

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 10 December 2019 at 6:00 pm.**

ON-SITE INSPECTIONS

On-site inspections 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 - 25 November 20193
- 4.2 Minutes of the Bayside Local Planning Panel Meeting - 26 November 20197

5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

- 6.1 DA-2018/222/A - 152-200 & 206 Rocky Point Road, Kogarah23
- 6.2 DA-2019/253 - 100 Bestic Street, Kyeemagh.....64
- 6.3 DA-2018/29 - 53 Hannam Street, Bardwell Valley166
- 6.4 DA-2018/11013/F - 3 Haran Street, Mascot.....237
- 6.5 DA-2014/10068/B - 20 Pemberton Street, Botany297

6.6	S82-2019/12 - 11 Richmond Street, Banksia	367
6.7	DA-18/1172 - 106 Wilson Street Botany	403

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

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

Meredith Wallace
General Manager

Bayside Local Planning Panel

10/12/2019

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 25 November 2019
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/3011

Recommendation

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

Present

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

Also Present

Clare Harley, Manager Strategic Planning
Josh Ford, Coordinator Statutory Planning
Kimberley Bautista, Student Planner
Wolfgang Gill, IT Technical Support Officer
Anne Suann, Governance Officer

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

3.1 Panel Members' Conflicts of Interest

There were no declarations of interest.

4 Minutes of Previous Meetings

Nil

5 Reports – Planning Proposals

5.1 Draft Planning Proposal Bayside Local Environmental Plan 2020 - Pre Gateway

The following person spoke:

- Hong Cai, interested resident, spoke to the officer's recommendation.

Panel Commentary

The Panel acknowledges that the purpose of the draft local environmental plan (LEP) is to consolidate the current LEPs into one instrument with consistent zoning provisions and development controls for the entire Bayside LGA. The Panel accepts that in the process of consolidation it became apparent that certain controls could not be "harmonised" without the benefit of a housing strategy and other relevant city-wide studies. The Local Environmental Plan now proposed therefore forms the first stage of a progressive review of controls which will respond to relevant strategies and studies as they are finalised.

The changes proposed by the draft instrument, for example prohibiting residential flat buildings in certain zones, providing consistent FSR controls for different types of residential development, prohibiting office premises in the residential zones and prohibiting dwellings in the business zones, are considered appropriate in terms of sound planning practice.

The Panel discussed two key issues at length:

- **Employment Land** – In particular, the need to retain land which is zoned for employment use to satisfy the longer-term economic strategies and goals for the Bayside LGA consistent with the Eastern City District Plan. The draft plan goes some way to achieving this by prohibiting residential flat buildings in the B2 Local Centre and B4 Mixed Use zones.

However, there is continual pressure to convert employment land to residential use for short term gain and it is considered that through its planning decisions Council should resist this pressure now and moving into the future.

- **RE1 Public Recreation Zone** – The Panel notes that the draft instrument proposes to depart from the Standard Instrument land use table by making 'registered clubs and signage' and a range of other commercial uses permissible with consent.

Open space land is a scarce community resource, which is becoming more important as the population of the city grows with the increasing densities seen in recent years. The Panel is concerned that this change in permissibility is contrary to the Standard Instrument provisions and is likely to lead to the alienation of this valuable community resource to the public over time.

It is considered that the proposed changes to permissible uses in the RE1 zone is tantamount to reclassifying the land to facilitate long-term leases to commercial interests. The Panel is of the view that the appropriate way to manage additional desirable land uses is to firstly review plans of management for each public reserve in accordance with the provisions of the Local Government Act 1993 and, where appropriate, reclassify land to operational. The reclassification process requires a mandatory public hearing and the Panel considers that this is appropriate prior to any changes to permissible uses.

The Panel is also of the view that the proposed change to the land use table would likely be rejected at Gateway Determination stage due to the inconsistency with the Standard Instrument and the public interest matters involved in this significant change across the Local Government Area. It is acknowledged by the Panel that in certain circumstances it may be appropriate for additional uses to be permissible and there are a number of examples in the LGA where sporting and registered clubs provide are appropriate and complement the open space use. However, in the absence of evidence-based material, the reclassification process, from community to operational, provides the opportunity to commence this dialogue with the community and stakeholders.

A more confined issue relating to several sites only has arisen in merging the current LEP's and this warrants further consideration prior to exhibition. That is:

- The six residential flat building sites in the R3 Zone in the current LEP should be zoned R4 (High Density Residential) to improve transparency and avoid any confusion. The current draft retains an R3 zone for these sites, with a special clause to allow RFB's.

The Panel notes that the draft plan has been prepared having regard to the district plan for Sydney East prepared by the Greater Sydney Commission. All other relevant strategies and directions have also been appropriately considered in the planning proposal.

The Panel acknowledges and supports the progressive review of the LEP following gazettal to implement various studies and strategies which inform development controls such as:

- Minimum lot sizes particularly for industrial subdivision.
- Minimum lot sizes for residential subdivision.

The Panel also considers that the proposed permissible uses in the RE1 public recreation zone may be reviewed following the plan of management/reclassification process and other studies to provide evidence for additional uses in the public open space zone.

The Panel acknowledges that the consolidation and integration of the previous instruments into one city-wide LEP is a major undertaking involving critical statutory and analytical skills and a determination to complete the task. Council staff should be

commended for their work and their commitment to this process which has resulted in the production of a single harmonised plan within the required tight timeframes. The panel recognizes the strategic importance of Bayside to the economy of the greater Sydney area and the need to balance growth in employment and housing opportunities.

Recommendation to Council

That the Bayside Local Planning Panel recommends to Council, or its delegate, that pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the Draft Planning Proposal be submitted to the Department of Planning, Industry and Environment (DPIE) for a Gateway Determination subject to the following amendments:

1. Changing the proposed RE1 land use table to be consistent with that in the Standard Instrument.
2. Changing the zoning of the 6 RFB sites from R3 to R4 (the zone that permits RFB's).
3. Correction of some typographical errors, mapping errors and minor issues brought to the attention of the Panel.
4. Any further refinement which may be required of both the Draft LEP and the Draft DCP (currently under preparation) prior to gazettal. This includes the current housing and other strategies currently being finalized.

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"/>
Thomass Wong	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Recommendation

The Panel's reasons for the recommendation are contained within the Panel Commentary above.

6 Reports – Development Applications

Nil.

The Chairperson closed the meeting at 6:33 pm.

Certified as true and correct.

Jan Murrell
Chairperson

Bayside Local Planning Panel

10/12/2019

Item No	4.2
Subject	Minutes of the Bayside Local Planning Panel Meeting - 26 November 2019
Report by	Fausto Sut, Manager Governance & Risk
File	SF18/3011

Recommendation

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

Present

Jan Murrell, Chairperson
Ross Bonthorne, Independent Expert Member
Anthony Reed, 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
Christopher Mackay, Coordinator Development Assessment
Christopher Lazaro, Development Assessment Planner
Petra Blumkaitis, Development Assessment Planner
Andrew Ison, Senior Development Assessment Planner
Ana Trifunovska, Development Assessment Planner
Helen Lai, Development Assessment Planner
Angela Lazaridis, Senior Development Assessment Planner
Gary Choice, Development Assessment Planner
James Arnold, Principal at Arnold Urban
Suhradam Patel, IT Technical Support Officer
Anne Suann, Governance Officer

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

3.1 Panel Members' Conflicts of Interest

There were no declarations of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 12 November 2019

Decision

That the Bayside Local Planning Panel notes that the Minutes of the Bayside Local Planning Panel meeting held on 12 November 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-2017/139/A - 142 Queen Victoria Street, Bexley

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

Determination

- 1 The Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to s4.55(1A) of the Environmental Planning and Assessment Act 1979, is satisfied that the proposed modification:
 - i is of minimal environmental impact;
 - ii is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii has not been notified as this is not required; and

- iv has been assessed having regard to the relevant matters in s4.15(1A) of the Environmental Planning and Assessment Act 1979.
- 2 That modification application DA-2017/139/A seeking to modify development application DA-2017/139 to include ventilation shaft, internal modifications and alterations to window size at 142 Queen Victoria Street, Bexley is APPROVED. The proposal is modified in the following manner:
 - i By amending condition 2 as follows:

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

Plan/Dwg No.	Issue No.	Dated	Received
ARCHITECTURAL PLANS – prepared by Cornerstone Design			
Site Plan - DA 00	C	24 September 2019	24 September 2019
Site Analysis Plan – DA 01	B	20 April 2018	1 May 2018
Basement Plan & Ground Floor Plan – DA 02	DE	24 July 2018 18 September 2019	31 July 2018 23 September 2019
First Floor Plan & Second Floor Plan – DA 03	DE	24 July 2018 18 September 2019	31 July 2018 23 September 2019
Third Floor Plan & Roof Plan – DA 04	DE	24 July 2018 18 September 2019	31 July 2018 23 September 2019
Elevations – DA 05	DE	24 July 2018 18 September 2019	31 July 2018 23 September 2019
Elevations – DA 06	D	24 July 2018	31 July 2018
Section & Driveway Profile – DA 07	D	24 July 2018	1 May 2018
Schedule of Finishes			20 October 2016
Photomontage			30 April 2018 23 September 2019
LANDSCAPE PLANS – prepared by Zenith Landscape Designs			
Landscape Plan – 16-3278 LO1	A	19 April 2018	1 May 2018
Existing Tree Plan – 16-3278 LO2	A	19 April 2018	1 May 2018
DRAINAGE PLANS – prepared by United Consulting Engineers			
Drainage Plan - 16MB7166/D01	B	6 April 2018	1 May 2018
Ground Floor and Basement Drainage Plan - 16MB7166/D02	B	6 April 2018	1 May 2018
Soil & Water Management Plan - 16MB7166/SW01	B	6 April 2018	1 May 2018
BASIX CERTIFICATE – prepared by Building & Energy Consultants Australia			
761061M_023	-	30 April 2018 20 September 2019	1 May 2018 23 September 2019
Other			
Schedule of Finishes	A	undated	31 July 2018

Where there is any inconsistency between the plans prepared by Cornerstone and the plans prepared by either Zenith Landscape Designs

or United Consulting Engineers, the plans prepared by Cornerstone Design shall prevail.

- ii By amending condition 5 as follows:

The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 761061M_023 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>

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied that the modification is minor in nature and will not create adverse impacts.

