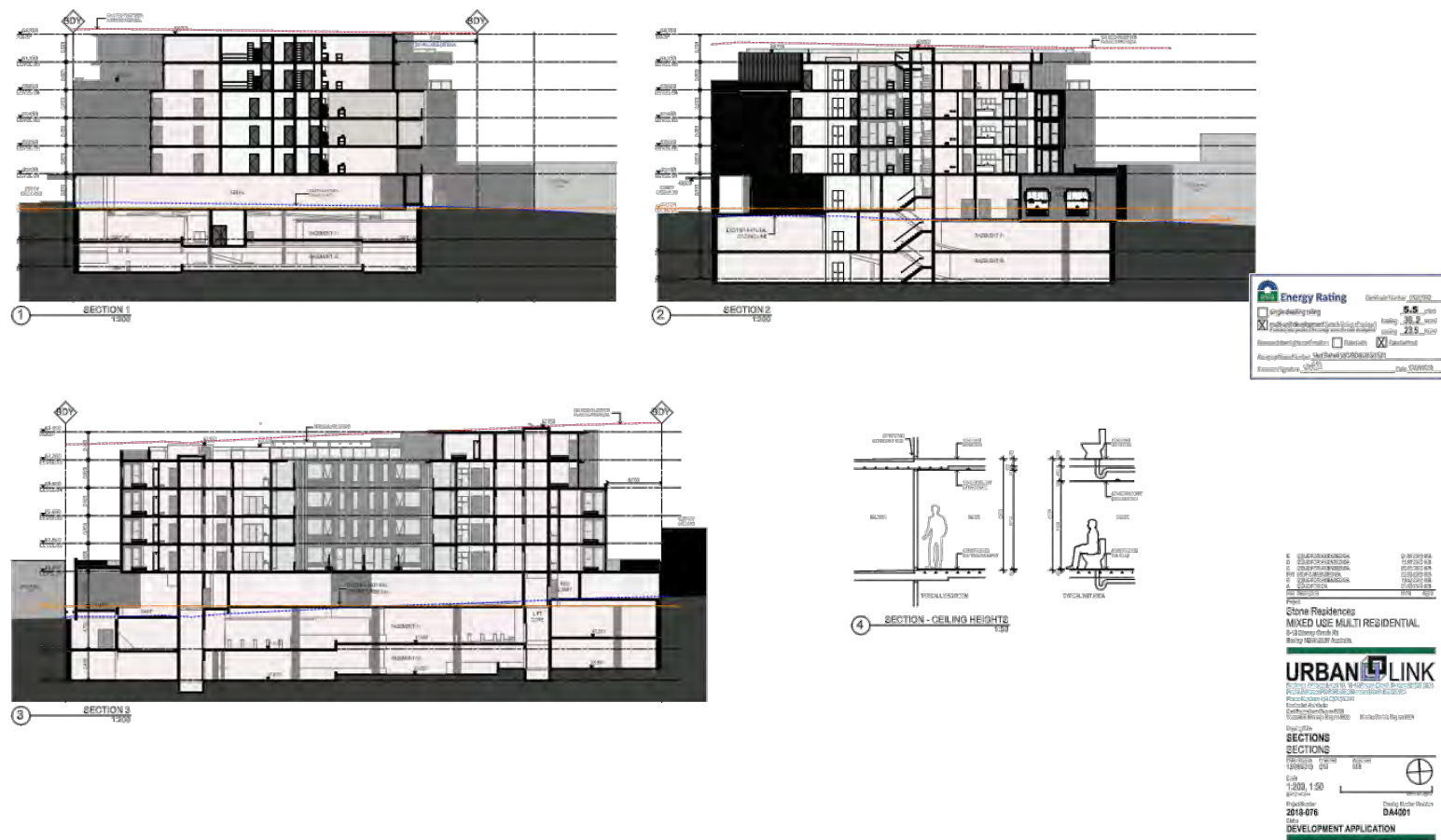




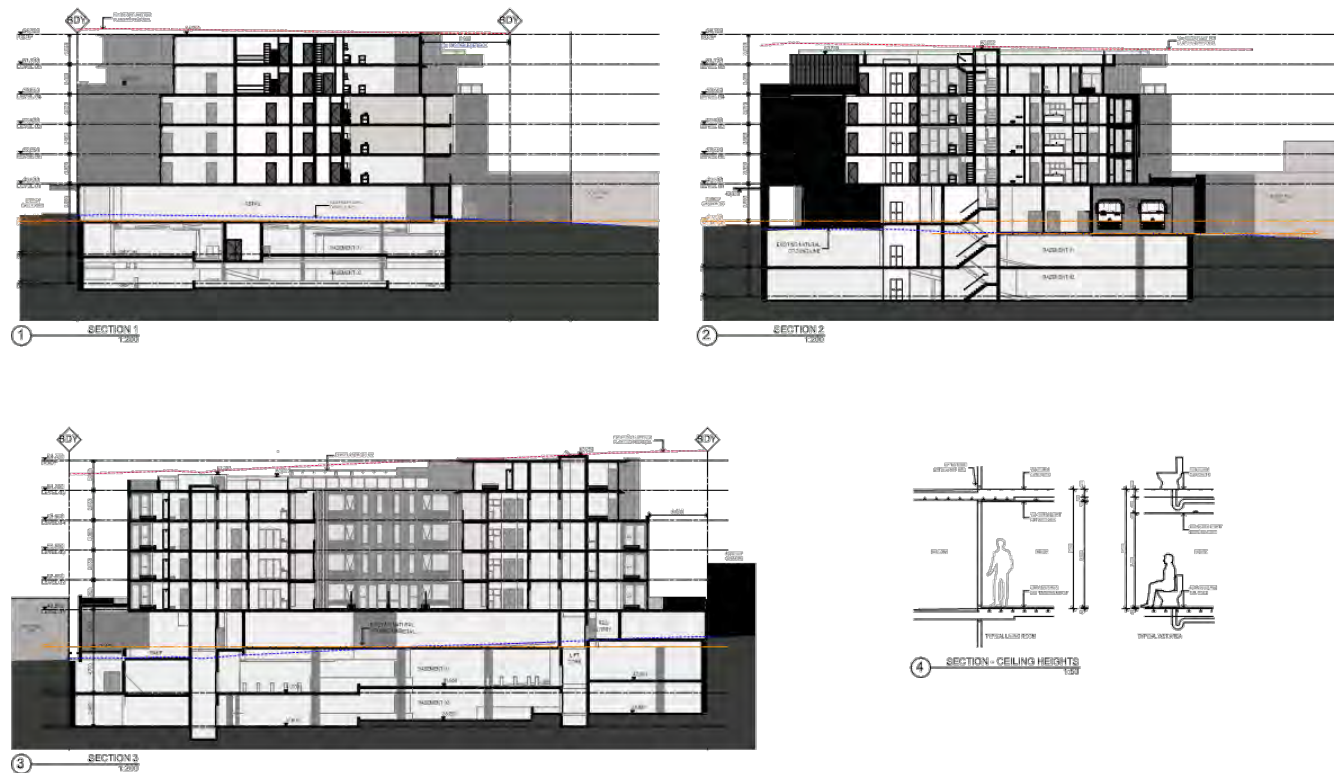












**DESIGNER'S NOTE**

1. CONSULTATION MUST BE HAD WITH ALL AFFECTED NEIGHBOURS PRIOR TO SUBMITTING THIS APPLICATION TO THE LOCAL PLANNING PANEL.

2. A DEVELOPMENT APPLICATION MUST BE SUBMITTED TO THE LOCAL PLANNING PANEL PRIOR TO THE SUBMISSION OF THIS APPLICATION.

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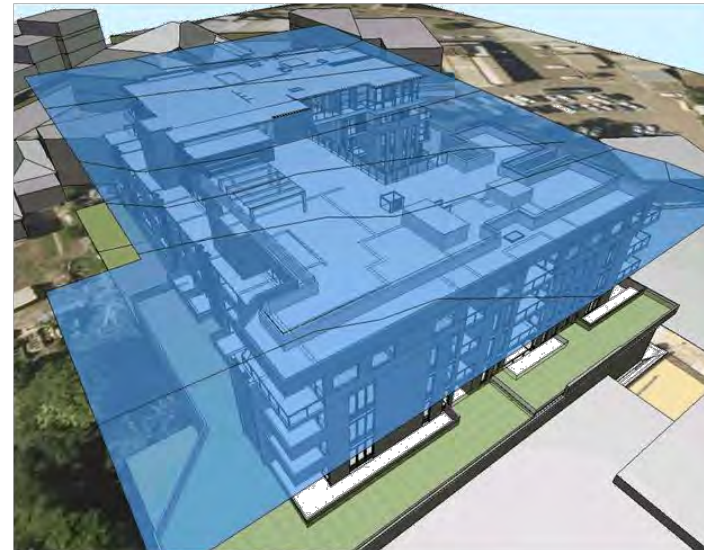
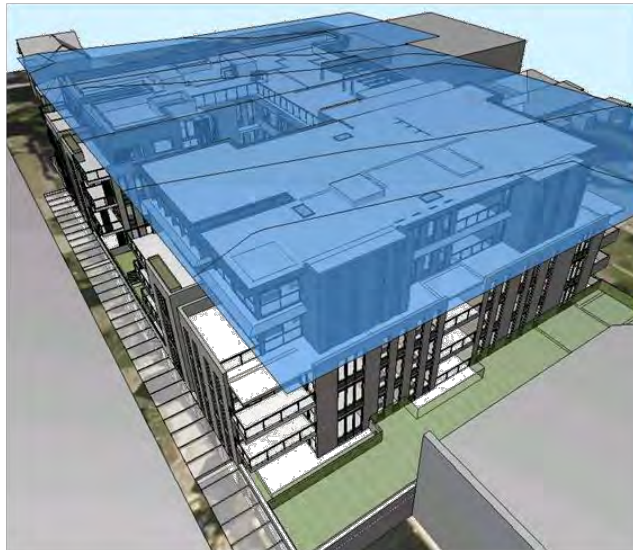
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**Stone Residences**  
MIXED USE MULTI RESIDENTIAL  
14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100-101-102-103-104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-1102-1103-1104-1105-1106-1107-1108-1109-1110-1111-1112-1113-1114-1115-1116-1117-1118-1119-1120-1121-1122-1123-1124-1125-1126-1127-1128-1129-1130-1131-1132-1133-1134-1135-1136-1137-1138-1139-1140-1141-1142-1143-1144-1145-1146-1147-1148-1149-1150-1151-1152-1153-1154-1155-1156-1157-1158-1159-1160-1161-1162-1163-1164-1165-1166-1167-1168-1169-1170-1171-1172-1173-1174-1175-1176-1177-1178-1179-1180-1181-1182-1183-1184-1185-1186-1187-1188-1189-1190-1191-1192-1193-1194-1195-1196-1197-1198-1199-1200-1201-1202-1203-1204-1205-1206-1207-1208-1209-1210-1211-1212-1213-1214-1215-1216-1217-1218-1219-1220-1221-1222-1223-1224-1225-1226-1227-12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**STANDARD LAYOUT PLAN**