6.2 DA-2016/10065/B - 5 Finch Drive Eastgardens

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

Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S.4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:

- i Is of minimal environmental impact;
 - ii Is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii Has not been notified; and
 - iv Has been assessed having regard to the relevant matters in s.4.15 of the Environmental Planning and Assessment Act 1979.
- 2 That modification application DA-2016/10065/B seeking to modify development consent DA-2019/65 to amend Condition 44 regarding timing for return of tree preservation bond at 5 Finch Drive, Eastgardens, is APPROVED. The proposal is modified in the following manner:

Amend Condition No. 44 as follows:

44. *Prior to the issue of the Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$1,136,565.00 to ensure protection of trees No. 1-14, 22-39 and 47-50 (trees along the eastern alignment of Finch Drive (North-South Street 1) and within the central park) from damage that have failed prior to construction due to vandalism and the insufficient maintenance including watering. The duration of the Bond shall be limited to a period of 24 months after the issue (or cease upon issue of) of the Occupation Certificate* **12 months after Practical Completion.** *At the completion of the maintenance period* **12-month period,** *the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the trees were found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then all or part thereof of the bond shall be forfeited. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.*

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied the modification is reasonable in the circumstances.

6.3 DA-2013/10056/D - 13A Church Avenue, Mascot

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

The following people spoke:

- Lynette Hickey, affected neighbour, spoke against the officer's recommendation and responded to the Panel's questions.
- Simon Hanson, architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Shane Mohebbaty, owner, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(2) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - ii has been notified; and
 - iii has been assessed having regard to the relevant matters in S4.15 of the Environmental Planning and Assessment Act 1979.
- 2 That the Bayside Local Planning Panel consider the submissions concerning the proposed modification and take into consideration the reasons of the consent authority that granted the consent that is sought to be modified.
- 3 That modification application DA-2013/10056/D seeking to modify Development Consent DA-2013/10056 to change unit mix to increase the number of two (2) bedroom units, increase in gross floor area, changes to car parking and Section 7.11 contributions at 13A Church Avenue, Mascot is APPROVED subject to the conditions in the Council officer's report below the following additional 2 conditions:
 - (a) additional conditions to provide for 20 car parking spaces to be allocated as visitor spaces and the remainder of spaces attached to title of the units within the development; and
 - (b) the landscaping plan is to be significantly amended to demonstrate a positive contribution to the streetscape in terms of the footpath widening, the provision of seating with deciduous canopy trees on the subject site and landscaping and paving, the planting of advanced Chinese Elms on the Council footpath (to be widened by the applicant), and the rear landscaped area over the podium is to be further enhanced to provide an attractive landscaped area focused around carefully selected canopy trees. This amended plan is to be submitted to Council and approved by the Director City Futures prior to the issuing of a Construction Certificate.

The proposal is modified in the following manner:

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

The development is to be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent (DA13/056/01) **[Amended 26 November 2019 DA-2013/10056/D].**

Drawing N°	Author	Date Received
<i>Architectural Plans</i>		
S96-101 S4.55 101 Revision A	Bureau SRH	28 November 2017 12 September 2019 (DA-2013/10056/D)
S96 101.5	Bureau SRH	28 November 2017
S96-102 S4.55 102 Revision A	Bureau SRH	28 November 2017 12 September 2019 (DA-2013/10056/D)
S96-103 S4.55 103 Revision A	Bureau SRH	6 April 2018 12 September 2019 (DA-2013/10056/D)
S96-104 S4.55 104 Revision A	Bureau SRH	28 November 2017 12 September 2019 (DA-2013/10056/D)
S96-105 S4.55 105 Revision A	Bureau SRH	28 November 2017 12 September 2019 (DA-2013/10056/D)
S96-106 S4.55 106 Revision A	Bureau SRH	28 November 2017 12 September 2019 (DA-2013/10056/D)
S96-107 S4.55 107 Revision A	Bureau SRH	6 April 2018 12 September 2019 (DA-2013/10056/D)
S96-108 S4.55 108 Revision A	Bureau SRH	28 November 2017 12 September 2019 (DA-2013/10056/D)
S96 200	Bureau SRH	28 November 2017
S96 201	Bureau SRH	6 April 2018
S96 202	Bureau SRH	6 April 2018
S96 203	Bureau SRH	6 April 2018
S96 300	Bureau SRH	28 November 2017
<i>Architectural Plans</i>		
11170-01 Issue A	Simmons Architects	13 May 2014
11170-02 Issue I		
11170-03 Issue O		
11170-04 Issue F		
11170-05 Issue D		

11170-06 Issue D		
11170-07 Issue A		
11170-08 Issue E		
Landscape Plans L/01 Issue A L/02 Issue B L/03 L/01 Issue C L/02 Issue C	ATC	15 November 2013 17 November 2017
Survey Plan Ref No. 582AA 01	Mitchell Land Surveyors Pty Ltd	28 March 2013
Stormwater Plans C01_B C02_B C03_B C04_A	Alan L Wright & Associates	15 November 2013

Documents	Author	Date Received
Statement of Environmental Effects	LJB Urban Planning Pty Ltd	27 March received by Council 28 March 2014
<i>Statement of Environmental Effects (DA-2013/10056/C)</i>	<i>LJB Urban Planning Pty Ltd (DA-2013/10056/C)</i>	<i>23 November 2017 (DA-2013/10056/C)</i>
State Environmental Planning Policy No.1 (SEPP 1) Objection	LJB Urban Planning Pty Ltd	November 2013 received by Council 15 November 2013 – amendment received 30 April 2014
Preliminary Geotechnical Report	Grant Alexander & Associates Pty Ltd	30 July 2009 received by Council 28 March 2013
Ground Water Levels	Grant Alexander & Associates Pty Ltd	30 July 2009 received by Council 28 March 2013
Traffic Report <i>Traffic and Parking Impact Assessment (DA-2013/10056/C)</i>	Integral Services group <i>Motion Traffic Engineers (DA-2013/10056/C)</i>	August 2009 received by Council 20 May 2013 <i>November 2017 (DA-2013/10056/C)</i>
Estimated Construction Cost	Newton, Fisher & Associates Pty Ltd	20 January 2014 received by Council 22 January 2014
Soil Contamination Investigation	Pacific Environmental	30 October 2009 received by Council 28 March 2013
Addendum to Soil Contamination Audit Investigation	Pacific Environmental	1 January 2010 received by Council 28 March 2013

Addendum to Soil Contamination Audit Investigation – Groundwater Investigation	Pacific Environmental	13 May 2013 received by Council 28 March 2013
Acid Sulphate Soil Assessment	Pacific Environmental	2 November 2009 received by Council 28 March 2013
Pedestrian Wind Statement	Windtech	22 October 2009 received by Council 28 March 2013
BASIX Certificate No. 474684M 47468M_02 47468M_03 (DA-2013/10056/C) (DA-2013/10056/D)	Department of Planning Gradwell Consulting (DA-2013/10056/C) (DA-2013/10056/D)	28 March 2013 received by Council 28 March 2013 23 November 2017 12 September 2019 (DA-2013/10056/C) (DA-2013/10056/D)
Access Report Access Compliance Report (DA-2013/10056/C)	PSE Consulting	7 May 2013 received by Council 20 May 2013 22 November 2017 (DA-2013/10056/C)
Design Verification	Simmons Architects Bureau SRH Architecture (DA-2013/10056/C)	21 March received by Council 28 March 2013 20 November 2017 (DA-2013/10056/C)
Aircraft Noise Assessment	Acoustic Services Pty Ltd	14 May 2013 received by Council 20 May 2013
Letter regarding Offer of VPA	Norton Rose Fulbright	20 March 2014

No construction works (including excavation) shall be undertaken prior to the issue of the Construction Certificate. (DA13/056/02) (DA13/056/03) (Amended 9 July 2019 DA-2013/10056/C) **[Amended 26 November 2019 DA-2013/10056/D]**.

(b) Condition 2 to be amended to now read:

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

- | | | |
|----|--------------------------------|--|
| a) | Landscape Bond | \$10,000.00 |
| b) | Landscape Bond Preparation Fee | \$550.00 |
| c) | Waste Levy | \$5,000.00 |
| d) | Section 94 Contribution | \$1,600,000.00 \$1,821,458.36
\$1,544,472.13 |
| e) | Damage Deposit | \$50,000.00 |
| f) | Development Control | \$11,200.00 |

(DA-13/56/03) **[Amended 26 November 2019 DA-2013/10056/D].**

- (c) Condition 3 to be amended to now read:

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

- a) Section 94 Contribution 2005 – 2010
- i) Residential component ~~\$1,600,000~~ **\$1,821,458.36**
\$1,544,472.13

~~Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. (DA 13/56/03)~~ **[Amended 26 November 2019 DA-2013/10056/D].**

- (d) Condition 14 to be amended to now read:

~~**Submit a further Development Application for the construction of the road widening sections of, and public domain works in, Church Avenue (including the under-grounding of existing above ground electricity and telecommunication cables in Church Avenue, adjoining the site together with the provision of appropriate street light standards, drainage (if any) kerb and gutter, footway, bicycle paths, landscaping, traffic signs). Details shall be submitted by the applicant to Council's satisfaction.**~~

An application for Frontage Works (Public Domain Frontage Works Construction Application) shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary frontage works, egress paths, driveways and fences shall comply with the approval. A fee is payable to Council. 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. [Amended 26 November 2019 DA-2013/10056/D]

- (e) Condition 15 to be deleted.
- (f) Condition 16 to be deleted.
- (g) Condition 53 to be amended to now read:

Plans submitted with the Construction Certificate shall demonstrate compliance with the following:

- a) All residential unit size excluding balconies as minimum must be as following:
- i) Studio = ~~60~~ **35**m²
- ii) 1 bedroom = ~~75~~ **50**m²
- iii) 2 bedroom = ~~100~~ **70**m²

iv) 3 bedroom = 90m² [Amended 26 November 2019 DA-2013/10056/D].

- b) Adaptable units must be provided in accordance with Section 4C.6.1 of Botany Bay Development Control Plan 2013. Such units shall be designed in accordance with AS 4299 and BBDCP 2013 (Section 4C.6.1). Details to be submitted with the Construction Certificate.

(h) Condition 65 to be amended to now read:

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

- a) the provisions made in the stormwater drainage drawings C1-C4, by Alan. L. Wright & Associates, dated Oct 2013;
- b) the provision for the connection of the overflow pipe from Storage Tank 1 to either Pit C or Pit D of the Absorption Tank and the deletion of Pit A;
- c) the provision for new kerb inlet pit(s) with a minimum 1.8 metre lintel, in accordance with City of Botany Bay Standard Drawing E-09 to facilitate connection of stormwater outlet to Council's stormwater drainage system; and
- d) the provisions meet or exceed the BASIX Certificate No. 474684M issued ~~28 March 2013~~ **474684M_02 issued 23 November 2017** **474684M_03 issued 11 September 2019**.

Note: All underground parking structures are to be "tanked" so that there is no intrusion of waters into the structure. (DA-2013/10056/C) **[Amended 26 November 2019 DA-2013/10056/D]**

(i) Condition 76 to be amended to now read:

The following car parking spaces shall be made available to residents and visitors:

- a) a total of ~~one hundred and thirty four (138)~~ **one hundred and six (106)** car parking spaces on site; and
- b) the following conditions apply to the car parking:
 - i) the on-site car parking spaces, exclusive of service and visitor spaces, are not to be used by those other than the occupants, tenant or resident of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part

thereof shall not enter into an agreement to lease, licence or transfer ownership of any car parking spaces to those other than an occupant, tenant, lessee or resident of a unit in the building.

- ii) prior to Construction Certificate under the Environmental Planning and Assessment Act 1979 a documentary Restrictive Covenant, is to be registered on the Title of the development site pursuant to Section 88E of the Conveyance Act 1919, to the effect of (a) above. The Covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- iii) any future strata subdivision of the site is to include a Restriction on User pursuant to Section 39 of the Strata Titles (Freehold Development) Act 1973, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate Restrictive Covenant pursuant to Section 88B of the Conveyancing Act 1919 burdening all car parking pat-lots in the strata scheme.

[Amended 26 November 2019 DA-2013/10056/D]

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

Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 474684M dated ~~28 March 2014 received by Council 28 March 2014~~ **474684M_02 dated 23 November 2017** **474684M_03 issued 11 September 2019** for the development are fulfilled.

a) Relevant BASIX Certificate means:

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

b) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000. (DA-2013/10056/C) **[Amended 26 November 2019 DA-2013/10056/D]**

(k) Condition 79 to be amended to now read:

The Architect is to confirm in writing that the apartment sizes in metres squared (sq.m) and the balconies comply with ~~Council's Building Design and Construction Development Control Plan the Apartment Design Guide.~~ **[Amended 26 November 2019 DA-2013/10056/D]**

- 4 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"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied the modifications are satisfactory with the additional conditions requiring enhanced landscaping and streetscape connectivity.

6.4 DA-2019/150 - 2 Princes Highway, Wolli Creek

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

Determination

- 1 That development application DA-2019/150 of an Integrated Development for the construction of a cafe and public amenities building at Cahill Park at 2 Princes Highway, Wolli Creek, 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 the Council officer's report.
- 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"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel considers the proposal is worthy of approval and will provide for increased amenity in its location that is proximate to the recently built children's playground and accessible to the car parking. By way of comment, the Panel notes that the current amenities building close to Princes Highway towards the south could be removed and this portion of the reserve embellished.

6.5 DA-2019/191 - 32 William Street, Botany

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

The following people spoke:

- Henry Huang, applicant and architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Anthony Betros, town planner, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

That this item be deferred to allow the applicant to amend the plans to ensure the streetscape presentation including articulation and material finishes and the landscaping are incorporated and the rear al fresco areas are to be reduced in size.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The development application in its presentation to the streetscape does not warrant approval and requires amending. In the circumstances the Panel considers the applicant be given the opportunity to submit amended plans to Council for an addendum report to be provided to the Panel in a timely manner.

6.6 DA-2019/147 - 6 Culver Street, Monterey

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

Determination

That development application DA-2019/147 for the demolition of existing structures and construction of a two (2) storey dwelling with a basement garage and rooftop terrace at 6 Culver Street, Monterey, 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.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Name	For	Against
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied the applicant has addressed the concerns previously raised about the size of the terrace being reduced and the height is now compliant with the control.

6.7 DA-2019/143 - 24 Albert Street, Botany

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

The following people spoke:

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

Determination

- 1 That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979 approves a variation to the floor space ratio prescribed by cl4.4 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 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-2019/143 for demolition of existing structures, Torrens Title subdivision into two (2) lots and construction of two (2) semi-detached dwellings at 24 Albert 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 the Council officer's report, and a further condition for the landscape plan to be amended to include a permeable driveway or wheel tracks, and Condition 6(a) is imposed to require the al fresco areas not to be enclosed for the life of the development as this would impact on the floor space ratio calculations.

2 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"/>
Ross Bonthorne	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

The Panel is satisfied the amended plans address the issues previously raised by the Panel and the development will sit comfortably within the streetscape with additional landscaping as required.

The Chairperson closed the meeting at 7:50 pm.

Certified as true and correct.

Jan Murrell
Chairperson

Bayside Local Planning Panel

10/12/2019

Item No	6.1
Application Type	Section 4.55(1A) Application
Application No	DA-2018/222/A
Lodgement Date	07/11/2019
Property	152-200 & 206 Rocky Point Road, Kogarah
Ward	Ward 4
Owner	JQZ Nine Pty Ltd
Applicant	Rocky Point Road Development Pty Ltd C/O Ethos Urban Pty Ltd
Proposal	Child Care Centre
No. of Submissions	N/A – notification not required
Cost of Development	Nil
Report by	Michael McCabe, Director City Futures

Officer Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - 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. was not required to be notified; and
 - iv. has been assessed having regard to the relevant matters in s4.15(1) of the Environmental Planning and Assessment Act 1979.
 2. That the Bayside Local Planning Panel consider any submissions made concerning the proposed modification and take into account the reasons of the consent authority that granted the consent that is sought to be modified.
 3. That modification application DA-2019/222/A seeking to modify development consent DA-2019/222 to increase the number of staff from 11 to 12 be APPROVED. The proposal is modified in the following manner:
 - i. By amending condition No. 2 to reference an Amended Plan of Management
 - ii. By amending condition No. 13 to increase staff numbers from 11 to 12.
-

Location Plan



Attachments

- 1 Planning Assessment Report
- 2 Draft Conditions
- 3 Amended Plan of Management

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/222/A
Date of Receipt:	7 November 2019
Property:	152-200 & 206 Rocky Point Road, Kogarah South-east corner of Lot 22 in DP 620329
Owner(s):	JQZ Nine Pty Ltd
Applicant:	Rocky Point Road Development Pty Ltd C/O Ethos Urban Pty Ltd
Proposal:	Section 4.55(1A) modification application to an approved child care centre to increase the number of staff from 11 to 12
Recommendation:	Approval
No. of submissions:	Notification was not required
Author:	James Arnold – Principal at Arnold Urban
Report Date:	21 November 2019

Key Issues

The proposed modifications are to ensure the child care centre will have sufficient staff to service the approved 66 children to meet the staff to child ratio requirements of the Education and Care National Regulations. The number of staff proposed in the DA was 11 when in fact 12 are required for the 66 children. The modification does not result in any areas of non-compliance and the development remains consistent with the key planning provisions contained within the Child Care SEPP, RLEP 2011 and the RDCP 2011.

Recommendation

-
1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i. is of minimal environmental impact;
 - ii. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii. was not required to be notified; and
 - iv. has been assessed having regard to the relevant matters in s4.15(1) of the Environmental Planning and Assessment Act 1979.
 2. That the Bayside Local Planning Panel consider any submissions made concerning the proposed modification and take into account the reasons of the consent authority that granted the consent that is sought to be modified.

3. That modification application DA-2019/222/A seeking to modify development consent DA-2019/222 to increase the number of staff from 11 to 12 be APPROVED. The proposal is modified in the following manner:
 - i. By amending condition No. 2 to reference an Amended Plan of Management
 - ii. By amending condition No. 13 to increase staff numbers from 11 to 12.

Background

- 28 November 2017 – Stage 1 Consent – A Stage 1 consent (DA-2017/244) was granted by the Sydney Eastern City Planning Panel. The development covered the former Darrell Lea site and was generally for the construction of residential flat buildings and townhouses; basement car parking; new access roads; and land subdivision, dedication and the building envelope of a child care centre. The consent has been modified on numerous occasions since, however those modifications do not have any bearing on the subject modification application.
- 14 May 2019 – Stage 2 Child Care Centre Consent – This Stage 2 consent (DA-2018/222) is proposed to be modified under the subject application. The consent was granted by the Bayside Local Planning Panel and is for the construction of a two storey child care centre for 66 children, car parking, landscaping and signage. Condition 13 of the consent restricts staff numbers to a maximum of 11 and Condition 2 references a Plan of Management which also restricts staff numbers to 11.
- 7 November 2019 – Subject Modification Application – The subject S.4.55(1A) modification application (DA-2018/222/A) was lodged to increase staff numbers from 11 to 12.
- At the date of this report, construction of the child care centre has commenced.

Proposed Modifications

The proposed modifications are to an approved child care centre to increase the number of staff from 11 to 12.

Details of the proposed modifications are as follows:

- Modify the approved total number of staff from 11 including a director that teaches, to 12 with a director that does not teach. The centre will continue to be supported by a cook and a cleaner as required as currently approved;
- The increased staff provision will ensure that the centre will be able to satisfy the teaching staff to children ratio requirements stipulated in the Education and Care National Regulations; and,
- The Plan of Management has been amended to align with the increase in staff numbers.

The following table provides a detailed breakdown of the proposed change to staff numbers.

Education and Care Services National Regulations	Approved Staffing Arrangements	Proposed Staffing Arrangements	Compliance
• 1 primary caregiver:4 children (0-2 years) = 4 staff:16 x 0-2 year olds	• 1 primary caregiver:4 children (0-2 years) = 4 staff:16 x 0-2year olds	No change	Yes
• 1 primary caregiver:4 children (0-2 years) = 4 staff:16 x 0-2 year olds	• 1 primary caregiver:4 children (0-2 years) = 4 staff:16 x 0-2year olds	No change	Yes
• 1 primary caregiver:10 children (3-4 years) =2 staff:15 x 2-3 year olds	• 1 primary caregiver:10 children (3-4 years) =2 staff:15 x 2-3year olds	No change	Yes
• 1 primary caregiver:10 children (4-5 years) =2 staff:20 x 4-5 year olds	• 1 primary caregiver:10 children (4-5 years) =2 staff:20 x 4-5year olds	No change	Yes
Director (no specification is provided for if the Director should be included or excluded in the teaching staff)	• 1 Director included in the teaching staff	1 Director to be excluded from the teaching staff	Yes
Total Number of staff	11 staff	12 staff	Yes

Figure 1. Staffing Arrangements

Source: Statement of Environmental Effects prepared by Ethos Urban dated 7 November 2019

The proposed modifications will require amendments to the conditions of consent as identified below. The words proposed to be deleted are shown in **bold strike through** and words to be inserted are shown in **bold italics**. Note that only the relevant part of condition no. 2 to be amended is shown below.

Condition 2

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

....

Reference Document	Author	Dated
Plan of Management	Fotoulla Lazaridis Architect	13/02/19 01/11/19
...

Condition 13

The maximum number of staff employed on site shall be limited to ~~11~~ 12 staff at any one time. The centre may also be supported by a cook and cleaner as required.

Site and Locality Description

The subject site is known as 152-200 & 206 Rocky Point Road, Kogarah, and comprises the south-eastern corner of the allotment legally described as Lot 22 in DP 620329. The site is located on the southern side of a new road which has recently been completed as part of the Stage 1 consent which runs east-west from Rocky Point Road to Production Avenue. The site is square in shape with a 32m frontage to the new road, 31m length and an area of 1000m². The site is zoned R4 High Density Residential.