DATE: 08/10/2019

PROJECT: STONE RESIDENCES

LOCATION: 1000 BAYVIEW AVENUE, SUITE 1000, BAYVIEW, ONTARIO M2H 3B9

CLIENT: STONE RESIDENCES

DESIGNER: STONE RESIDENCES

SCALE: 1/8" = 1'-0"

PROJECT NO: 2019-076

DATE: 08/10/2019

1. EXISTING BUILDING	2. EXISTING BUILDING
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99. EXISTING BUILDING	100. EXISTING BUILDING

**Stone Residences**  
**MIXED USE MULTI RESIDENTIAL**  
 1000 BAYVIEW AVENUE, SUITE 1000, BAYVIEW, ONTARIO M2H 3B9

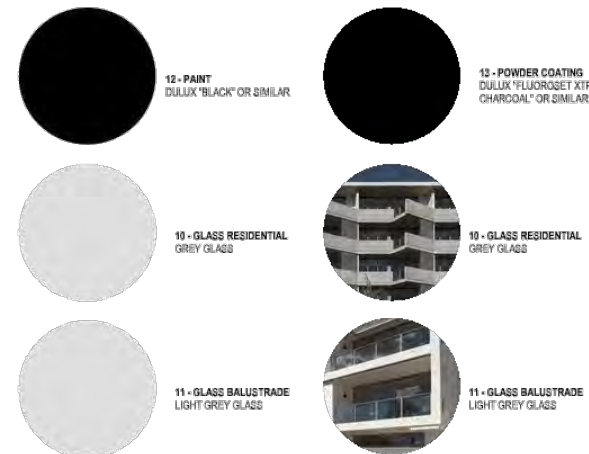
**URBAN LINK**  
 1000 BAYVIEW AVENUE, SUITE 1000, BAYVIEW, ONTARIO M2H 3B9  
 PROJECT NO: 2019-076  
 SCALE: 1/8" = 1'-0"  
 DATE: 08/10/2019

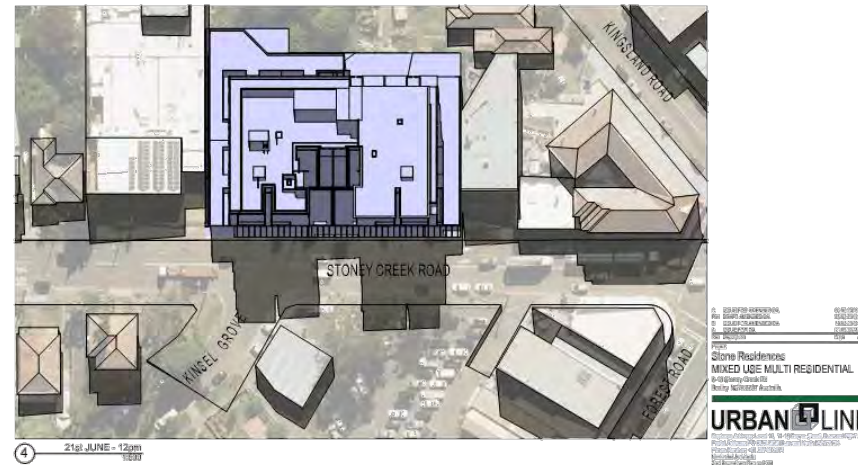
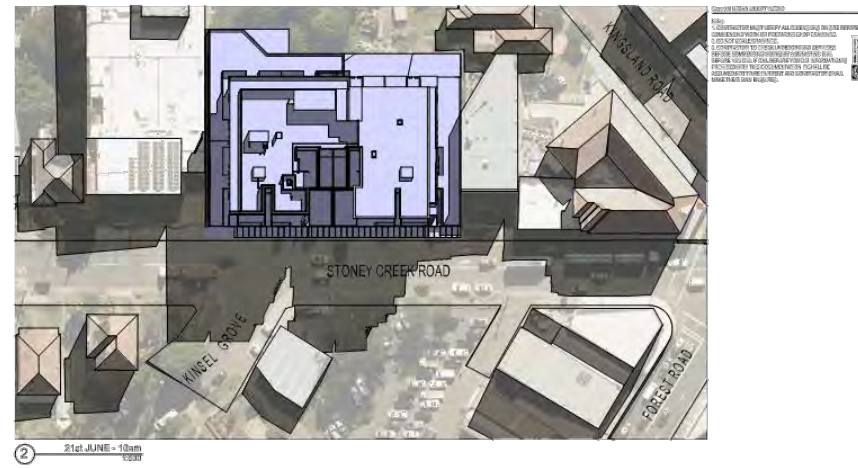
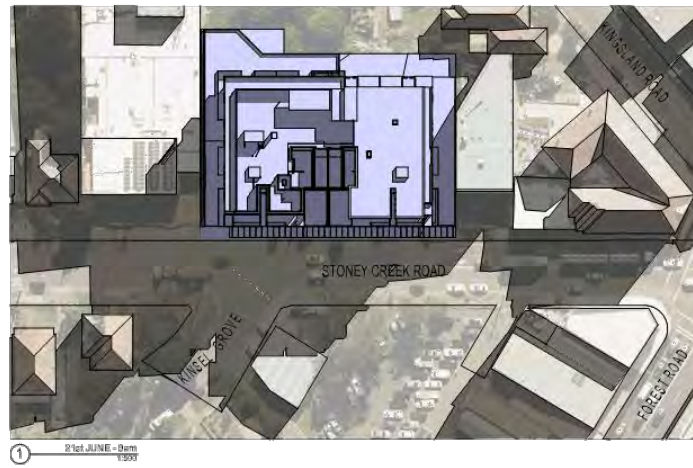
**OPTIONS - COMPLIANCE**  
**MAX BUILDING HEIGHT**

OPTION	HEIGHT	COMPLIANCE
OPTION 1	201	YES
OPTION 2	201	YES
OPTION 3	201	YES
OPTION 4	201	YES
OPTION 5	201	YES
OPTION 6	201	YES
OPTION 7	201	YES
OPTION 8	201	YES
OPTION 9	201	YES
OPTION 10	201	YES
OPTION 11	201	YES
OPTION 12	201	YES
OPTION 13	201	YES
OPTION 14	201	YES
OPTION 15	201	YES
OPTION 16	201	YES
OPTION 17	201	YES
OPTION 18	201	YES
OPTION 19	201	YES
OPTION 20	201	YES
OPTION 21	201	YES
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 Date: 08/10/2019  
 Project No: 2019-076  
 Development Application







SHADOW STUDY - SUMMARY

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2. THE SHADOW STUDY HAS BEEN CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE LOCAL PLANNING PANEL.

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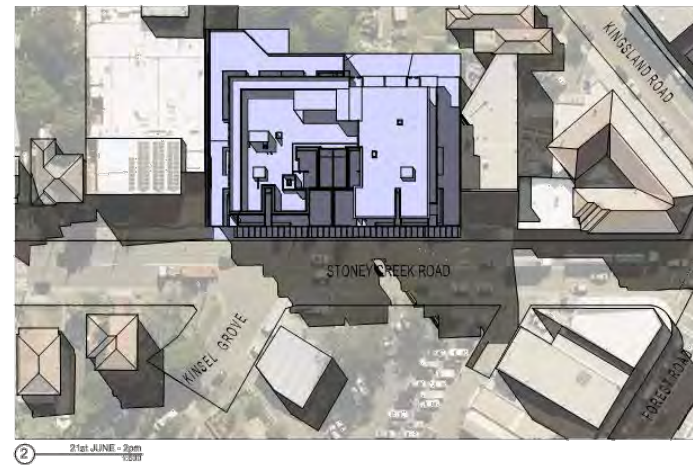
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MIXED USE MULTI RESIDENTIAL  
Bayside Local Planning Panel