The site is currently under construction for the approved child care centre, with the external structure largely complete.

The adjoining properties are as follows:

- Western side – Future row of 21 x three storey terraces facing the new road;
- Eastern side – Production Lane (Incorrectly shown as Production Avenue on the plan below) to be renewed. Opposite Production Lane are Council sports fields / Scarborough Park.
- North, opposite side of new road – Directly opposite the site will be one of the four connected residential flat buildings as part of the Stage 1 consent. To the north-west of the site will be the communal open space for the residential development.
- South – There is a 1.88m wide strip of Council owned land (formerly used for drainage purposes) that adjoins the rear boundary of the site. Beyond the Council land are the rear of the dwelling house properties that front Margate Street.

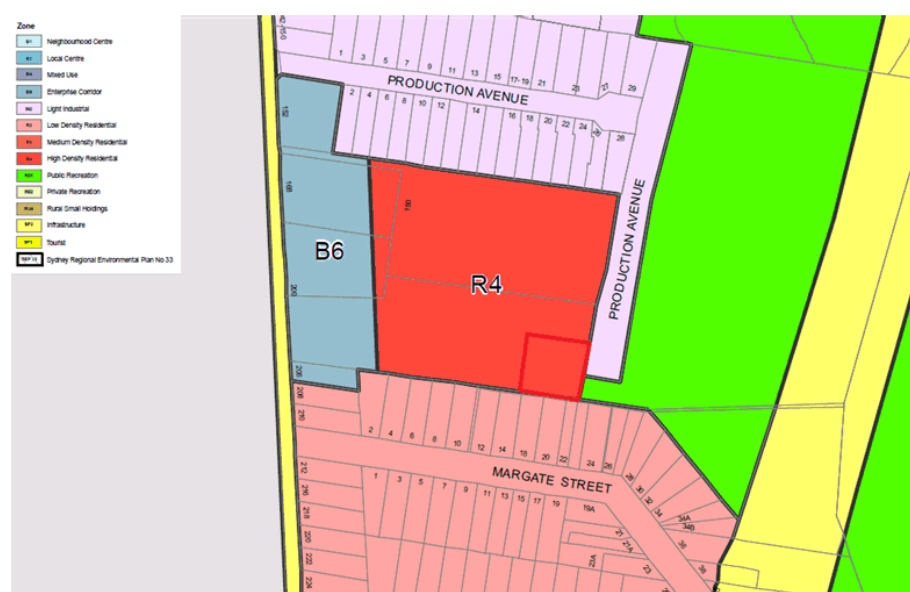


Figure 2. Extract of RLEP 2011 zoning map with the approximate position of the site outlined in red
Source: NSW Legislation / Marked: Arnold Urban, 2019

Referrals

There were no referrals of the application.

Statutory Considerations

S4.55 – Modifications of consents – generally

The proposal seeks to modify a development consent and an assessment of the proposal against the applicable provisions of S4.55 is provided below.

S4.55(1A) – Modifications involving minimal environmental impact

The proposed modifications have been lodged pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*. An assessment of the proposal against these provisions is provided below.

(1A) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

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

Assessment: The proposed modification is minor in nature for one additional staff member. The key potential impact of staffing numbers is considered to be car parking provision. The additional staff member will result in a DCP parking requirement for the development of 10 spaces. The approval contains 10 spaces and therefore car parking will remain compliant. The centre would not be able to operate to capacity without the additional staff member and it is considered that this was an error in the original application. The modifications will not result in any additional impacts on the surrounding properties or the public domain and as such satisfies the minimal environmental impact requirement.

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

Assessment: The proposed modification is minor in nature and relates only to staffing numbers. The remaining aspects of the development including the land use, building siting, envelope and height are all unchanged. As such, the proposal as modified is considered to be substantially the same development as originally approved.

(c) it has notified the application in accordance with:

- (i) the regulations, if the regulations so require, or*
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Assessment: The proposed modification is considered to have negligible additional impacts, in particular because car parking provision will remain compliant, and as such notification was not undertaken.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

Assessment: An assessment of the modification application has been undertaken in accordance with the matters for consideration under section 4.15(1) and consideration has been had for the reasons given by the consent authority to grant consent to the original application. Details are provided below.

Consideration of reasons for approval of original application

The reasons for the approval of the original application have been considered below.

- *The proposed development is fully compliant with all the applicable planning controls.*

Assessment: The proposal as modified remains fully comply with the applicable planning controls.

- *The amended plans have responded to the issues raised by Council staff and will result in a well designed high quality child care centre.*

Assessment: The proposed modifications do not include any changes to the design.

- *The Panel notes that the building has been designed to minimise openings to the west and south and to open out onto the street, thereby reducing impacts on neighbouring properties.*

Assessment: The proposed modifications do not include any changes to the design.

- *The 1.8 m acoustic fence on the western boundary and the 3 m rear wall and the separation created by the 1.88 m wide drainage line at the rear of the site will provide good separation and will assist with noise management.*

Assessment: The proposed modifications do not include any changes to the built form or acoustic mitigation measures.

- *There was one submission that relates to traffic impacts on Rocky Point Road and the Panel notes that the Sydney Eastern City Planning Panel fully considered traffic issues when it determined the development application and approved the location of the child care centre.*

Assessment: The proposed modifications would not result in any change to anticipated traffic generation.

- *The Panel is satisfied that the arrangements for the vehicular access to the centre are appropriate and notes that traffic generation will be reduced because many of the users of the child care centre are likely to reside in the adjoining development and therefore will not drive to the centre.*

Assessment: The proposed modifications do not include any changes to arrangements for vehicular access.

S4.15(1) – Matters for Consideration – General**S4.15C(1)(a)(i) – Provisions of Environmental Planning Instruments****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 modifications do not result in any changes to the land use or built form and as such the site is considered to remain suitable for the development as modified.

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 proposed modifications have been considered against the provisions of the Child Care SEPP and the Child Care Planning Guidelines. The modifications relate only to the provision of one additional staff member to ensure the development will comply with the staff to children ratio requirements of the Education and Care National Regulations. The number of children remains as approved at 66. Given there are no changes proposed to the built form or operations of the centre, the proposed modifications will not result in any change to compliance with the SEPP and the guidelines.

Rockdale Local Environmental Plan 2011

The proposed modifications have been considered against the provisions of the Rockdale Local Environmental Plan (RLEP) 2011. The modifications relate only to the provision of one additional staff member with no changes proposed to land use or built form and as such there will be no change to compliance with the RLEP 2011.

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 modifications have been considered against provisions of the Rockdale Development Control Plan (RDCP) 2011. The proposed modifications relate only to the provision of one additional staff member. The only provisions of relevance in the DCP are Part 4.6 Car Parking and Part 6.1 Child Care Centres which are considered below.

Part 4.6 Car parking

Assessment: The proposed modifications seek to increase staff numbers from 11 to 12. An assessment of car parking generation is provided below.

DCP car parking requirements:

- 1 space per 20 children – 66 children = 3.3 rounded up to 4 spaces
- 1 space per 2 staff – 12 staff = 6 spaces
- Total required – 10 spaces
- Total provided – 10 spaces

The development provides 10 car spaces which maintains compliance with the DCP and as such the proposed modifications are acceptable in regards to car parking.

Part 6.1 – Child Care Centres

Assessment: 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. There are no provisions that relate to staffing.

S4.15(1)(a)(iia) – Planning Agreements

Section 4.15 of the Act requires a consent authority to take into consideration in the assessment of a development application any matters of relevance in a planning agreement. As part of the Stage 1 Development Consent DA-2017/244, a Planning Agreement dated 9 May 2016 (and subsequently varied on 1 March 2019) was entered into between the developer and Council. The VPA stipulates that the developer is to construct a child care centre at the south-eastern corner of the site and subdivide the land for dedication of the centre to Council. The proposed modification for an additional staff member does not result in any inconsistency with the requirements of the VPA.

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 as modified have been considered throughout the preceding assessment against the relevant Environmental Planning Instruments and Development Control Plans. No significant adverse impacts have been identified.

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

The development as modified remains substantially the same development that was originally approved and the site remains suitable.

S4.15C(1)(d) – Submissions

The application was not required to be notified as the impacts of the proposed modification are considered negligible.

S4.15C(1)(e) – Public Interest

The development as modified is considered to remain in the public interest as it aligns with the zone objectives and the planning controls.

Conclusion

The Section 4.55(1A) modification application seeks to increase the number of staff from 11 to 12 at 152-200 & 206 Rocky Point Road, Kogarah.

The modifications are minor and will ensure the child care centre will have sufficient staff to service the approved 66 children to meet the staffing requirements of the Education and Care National Regulations. The modifications do not result in any areas of non-compliance and the development remains consistent with the key planning provisions contained within the Child Care SEPP, RLEP 2011 and the RDCP 2011.

Accordingly, the S4.55(1A) modification application is recommended for approval subject to the modified conditions of consent attached.

DRAFT SCHEDULE OF CONSENT CONDITIONS

Modification Application DA-2018/222/A

152-200 & 206 Rocky Point Road, Kogarah

General Conditions

1. The term of this consent is limited to a period of five (5) years from the date of approval. The consent will lapse if the development does not commence within this time.
2. The development is to be carried in accordance with the following plans listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Plan	Reference	Author	Dated
Cover Sheet	DA-000 / Revision 3	PTW	09/04/19
Location & Site Plan	DA-001 / Revision 1	PTW	29/08/18
Site Analysis Plan	DA-002 / Revision 1	PTW	29/08/18
Ground Floor Plan	DA-003 / Revision 3	PTW	09/04/19
Level 1 Floor Plan	DA-004 / Revision 3	PTW	09/04/19
Roof Plan	DA-005 / Revision 3	PTW	09/04/19
Proposed Elevations	DA-006 / Revision 4	PTW	09/04/19
Proposed Streetscape Elevation View	DA-007 / Revision 3	PTW	09/04/19
Proposed Finishes & Materials Schedule	DA-008 / Revision 3	PTW	09/04/19
Proposed Sections	DA-009 / Revision 3	PTW	09/04/19
Fence Detail	DA-015 / Revision 2	PTW	01/04/19
Landscape Plans	Issue F	Arcadia	--/04/19

Reference Document	Author	Dated
Plan of Management	Fotoulla Lazaridis Architect	13/02/19 <u>1/11/2019</u>
Statement of Environmental Effects	Ethos Urban	30/08/18
Response to Council's Request for Additional Information Letter	Ethos Urban	27 February 2019
VPA Schedule 5 Commitments	Ethos Urban	27/02/19

Reference Document	Author	Dated
National Quality Framework Assessment Checklist	Ftoulla Lazaridis Architect	Unknown
Detailed Site Investigation	Martens Consulting Engineers	--/03/19
Amended Traffic Statement	TTPP	10/04/19
Acoustic Letter	Acouras	18/02/19
Mechanical Statement	Engineering Partners	14/02/19
Mechanical Services Statement	Engineering Partners	05/02/19
Stormwater Letter	C&M Consulting Engineers	07/02/19
Access Report	BCA Logic	24/08/18
Acid Sulfate Soil Management Plan	Coffey	26/05/15
Acoustic Report	Acouras	28/08/18
Air Quality Report	SLR	28/08/18
BCA Report	BCA Logic	17/08/18
Construction Management Plan	JQZ	29/08/18
Geotechnical Investigation	Coffey	17/05/17
Infiltration Test Report	Coffey	07/07/17
Quantity Surveyor Report	Newton Fisher Group	22/08/18
Traffic Report	TTPP	27/08/18
Waste Management Plan	Elephants Foot	29/08/18

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. Voluntary Planning Agreement (VPA) - Compliance

All requirements contained within the Voluntary Planning Agreement (VPA) (executed on 9 May 2016) and as varied by the Deed of Variation (executed on 1 March 2019) must be complied with prior to the relevant stage.

No Construction Certificate or Occupation Certificate can be issued until any corresponding obligation has been satisfied.
6. The outdoor areas shall not be enclosed at any future time without prior development consent.

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. 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 1991.
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

10. The development shall comply with Part 4 of the Education & Care Services National Regulations.
11. The hours of operation of the approved use shall be restricted to between 7.30am and 6.00pm Mondays to Fridays. Operation or use of the facility beyond these hours is not permitted.
12. The childcare centre shall cater for a maximum of 66 children (16 x 0-2 years / 15 x 2-3 years / 15 x 3-4 years / 20 x 4-5 years).
13. The maximum number of staff employed on site shall be limited to ~~14~~ 12 staff at any one time. The centre may also be supported by a cook and cleaner as required.
14. Business identification signage is not permitted to be illuminated.
15. Plan of Management:
 - a) Amendment – The Plan of Management is to be amended to include the requirement that the southern ground floor roof (which has an access door from the first floor play area) is to be used for maintenance purposes only.
 - b) The child care centre shall at all times be operated in accordance with the approved Plan of Management (PoM) (as amended above) which forms part of this consent, and
 - c) A copy of the PoM shall be made freely available to visitors who frequent the facility, as well as to neighbouring property owners and local residents, if requested, and

The PoM shall be reviewed annually by the operator of the child care centre. If the Plan of Management is updated following the annual review, the operator is required to ensure:

- d) That the amended PoM is consistent with all conditions of this consent, and
- e) A copy of the amended Plan of Management is provided to Council within 7 days of its completion; and
- f) The PoM is updated, if required, to include comments and direction provided by Council.

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) Security / Sensor lighting that is illuminated at night is to be provided.
- b) Monitored CCTV facilities.
- c) 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.
- d) Graffiti resistant materials shall be used to ground level external surfaces

17. Parking spaces shall not be enclosed without further approval of Council.

18. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:

- a) permit stormwater to be temporarily detained 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 (a) and (b) at the proprietor's 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.

19. Bicycle parking facilities shall be designed in accordance with AS2890.3:2015.

20. The off-street parking areas (including internal height clearance) associated with the subject development shall be designed in accordance with AS2890.1 and AS2890.6, with the exception of the shared zone and bicycle parking area which shall be permeable paving and details are to be submitted, and approved by, Council's Director City Futures prior to the issue of a Construction Certificate.

21. Retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer.
22. 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.
23. 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.
24. The proposed warm water system shall be designed, installed and commissioned in accordance with the provisions of the Public Health Act 2010 and Public Health Regulation 2012 and the current code of practice published by the NSW Health department.
25. Should a thermostatic mixing valve be installed in the premises, the following requirements shall be met:
 - a) The thermostatic mixing valves shall be set at a predetermined temperature of no lower than 37 oC and no higher than 43 oC. The "fail safe" mixing valves shall be installed
 - b) A copy of the commissioning report for the thermostatic mixing valve shall be submitted to Council with an additional copy kept on the premises. The thermostatic mixing valves are to be serviced annually by a suitably qualified and registered plumber who has completed a TAFE course in mixing valves.
 - c) The thermostatic mixing valve shall be registered with Council as a warm water system in accordance with the provisions of the Public Health Act 2010 and Public Health Regulation 2012.
26. The proposed development shall be designed, constructed and operated in compliance with the requirements of the Food Act 2003, Food Regulations 2004 and the Australian Standard AS 4674 – 2004 "Design, Construction and Fit out of Food Premises".
27. The use of synthetic grass shall be limited to shaded areas. Only use synthetic grass that is not carcinogenic and free of lead and heavy metals.
28. Any proposed play equipment shall be in accordance with Australian Standards for Play Equipment and Surfacing, set out in AS 4422:2016 and AS 4685:2017.
29. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.

- c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile to coordinate with the colour schemes and finishes of the building.
30. Podium landscaping and paved areas shall be drained into stormwater drainage system. All waterproofing for planters on slab shall be installed and certified by a licensed waterproofing contractor.
31. A fully automated irrigation system, shall be installed and maintained to ensure adequate water is provided to the podium/roofing landscaping.
32. All proposed trees in approved landscape plan shall be supplied and planted at the minimum pot size specified, those that are within stormwater structures shall be relocated within the site to avoid conflict with stormwater structures.

Prior to the issue of a Construction Certificate

33. The development is to incorporate all of the Child Care Centre specifications detailed in Schedule 5 of the Voluntary Planning Agreement between Council and the Developer and as shown in the VPA Schedule 5 table prepared by Ethos Urban (dated 27 February 2019). Plans and details are to be submitted to, and approved by, Council's Director of City Futures prior to the issue of a Construction Certificate.
34. A Security Access System is to be provided in accordance with Schedule 5 of the VPA and details are to be submitted to, and approved by, Council's Director of City Futures.
35. Additional detailed design at a scale of 1:50 for the aluminum roof slats (including the ceilings for the areas at ground and first floor level below the slats) are to be submitted to, and approved by, Council's Director of City Futures prior to the issue of a Construction Certificate to retain the integrity of the design feature.

The detail design shall:

- a) Specify the spacing between slats (PC4); and
- b) Include more information about the cladding material and construction methodology; and
- c) Demonstrate that the wavy features shown in both east and north elevations will be achieved; and

- d) Demonstrate that the two round cropped corners on the eastern side of the East Elevation will be achieved; and
 - e) Provide details of how to incorporate/construct lightings into the balcony ceiling (if any) at both ground and first floor levels; and
 - f) Ensure the PC4 slats carry down through to the ceilings at both ground level and first floor level; and
 - g) Ensure the glass on the roof be constructed that is easy to drain, clean and provide UV protection; and,
 - h) Demonstrate drainage of the roof.
36. Samples of the materials and finishes are to be submitted to, and approved by, Council's Director of City Futures prior to the issue of a 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.
- a) The footpath crossing deposit paid for Stage 1 shall be retained until completion of works and issue of final Occupation Certificates for works associated with both Stage 1 and Stage 2.
 - b) An environmental enforcement fee of 0.25% of the cost of the works.
 - c) A Soil and Water Management Sign of \$19.00.
38. 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.
- Details shall be submitted to Council for assessment pursuant to Section 138 of the Roads Act 1993 as part of the frontage works application in relation to the following:
- a) The provision of three (3) bicycle parking rails within the public domain as per approved plans shall be designed in accordance with AS2890.3:2015.
 - b) Driveway crossing layback shall be 6.0m in width.
 - c) A footpath is to be provided along the eastern frontage of the site, designed as per the public domain design for the precinct.
 - d) The frontage works design is to be generally in accordance with the approved masterplan design for the precinct.
39. Prior to the issue of the relevant Construction Certificate, detailed design plans/documentation for the proposed electronic sensors and electronic signage system (for implementation into the parking facility) shall be submitted to, and approved by, Bayside Council's Director of City Futures. This detailed design is to be generally in

accordance with the approved documentation prepared by The Transport Planning Partnership, ref 18226 and dated 10 April 2019. Manufacturer's details, specifications and recommended maintenance schedule is to be provided. The electronic signage shall be placed in a location that provides for sufficient sightlines/visibility to vehicles travelling on the road approaching the development.

40. The applicant shall confer with Ausgrid to determine if an electricity distribution substation is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
41. 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.
42. 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>

43. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
44. Prior to the issue of the relevant construction certificate, the following revisions shall be undertaken on the detailed design construction plans to the satisfaction of the Bayside Council's Director of City Futures:
 - a) The location of the bollard within the shared zone for the accessible parking space is to be flipped to the opposite side. Specifically, it is to be located 800mm from the eastern end of the shared zone, and
 - b) The pavement proposed to be used for the shared zone and bicycle parking is to utilise the same permeable pavement design provided for the on-street parking spaces within the road reserve, and
 - c) Fencing along the western boundary of the site shall be extended 2.5m north, ending at the front property boundary, with a similar design treatment and height (at least 1.8m) as the rest of the approved boundary fencing fronting the development. All features within this fence extension shall be 50% transparent to preserve pedestrian sightlines, and
 - d) Driveway access width shall be 6.0m wide at the property boundary.
45. Prior to the issue of any Construction Certificate, any new retaining walls over 600mm in height shall be designed and specified by a suitably qualified structural engineer. Details shall be shown in the construction certificate documents to the satisfaction of the principal certifying authority prior to the issue of the construction certificate.

46. Protection of Council Land & Retaining Wall along Southern Boundary – The proposed works for the development shall not result in adverse impacts to the existing retaining wall(s) located within / adjacent to the small parcel of land Lot 72 in DP 6120 which adjoins the sites southern boundary. This lot is owned by bayside Council. The existing retaining wall structures shall be secured / underpinned prior to excavation, during removal of the adjoining concrete slab, during construction of this development, and that the existing retaining wall structures shall be certified by a suitably qualified civil engineer prior to the issue of the Occupation Certificate.
47. The preliminary Geotechnical Investigation report prepared by SMEC Testing Services Pty Ltd, Report No: 17/2504A, Project No: 10530/2504A, dated June 2017 provides comments and recommendations for the proposed development. These recommendations shall be included in the detailed design of the development prior to the issue of the construction certificate and during the construction phases.
48. Any part of the proposed building within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
49. Prior to issue of the Construction Certificate, detailed drainage design plans for the management of stormwater generally in accordance with the approved civil engineering design stormwater drainage plans prepared by C&M Consulting Engineers:

Drawing Number	Revision	Dated
01859_100	-	-
01859_201	03	08/02/19
01859_601	03	07/02/19
01859_621	01	15/08/18
01859_631	02	30/08/18
01859_701	03	11/02/19
01859_702	01	15/08/18

The detailed drainage design places shall be reflective of the approved architectural plans. The rainwater tank is to be connect for internal stormwater re-use to all toilets and external landscape irrigation. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with 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.