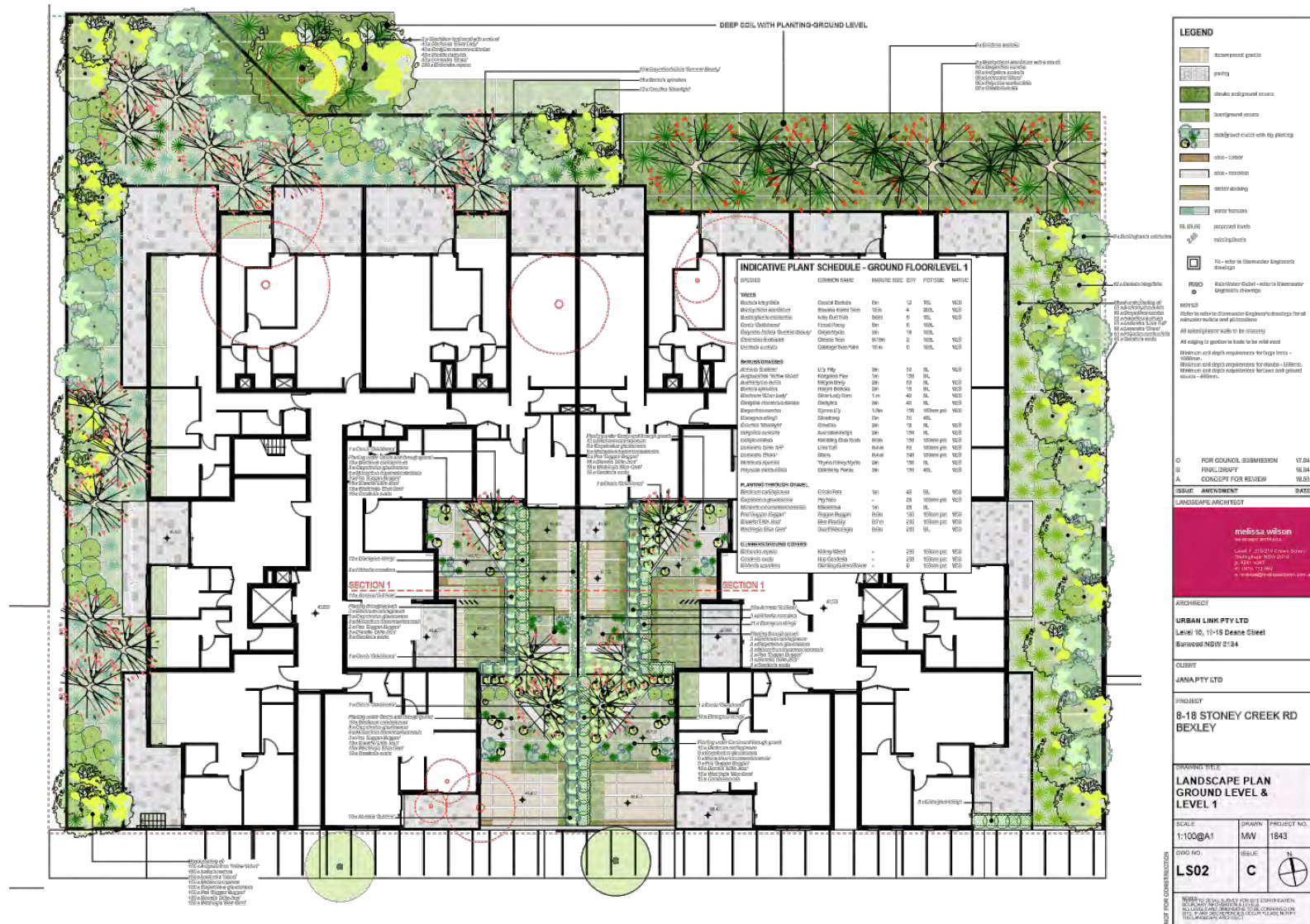
URBAN LINK  
Planning and Design  
100 Kingsland Road  
Bayside NSW 1500  
02 9333 1000  
www.urbanlink.com.au

Options - Compliance  
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Date: 21st June 2019  
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Project: Stone Residences  
2019-076  
Development Application

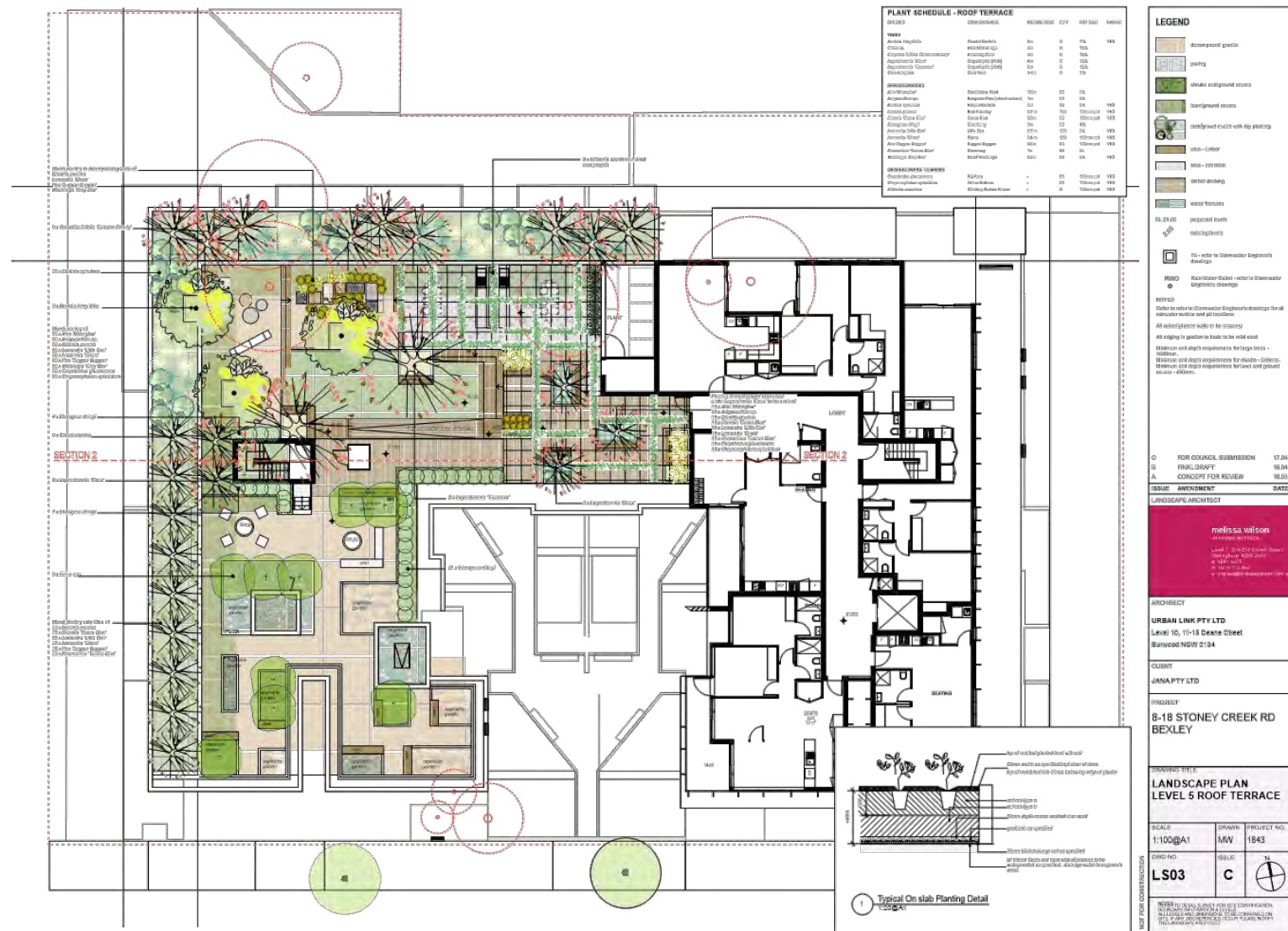
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2019-076  
Development Application



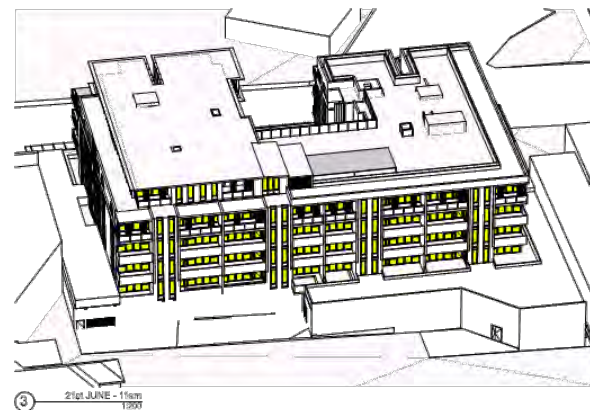
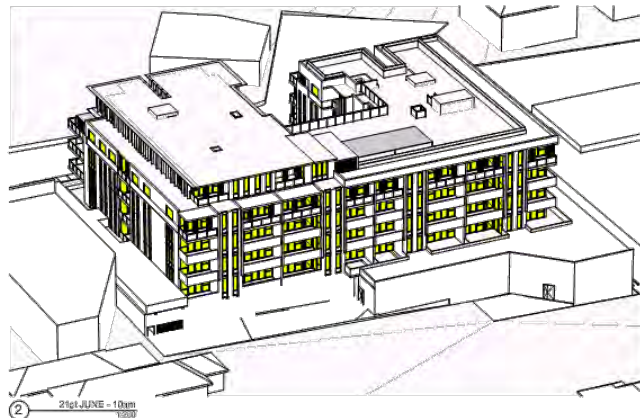
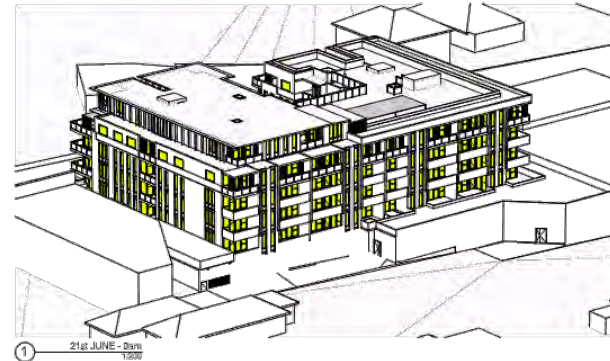












**1. CONSTRUCTIVE MULTIPARTY ALLIANCEING IN THE REGION**  
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**Stone Residences**  
**MIXED USE MULTI RESIDENTIAL**  
6-13 Clancy Creek Rd  
Daring NSW 2227 Australia