50. Prior to the issue of the relevant Construction Certificate, a Workzone Traffic Management Plan (WZTMP) 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.

Copy of the WZTMP shall be submitted to Council.

51. 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. Copy of the CMP shall be submitted to Council.
52. Where required, a copy of Permission to Discharge Trade Waste Water shall be obtained from Sydney Water prior to the discharge of trade waste water to the sewer system. A copy shall be provided to Principal Certifying Authority (PCA) prior to issuing the Construction Certificate. A copy shall also be provided to Council if Council is not the PCA.
53. Hand wash basins shall be located so that they are not obstructed, are at bench height either permanently fixed to a wall, supporting frame or sunk into the bench top, accessible and no further than 5 metres (excluding toilet hand basins) from any place where food handlers are handling open food, in the parts of the premises where open food is handled, in utensil/equipment washing areas, in staff entrance to areas where open food is handled and in toilet cubicles or immediately adjacent to toilets. Hand basins shall have a permanent supply of warm running potable water delivered through a single outlet and taps which operate hands free shall be provided at all hand basins with sufficient space between the spout and base of basin for the washing of hands and arms.
54. Rooms and areas designated for the storage and washing of garbage receptacles shall be designed and constructed in accordance with the following requirements;
 - a) The floors and walls shall be constructed of a suitable material which is durable, smooth, resistant to corrosion, impervious to moisture and coved with a minimum radius of 25mm at the intersection of walls with floors
 - b) The floor shall be graded and drained to a floor waste gully connected to the sewerage system and traps of the premises in accordance with all Sydney Water requirements
 - c) Provide a hose tap connected to the water supply. Water used for cleaning garbage receptacles may be either potable or non potable water.
 - d) The room shall be ventilated with either natural ventilation or alternatively mechanically ventilated in accordance with the requirements of Australian Standards AS 1668.
55. Contamination – Validation stockpile areas – Due to the continued use of the childcare centre site for soil and waste stockpiling for construction of the larger residential development and to ensure that the site is still suitable for the proposed childcare development, all waste soils shall be removed and validation of the surface soils remaining must be completed. This must be completed by an appropriately qualified and experienced environmental consultant and conclude that the soils meet appropriate

childcare centre use criteria. Details of this must be provided prior to the release of the relevant Construction Certificate.

Prior to Commencement of Works

56. A dilapidation survey shall be undertaken of all properties and/or Council infrastructure, including but not limited to the retaining wall located along the sites southern boundary, all footpaths, kerb and gutter, stormwater inlet pits, and road carriageway pavements, in the vicinity which could be potentially affected by the construction of this development. Any damage caused to other properties during construction shall be rectified. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to the Accredited Certifier (AC) or Council prior to Commencement of Works. The insurance cover shall be a minimum of \$10 million.
57. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

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

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.
58. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - a) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - b) where the erection of gates or fences has restricted access to metering equipment.
59. 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.
60. The site shall be secured by 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
61. 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.
62. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a) stating that unauthorised entry to the work site is prohibited, and

- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This condition does not apply to:

- c) building work carried out inside an existing building or
- d) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

During Demolition / Excavation / Construction

- 63. 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.
- 64. Hours of construction shall be confined to between 7.00 am and 6.30 pm Mondays to Fridays, inclusive, and between 8.00 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
- 65. 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.
- 66. 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.
- 67. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
- 68. 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 structure an adjoining allotment of land, you shall: preserve and protect the building/structure from damage and underpin and support the building/structure in an approved manner, if necessary and give notice of intention to excavate below the level of the base of the footings of a building/structure 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.

69. When soil conditions require it:
- a) 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
 - b) adequate provision shall be made for drainage.
70. All contractors shall comply with the following during all stages of demolition and construction:
- a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - e) A 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.
71. The following conditions are necessary to ensure minimal impacts during construction:
- a) 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.
 - b) Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.

- c) All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
- d) 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.
- e) 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.
- f) Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - i) spraying water in dry windy weather
 - ii) cover stockpiles
 - iii) fabric fences
- g) 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.

- h) 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.
72. 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 and the accredited certifier immediately. All work on site shall cease until the council is notified of the appropriate measures to be implemented, by an appropriately qualified and experienced environmental consultant, to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines.

73. Waste Classification – Excavated Materials – All materials excavated from the site (fill or natural) must 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.
74. 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 must 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 must be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
75. Monitoring – Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements must be made available to Council Officers on request throughout the remediation and construction works.

Prior to the issue of an Occupation Certificate or Commencement of Use

76. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
77. Signage details – Details of the proposed business identification signage are to be submitted to, and approved by, Council's Director of City Futures prior to the issue of an Occupation Certificate.
78. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by the applicant at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
79. All works within the road reserve required for Stage 2 of the development, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be constructed to the satisfaction of council prior to issue of any Occupation Certificate for Stage 2.
80. 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.
81. Prior to the issue of the occupation certificate, the electronic signage and sensor system for the parking facility shall be installed within the development as per the approved construction details. The electronic signage and sensor system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person to the satisfaction of the principal certifier.

82. 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 a prominent place on the wall in front of the visitor parking spaces approved by the Principal Certifying Authority, stating the following: "Vehicles shall enter and exit the site in a forward direction at all times".
83. 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.
84. Driveway access width shall be 6.0m at the boundary.
85. Bollards must be installed along the proposed internal pedestrian pathway adjacent to the parking spaces as depicted on the plans in conjunction with wheel stops as per AS2890.1. Such bollard(s) are to be evenly spaced along the pedestrian aisle.

Bollard also to be installed within the shared area dedicated to the accessible parking space. The location of the bollard within the shared zone for the accessible parking space is to be flipped to the opposite side. Specifically, it is to be located 800mm from the eastern end of the shared zone

Bollards are to be constructed from steel pipe minimum 100mm diameter, domed at the top and filled with concrete. They are to be installed a minimum of 900mm into the ground and are to be 1100 mm out of the ground, painted white, with reflectors attached. Future maintenance will be the responsibility of the owner and/or occupier.
86. All off-street car spaces shall be provided in accordance with the submitted plan and shall be sealed, linemarked and signposted/allocated 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 – with the exception of the shared area and bicycle parking which is to be permeable paving as shown on the plans. Accessible shared zone to be clear at all times. Clear/weatherproof signage to be installed.
87. 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
88. 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.
89. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to

Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.

90. 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.
91. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
92. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility and the electronic parking sensor/signage systems to provide for the maintenance of the detention facility and the electronic parking sensor/signage systems.
93. The developer of the premises is required to comply with the following requirements when installing the rainwater tank:
 - a) The overflow from the rainwater tank shall be directed to the storm water system.
 - b) A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.
 - c) 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. Plumbing connections for internal stormwater re-use shall be installed for all toilets in and landscape irrigation in the development.

Certification of the above requirements being fulfilled within the development from a registered plumber shall be submitted to the satisfaction of the principal certifier prior to occupation.

94. Compliance with all requirements in Schedule 5 of the VPA prior to issue of any Occupation Certificate.
95. Trading shall not commence until a final fit out inspection has been carried out by Council's Environmental Health Officer and all conditions of consent have been complied with. Council's Environmental Health Officer shall be given 2 business days advance notice of an inspection.
96. The noise reduction measures specified in the noise report prepared by Acouras Consultancy titled 'JQZ Group at 152-206 Rocky Point Road, Kogarah - Childcare Centre Acoustic Assessment' dated 28 August 2018, and supporting documentation prepared by Acouras Consultancy dated 18 February 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.

97. The Air Conditioning Unit located on the southern ground floor roof is to comply with the relevant acoustic standards in the noise report prepared by Acouras Consultancy titled 'JQZ Group at 152-206 Rocky Point Road, Kogarah - Childcare Centre Acoustic Assessment' dated 28 August 2018, and supporting documentation prepared by Acouras Consultancy dated 18 February 2019. A supporting letter from the acoustic consultant is to verify if compliance is achieved and if any mitigation measures, such as an acoustic box, are to be required. These details are to be submitted to, and approved by, Council's Director of City Futures prior to the issue of a Occupation Certificate.
98. The premises shall be registered with Councils Environmental Health Unit by the proprietor of the food business by completing the registration form available from Council.
99. 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.

Roads Act Conditions

100. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- a) construction of a concrete footpath along the frontage of the development site;
 - b) construction of a new fully constructed concrete vehicular entrance/s;
 - c) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - d) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
 - e) construction of paving between the boundary and the kerb;
 - f) removal of redundant paving;
 - g) construction of kerb and gutter.
101. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
102. 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.
103. 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.
- 104.** 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).

Development Consent Advice

- a. A street number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- b. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- c. Dial Before You Dig

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

d. Telstra Advice - Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

e. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
- Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

f. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:

- Work Health and Safety Act 2011
- Work Health and Safety Regulation 2011
- Protection of the Environment Operations (Waste) Regulation 2005.

- g. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- h. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- i. 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. Where Council is not engaged as the Principal Certifying Authority for the issue of the 88E Instrument which 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.
- l. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

1.11.2019

PLAN OF MANAGEMENT & FIRE EVACUATION

Proposed two storey child care centre at 152-206 Rocky Point Road, Kogarah.

Prepared by Fotoulla Lazaridis Architect

BUILDING OCCUPANCY DETAILS

Building Characteristics

The child care Centre shall be two storey centre with passenger lift and two egress stairs.

Building Classification

The classification of a building or part of is determined by the purpose for which it is designed, constructed or adapted to be used. The Classification of the child care centre is Class 9b.

General Layout and Management

The centre will be accessed by parents and staff via an electronic swipe card at entry to centre. There will also be an intercom for visitors.

Centre Design

The centre has been designed in consultation with an Early Educational Consultant to ensure that the centre is purpose-built as a quality facility for young children, meets all NSW Children's Services Regulations and Draft Child Care Centres Planning Guideline and allows for a smooth flow of operations within the service.

Hours of Operation

The centre operates from 7.30am – 6.00pm Monday to Friday 51 weeks of the year.

Car parking and Use of the Child care facility

- Ten onsite parking spaces are provided off street on west side.
- Three visitor car spaces, six staff car spaces and one accessible car space shall be provided on site entering and exiting in a forward direction through driveway. Refer Traffic Report.
- Drop off and pick up spaces facilitate the peak hours for drop off between 7.30am-9.00am and pick up between 4.30pm and 6.00pm.
- For parents and staff cycling to centre seven bicycle racks shall be provided in for parking of bicycles at south end of parking area.
- A pedestrian pathway from parking area and also entry path will link the front entry door. Bollards shall be incorporated to separate parking from pathway.
- The perimeter fencing style shall be 1.8m high aluminium acoustically treated. Refer Acoustics Report.
- Landscaped area along inside of street boundary to provide screening to outdoor play area from street. Both roofed and open outdoor play areas will be provided and will be landscaped to restrict views and noise to surrounding neighbours.
- Parents will be using public transport, driving, cycling or walking to the centre.

Number of Children

The centre accommodates a maximum of sixty six children per day between the ages of 6 weeks and five years.

Staff Arrangements

According to regulations, the staff ratio for attending children is as follows:

- 1 primary caregiver:4 children (0-2 years)=4 staff:16 x 0-2year olds.
- 1 primary caregiver:5 children (2-3 years)=3 staff:15x 2-3 year olds.
- 1 primary caregiver:10 children (3-4 years)=2 staff:15 x 2-3year olds.
- 1 primary caregiver:10 children (4-5 years)=2 staff:20 x 4-5year olds.

The children are cared for in 4 groups.

The total number of staff should be 12, including 11 teaching staff plus one (1) Director, as follows:

Staff calculated as follows:

- o 16 x 0-2 year olds = 4 staff
- o 15 x 2-3 year olds = 3 staff
- o 15 x 3-4 year olds = 2 staff
- o 20 x 4-5 year olds = 2 staff
- o 1 x Director

Playroom Facilities

Each group will be provided with a developmentally appropriate learning program within a purpose built playroom area. The indoor playroom areas have been designed as large, open rooms with glazed viewing panels to allow staff a "clear line of sight" of the children at all times.

Staff will manage children in their age groups and playrooms will be arranged for age appropriate play and learning.

Playroom 1 located on ground floor level will accommodate 16 x 0-2 year olds. Three separate cot rooms with 4-6 cots each can be accessed internally from playroom. These will be acoustically treated to maintain quiet areas for sleeping.

Playroom 2 located on ground floor level will accommodate 15 x 2-3 year olds.

On first floor level there will be two playrooms (3 and 4) accessed via main stair 1 and a passenger lift. A second fire stair 2 is also provided as a required means of egress to BCA compliance. Note that handrails to both stairs shall include continuous child height handrail and adult height handrails to both sides. Tactile indicators will be provided at top and bottom of each stair. Lockable child proof gates will be provided at top and bottom of stair 1. Stair 2 will have doors to exit building.

Playroom 3 will accommodate 20 x 4-5 year olds.

Playroom 4 will accommodate 15 x 3-4 year olds.

Bifolding wall partition is provided between the two playrooms so that they can be easily converted into one large space as required for specific activities. Shared storage facility, bed storage, craft sinks, and separate bathrooms at either ends are provided which can be accessed internally and externally from verandah.

Mobile stacking beds will also be provided for sleep time and stored in appropriate store rooms easily accessed from each play room. Natural light and ventilation is provided to playrooms and cot rooms. Floor finishes will include vinyl flooring to playrooms and carpet to cot rooms. Glazed sliding doors with safety glass and acoustic seals will access roofed and open out door play areas on ground floor and first floor levels.

The two playrooms on ground floor will open to outdoor play area 1 on ground and the two playrooms on first floor will open onto outdoor play area 2, a roofed verandah. These children will also have access to outdoor play area 1 on ground via stair 1 or passenger lift and separate entry from entry lobby.

Purpose-built bathroom facilities with nappy change areas are provided to playrooms and are also accessed from outdoor play areas on both floor levels. These will include a nappy change bench and bath. The bathrooms incorporate child sized hand basins and toilets including an accessible toilet with grab rail. All water shall be temperature controlled. Non slip vinyl flooring is provided.

Storage areas are provided for each playroom for dedicated storage of beds, craft and resource items. This includes overhead storage which is 1600mm above finish floor level to allow unencumbered space below.

Craft sinks with storage of craft items and separate hand basins are provided. Water shall be temperature controlled.

Mobile lockers are provided for children's personal belongings.

All enclosed rooms will have viewing panels to maintain surveillance of the entire centre. Windows will maintain surveillance to out door play areas.

A multi function/ dining room area is located on first floor level opposite the open plan kitchen with servery so children are able to watch and participate during cooking time. This area can also be used for parent/teacher meetings.

Staff Structure

The centre will be administered by a Director who is supported by not less than 10 fulltime teaching staff when the centre is at capacity, inclusive of Director who has a Diploma of children's services. At least 50% of the teaching staff will possess an Early Childhood Teaching degree/ diploma or Cert 3 and the remainder will operate as assistants, all either working towards a qualification in Centre Based Care or practical experience within the childcare industry.

A part time "floater" will also be employed to provide extra assistance during the day and ensure staff have timely breaks and time to complete paperwork off the floor. A programme room is located next to staff room on first floor.

A part time cook and cleaner will also be employed. Maximum number of staff would be 11 full time teaching staff, 1 part time teaching staff, 1 part time cook and 1 part time cleaner.

Note that all staff are encouraged to use public transport so that the parking is available to parents at the peak drop off and pick up times. The part time staff such as cook (2 hours per day) and cleaner (2-3hrs per week after business hours) would

only be at the centre as required and are encouraged to use public transport. The floater(s) (students) are part time and would be available on an as need requirement to give relief to staff during their breaks. There would usually be one part time floater helping throughout the course of the day as required. Any additional floaters would be dependent on the operations manager's assessment of demand for additional help during peak times.

All staff will be required to have completed HLTIA004 (provide first aid in a childcare setting). All staff will also have a working with children check.

All teaching staff must be able to demonstrate:

- The ability to create a safe environment for children.
- Knowledge of the stages of physical, emotional, cognitive, social and cultural development of children.
- Knowledge of activities and experiences appropriate for the various ages and stages of development of children.
- Knowledge of health, hygiene and nutrition needs of children.
- Experience caring for children.

An educational leader will be appointed to help guide the staff through the Early Years Learning Framework and ensure all teaching practices are reflective of this.

A work health and safety monitor will be appointed to conduct weekly, monthly and annual audits to ensure the ongoing safety and well-being of both the staff and the children at the center.

A quality improvement plan (QIP) will be established and updated on a continuous basis to ensure that the environment, staff and management are on a path of continuous improvement.

Teaching staff will work a daily eight hour shift (19 day month) with a minimum of 2 staff present at the Centre at all times.

The Director will be appointed Nominated Supervisor of the centre. This Nominated Supervisor will maintain overall supervision of provision of the service and will present at the centre for no less than 50% of the time that the service is provided as per the Children's Service Regulations 2011.

A certified supervisor will be present at all times.

Supervision of Children

The centre is bound by the Children's Services Regulations 2011 to provide adequate levels of supervision to all children with all staff/child ratios to be maintained at all times.

In the case of a staff member being absent from the centre a casual employee with the equivalent qualification or experience will be employed as a replacement.

As prescribed by the Children's Services Regulations 2011, all staff-child interactions will act to ensure the dignity and rights of each child being provided with the service. At no time will the child be subject to physical, verbal or emotional punishment, or be isolated for any reason other than illness. Instead children will be directed to acceptable behaviour through respect, emotional support, positive guidance and encouragement.

Security

An electronic security system will be installed which limits and monitors who accesses the building. The parent/visitor to the building will require electronic access to enter the premises.

Daily Routines

7.30am	Centre Open/drop off
8.50am	Morning group time
9.00am	Morning tea
9:30am	Music/craft/sport
10.30am	Outside play
11.00am	Lunch (babies)- transition to bottle and rest time
12.00pm	Lunch Time preschool
12.15pm	Rest/Quiet Activities across the centre
2:00pm	Pack away the beds
2.30pm	Sunscreen/Group Time Transition
2:30 pm	Afternoon tea
3.00pm	Outdoor Play
4.30pm	Indoor Play pick up begins
5:00pm	Late snack and structured indoor activity
6.00pm	Centre Closed

Outdoor Play Times

Outside play is a vital component of a quality early childhood care and education program. Centre staff plan and program outdoor activities to meet the needs of children within their care, assessing their developmental level, areas of need, areas of strength and areas of interest. Programmed activities provided for development of gross motor skills, fine motor skills, language skills, creative skills, social skills and cognitive skills. This planned approach to outdoor play aims to maximize levels of child engagement in specific play experiences.

In recognition of the value of outdoor play, the centers out door play areas are designed in such a way that they can operate as separate, play areas allowing staff to plan activities most appropriate to the level of development of the children in their group.

The time dedicated to outdoor play within the daily routine is influenced by a number of factors. Firstly, each group of children will have a different daily routine as a consequence of their age-appropriate developmental needs. This variation in daily routine reduces the incidence of all children accessing the outdoor play environment at the same time.

Secondly, the planned time for outdoor play is seasonal. In summer, to avoid the heat of the middle of the day, outdoor play will generally be scheduled earlier in the morning (anywhere between 8.00am – 11am) and later in the afternoon (anywhere between 3.30-6.00pm.) In winter, outdoor play will be scheduled to avoid the cooler mornings and darker evenings (morning 9.00 – 11.30am) and afternoons (2.00 – 4.30pm.) It should be noted that these times fall within standard working hours and are restricted to the Monday to Friday operational hours.

A sun safe plan will be followed using the guidelines set out by "sun smart" daily UV levels will be checked and displayed. The outdoor play area will be shaded to Sun Smart recommendations and Department of Community Services regulations.

The total numbers playing externally will be limited. The provision of different outdoor play areas on north/east ground level and north east roofed verandah will give opportunity for teachers to expose the different age groups to different experiences. Lockable childproof gates shall be incorporated into outdoor play areas on ground floor level. Mobile fencing and gate will be utilized on ground floor outdoor area to separate age groups for specific play.

Roofed verandah on level 1 shall be acoustically treated and shaded for protection from weather and sun. The balustrade shall be 1390mm high non climbable balustrade (solid and glazed). A planter box sitting on outside face of balustrade shall be planted with dense foliage. Refer Architectural & Landscape details.

At least three staff will supervise children playing on outdoor verandah on level 1. Details such as laminated mirrored wall on north/ west side adjacent to multi purpose area and south /east side adjacent to playroom 3 will aide in supervision.

Also children from first floor will also have access to outdoor play area on ground floor and will be supervised and taken via stair 1 or lift directly to entry area through door linking ground floor outdoor play area.

Playground Surfacing and Landscaping

The playground has been designed to minimize the presence of hard surfaces. This will reduce potential noise generated by children running with wheeled toys, dropping items etc. Use of soft fall and artificial turf areas with sensory plants, organic vegetable gardens, child safe climbing equipment with soft fall areas, timber bridges and cubby houses, cycling track, sandpits and trees with seating shall be incorporated into the ground level outdoor area. Refer Landscape plan.