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## Options - Compliance

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Entered On	Checked	Approved
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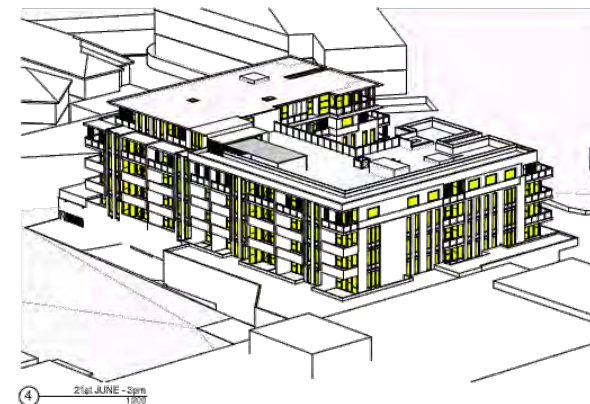
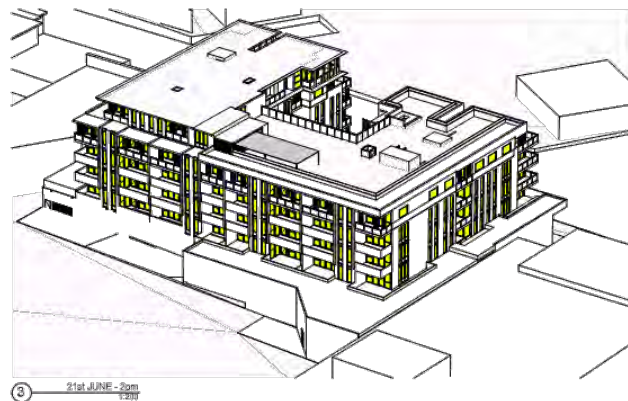
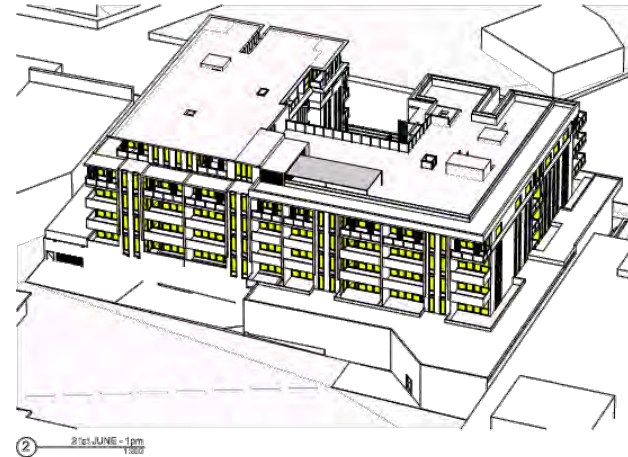
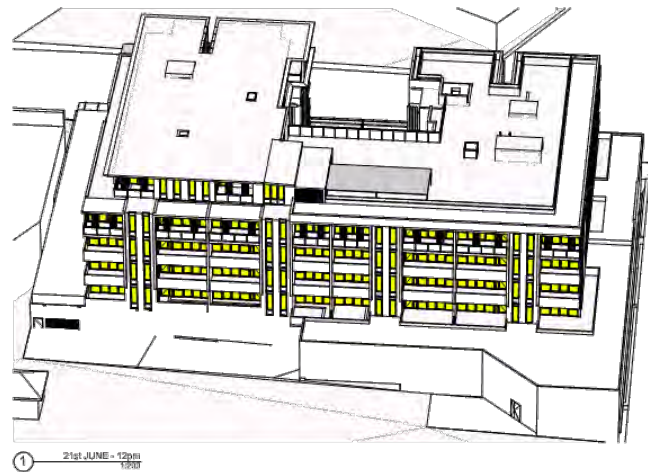
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**English** **English**

2018-076 DASOOS  
CAGE  
SUBJECTS INFORMATION AGENCY USE ONLY

## DEVELOPMENT APPLICATION



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Version: 1.0000

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6	22.05.2019	02.02.1998
6	22.05.2019	03.02.1998
601	22.05.2019	04.02.1998

**Stone Residences**  
**MIXED USE MULTI RESIDENTIAL**  
3-41 Glenview Drive  
Brisbane, Queensland Australia

**URBAN LIN**  
 60-100 4th Avenue, 2nd Floor, New York, NY 10014  
 Tel: 212 693 1234 Fax: 212 693 1235  
 Email: info@urbanlin.com  
 Website: www.urbanlin.com

Options  
**OPTIONS - COMPLIANCE**  
Views from SUN DIAGRAMS 2

Identification	Created	Approval
17002013	2011	548

Scale  
1:200  
geometric

Project  
2018-076

Sheet  
01

Project Manager  
DAS006

DEVELOPMENT APPLICATION





## PLAN OF MANAGEMENT

RETAIL SPACE – 8-18 STONEY CREEK ROAD, BEXLEY

Prepared by: Mark Boutros

REVISION 8 | DATE 2 MAY 2019

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## Table of Contents

Objective of this Plan .....	2
1. Hours of Operation .....	2
2. Role and Responsibility of the Manager .....	2
3. Cleaning and Maintenance .....	3
4. Point of Contact, Security and Safety .....	3
5. Traffic and Parking Arrangements .....	4
6. Staff Numbers .....	4
7. Complaints Register .....	4

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### **Objective of this Plan**

The purpose of this plan is to ensure that the retail premises on the ground floor of 8-18 Stoney Creek Road, Bexley ('the Site') maintains a high level of amenity and safety for the retail tenants, residents and the wider community alike. This Plan of Management will be made accessible in the retail premises and to any relevant authority and subsequent owners corporation associated with the residential component of the Site. The management of the premises will be carried out by the eventual operator of the retail premises who is to ensure compliance with this Plan of Management. The following matters have been addressed in the Plan of Management:

1. **HOURS OF OPERATION**
2. **ROLE AND RESPONSIBILITY OF THE MANAGER**
3. **CLEANING AND MAINTENANCE**
4. **POINT OF CONTACT, SECURITY AND SAFETY**
5. **TRAFFIC AND PARKING ARRANGEMENTS**
6. **STAFF NUMBERS**
7. **COMPLAINTS REGISTER**

### **1. Hours of Operation**

The Hours of Operation of the retail area are to be between 8:00am to 6:00pm, Monday to Sunday and closed on all public holiday unless otherwise varied in a subsequent approval.

Any loading activity for any prospective supermarket use of the retail area will occur during these hours.

### **2. Role and Responsibility of the Manager**

The Operator is to appoint a manager(s). The roles and responsibility of a manager are to include the below listed:

- a) The contact details will be made available to the residents and body corporate, neighbouring properties and relevant authorities.
- b) Manage any staff and/or any contractors that may be required to work in the retail premises
- c) Ensure the cleaning and maintenance tasks are undertaken in order to maintain the premises
- d) Manage any noise and amenity impact queries caused by the use and staff can ensure appropriate measures are taken to resolve any potential issues.
- e) Act as a point of contact and assist during emergencies on the premises.

- 
- f) Shall be responsible for ensuring the loading dock, waste room, corridors and common rooms associated with the retail use are well kept and clean to ensure ease of access for residents, public and staff alike. The caretaker/manager shall promptly address any issues.
  - g) Act as point of contact for the residents, body corporate and the relevant authorities in the case of a special event
  - h) Ensure that the scheduling of loading/unloading vehicles allows that one of the two dedicated 11.5m truck spaces will be vacant during Council's waste collection time

*Note: Should the manager be away for an extended period the contact details of the nominated representative and/or operator who can be contacted at any time.*

### **3. Cleaning and Maintenance**

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- a) The manager may employ other person(s) to undertake any aspect of site cleaning, security and maintenance services.
- b) The manager will be responsible for ensuring all waste bins are collected regularly and well kept, placed out for collection services and returned to their storage positions after they have been emptied.
  - i. Waste bins are to be kept in the bin room except when being collected.

### **4. Point of Contact, Security and Safety**

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- a) A Fire escape and Safety Plan including shall be kept in a prominent location on Site visible to staff and visitors alike.
  - i. The manager shall ensure emergency evacuation procedures are implemented and made known to all staff. All necessary signage shall be displayed at all times.
- b) The manager shall enforce a 'no smoking indoors' policy.
- c) Smoke detectors consistent with the relevant Australian Standards shall be maintained in good order in all rooms associated with the retail premises
- d) The manager shall provide a "first point of call" service for staff needing assistance with the exception of matters that are of concern the emergency services such as police, fire, ambulance, etc.
- e) The Manager and any staff are to enforce their roles and responsibilities under the Work Health and Safety Act 2011 and Work Health and Safety Regulation 2017.
- f) The following general safety practices are to be adhered to by the manager and any of his/her staff:
  - i. Any hazards (including but not limit to broken amenities and lights) should be removed, repaired or replaced in discussion with the Manager.
  - ii. Ensure any dangerous chemicals (i.e. cleaning materials) carefully and stored in a secure area

- 
- iii. All work areas, passageway and common open space areas are to be kept clean and tidy to ensure safe manoeuvrability
  - iv. Materials or products are not to be stacked higher than what is considered to be safe;
  - v. All rubbish to be disposed of in the bins;
  - vi. Ensure there is no excessive alcohol consumption
  - vii. All drugs that are not prescribed by a doctor are forbidden on the premises
  - viii. No smoking indoors

### **5. Traffic and Parking Arrangements**

There is a total of thirty-four (34) retail vehicle parking places on Basement 01 with vehicular access via Stoney Creek Road. All vehicles will enter and exit the site in a forward direction. The retail car spaces are to be sectioned off from the residential car spaces via boom gate. The spaces are to be maintained in accordance with the Development Consent.

The loading bay is to be maintained and coordinated by the manager so as to ensure there is no conflict with respect to the collection of waste or loading/unload of retail goods and residential vehicle movements.

### **6. Staff Numbers**

Any non-compliance or contradiction to the development consent resulting from the highest order use of the retail space will be subject to a Development Application.

### **7. Complaints Register**

A complaints register is to be kept and maintained on Site, recording incidents. The register is to record:

- Date
- Nature of the complaint
- Name and contact details of complainant
- Actions taken
- Resolution/outcome of the matters
- Further action required (if applicable)