Out door play areas on first floor verandah facing north and east will have soft fall and artificial turf floor finishes. No climbing equipment will be located in these areas. Non climbable play equipment will be incorporated into out door play in this area. Note that any climbable equipment must be set and fixed well away from external perimeter and have safety balustrading in place. Refer Landscape plan.

Acoustics

Measures to minimize potential environmental and amenity impacts upon neighbours have been incorporated. Refer Acoustics Report.

Kitchen & Bottle Preparation Facilities

An onsite kitchen located on first floor level for food preparation and storage has been incorporated into the centre. Formula and food will be provided for all age groups. They will include wash up areas, hand wash basins and waste storage areas. Food trolleys will be used to deliver food to each playroom. Passenger lift will be used to deliver food to ground floor level. Dumb waiter will also be provided to carry groceries/food to and from ground to first floor.

A part-time qualified cook will be employed to prepare meals daily on the premises for the children. The cook will hold a certificate attesting to the completion of a basic training course in food safety and nutrition.

The Kitchen area includes a cooktop, oven, microwave, sink and hand basin with hot water, dishwasher, refrigerator and rubbish bin facilities. Coved non slip vinyl to floor finish.

Bottle Preparation Room will be located on ground floor in playroom 1 for 0-2 year olds. It will include a sink, separate hand basin, microwave, refrigerator and rubbish bin facilities. Water shall be temperature controlled.
All waste will be disposed of daily.

Nappy Disposal

Contaminated waste disposal bins will be located under nappy change bench in Children's bathrooms. Nappies will be disposed of securely and hygienically in the bins provided by council.

Laundry Facilities

The centre design incorporates an onsite laundry facility on ground floor level adjacent to 0-2 year olds playroom for staff use as per the children's services regulation 2011. A laundry chute is provided from first floor level directly to laundry below for ease of delivering soiled laundry for cleaning. All chemicals will be stored in a locked cupboard with all MSDS and chemical policy clearly displayed. Safety Data sheets will be stored in the office. Coved non slip vinyl to floor finish. Laundry will also be outsourced off site and delivered to the centre.

Staff Room

A staff room with coffee facilities and lockers and a separate accessible bathroom with shower, toilet and basin is located on first floor level. An accessible toilet is also located on ground floor for use by staff and patrons.

Programme Room

A programme room is located adjacent to Staff room for staff to have a quiet place to prepare programmes, etc.

Sign In/Reception area

A sign in bench is located in Entry/Reception with waiting area for parents. Parents will sign their children in and out of the centre each day. There is also some area allocated for pram parking when parents drop off children.

Children's work will be displayed in reception via use of a wall mounted TV monitor above sign in bench in full view of visiting parents. Hard wearing flooring such as timber, non slip ceramic tiles or vinyl shall be floor finish to reception, corridors and stairs.

Director/Administration Office

An Administration/Director's office is located on ground floor adjacent to Entry/Reception with a waiting area for with parents for private interviews.

Air conditioning

An air conditioning system shall regulate heating and cooling inside the centre as required during seasonal changes.

Maintenance

Systems will be in place where maintenance requests are placed on a maintenance form by centre coordinator and urgent matters dealt with within 24 hours.

Maintenance of Building

The southern ground floor roof which has an access door from the first floor play area is to be used for maintenance purposes only.

Deliveries

Deliveries for kitchen and teaching supplies will be provided as required each week. Delivery will be made between the hours of 9.00am to 4.30pm outside of peak drop off and pick up times and delivered via car park, through entry/ sign in, lift to first floor kitchen/ laundry and administration area. Dumb waiter also provided to deliver groceries to first floor.

Waste Management

Internal rubbish bins will be located in each playroom and bathroom, as well as the kitchen, bottle preparation area, staff room, staff bathroom, disabled toilet and Director/Administration. These bins will be emptied daily by cleaning staff and at other times, if necessary, by centre staff. Recycling collection bins will also be located in each playroom and in the kitchen.

A bin store is located adjacent to kitchen on first floor. The bins are delivered to ground via lift and emptied into recycling/bin store cupboards outside on ground floor level under stair 1 accessed from parking area. Bins will be wheeled to kerb side at the allotted weekly Council collection days and then wheeled back, hosed down after emptying and then stored again in allocated space.

Deemed to satisfy design

The structural design of the child care centre shall meet the requirements of the Building Code of Australia BCA 2014 for a Class 9b facility. This is to support the Fire and Rescue NSW Guidelines for Child Care Centres.

Role of Fire and Rescue NSW

During an incident that impacts a child care centre the primary focus of the Fire and Rescue NSW will be on life safety.

Fire Safety Plan

The centre will have a documented Emergency Evacuation Plan as well as Evacuation Diagrams on display throughout the centre. A complete floor plan with fire and emergency evacuation will be displayed in the centre near each room at the exit points. The Emergency Evacuation Plan will be created by a certified fire engineer. To help minimize panic in the event of an emergency there will be routine fire evacuation drills with the children. This will be completed to help familiarize children and teachers of what to do in the event of an emergency.

Fire evacuation

Essential fire safety measures will be incorporated into the design including provision of fire safety equipment such as smoke detectors, EXIT signs, Emergency lighting, Emergency warning and intercommunication systems, fire extinguishers and fire blankets commensurate with the standards. All equipment is certified by law. A centre fire warden and fire evacuation drill will be completed monthly and will include a safe meeting or assembly point away from the child care centre.

All age groups within the centre WILL EVACUATE CONCURRENTLY under the control of their assigned staff members.

It should be noted that children generally begin walking around 12-14 months of age. All children should be walking confidently and independently by the age of 2. The average weight of a 2 year old is 12kg, and 97% of children at 2 years of age would be less than 15kg (Source: NSW Government Health). As such it is assumed that toddlers and Pre-school children will walk down the stairs utilizing evacuation rope. Evacuation ropes are a light rope or cord that has a thumb knot tied at regular intervals and "clips".

Children would hold "their" knot in their right hand and if traversing stairs would maintain contact with the rail with their left hand. When groups reach assembly area each clip is connected to the next evacuation rope circle and are easily managed. 0-2 years olds will be accommodated on ground floor level. However if there are any on the first floor level in time of evacuation then all children in the 0-2 age group would be carried down the stairs in an evacuation vest. Staff will have vests with two "pouches". The average weight of a 6 month old child is 7.5kg. The average weight of a 12 month old child is 9.5kg (Source: NSW Government Health). Using double evacuation vests, two children of this weight could be carried and evacuated in a single trip. Heavier children will be carried out independently via evacuation vests.

Emergency Evacuation Management Plan Requirements

During an emergency, all occupants may have to be evacuated from the facility to a safe place of assembly. The emergency evacuation procedures will enable the safe evacuation of the occupants. It is mandatory that these procedures be actively supported and adopted by all occupants.

The Child Care Centre Director must ensure the emergency Evacuation Management Plan is kept in written and electronic form and is readily available to child care centre employees. The risk of panic, personal injury and loss of property is significantly reduced by having an efficient Emergency Control Organisation (all employees) trained in emergency response procedures.

Types of Emergencies

Australian Standard 3745-2010 lists the types of emergencies that could affect the child care centre. This can include: bomb threat, building invasion/armed intrusion, bushfire, chemical, biological and radiological, civil disorder, cyclones including storm surge, earthquake, hazardous substances incidents, industrial accident, letter bomb, medical emergency, severe weather/storm damage, structural instability, terrorism, transport accident, toxic emission.

Evacuation Assembly Areas

An external Evacuation Assembly Area will be allocated at ground floor footpath area facing street as nominated by the Chief Warden or the attending Emergency Services.

Bayside Local Planning Panel

10/12/2019

Item No	6.2
Application Type	Designated Development – Demolition of existing structures
Application No	DA-2019/253
Lodgement Date	16/07/2019
Property	100 Bestic Street, Kyeemagh
Ward	Ward 2
Owner	Bayside Council
Applicant	Bayside Council
Proposal	Demolition of existing building known as The Fisherman's Club to slab level
No. of Submissions	12
Cost of Development	\$1,200,000
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*:

1. That the development application, being for designated development, can now be determined as 21 days have lapsed since the Planning Secretary was forwarded copies of the submissions received in relation to the development application pursuant to Section 4.16(9)(b) of the *Environmental Planning and Assessment Act 1979*.
 2. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority APPROVE Development Application DA-2019/253 for the demolition of the existing building known as The Fisherman's Club to slab level, pursuant to s4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.
 3. That the submitters be notified of the Bayside Local Planning Panel's decision.
-

Location Plan



Figure 1: Locality Plan



Figure 2: Aerial photo of the site (Source: Google Maps)

Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Environmental Impact Statement [↓](#)
- 3 Secretary's Environmental Assessment Requirements [↓](#)
- 4 Site Plan [↓](#)
- 5 Erosion and Sediment Control Plan [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA 2019/253
Date of Receipt:	16 July 2019
Property:	100 Bestic Street, Kyeemagh
Lot & DP/SP No:	Lot 6 DP 17133
Owner:	Bayside Council
Applicant:	Bayside Council
Address:	444-446 Princes Highway, Rockdale, NSW, 2216
Proposal:	Designated and Integrated Development - Demolition of the existing building known as The Fisherman's Club to slab level
Property Location:	On the southern side of Muddy Creek adjoining Studdert Reserve and the Kyeemagh Market Gardens
Value:	\$1,200,000.00
Zoning:	RE1 – Public Recreation pursuant to Clause 2.2 of the <i>Botany Bay Local Environmental Plan 2013</i>
Author:	Kim Johnston – Consultant Town Planner (KJ Planning)
Date of Report:	19 November 2019
Classification of Building:	Class 9b
Present Use:	Recreation
No. of submissions:	Twelve (12) submissions

Key Issues

The key issues for the proposal include:

- Potential environmental impacts arising from the proposed demolition, particularly on Muddy Creek;
- Potentially hazardous materials within the existing building;
- Future use of the site; and
- Compliance with Designated Development provisions of the *Environmental Planning and Assessment Act 1979*.

Recommendation

That this Development Application be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and subject to conditions of consent attached to this report in Schedule 1. Pursuant to Section 4.16(9)(b), consent can be granted as copies of the submissions were forwarded to the Planning Secretary more than 21 days ago (having been forwarded on 23 October 2019 – 13 November 2019).

Background

The subject site comprises a large area of passive and active recreation space for the community.

The site currently contains the Brighton Le Sands Fisherman's Club building and associated waterfront structures located below the mean high water mark ('MHWM'). The site is located adjoining Muddy Creek and opposite the land located within the Cooks Cove Precinct to the north-west. This proposal involves the demolition of the existing three (3) storey building and the associated two (2) storey extension, known as the Fisherman's Club.

There are no recent development consents which affect the site and which are of relevance to this application.

The proposed demolition of this existing fisherman's club building on the site is designated development pursuant to Clause 10(2) of *State Environmental Planning Policy (Coastal Management) 2018* ('Coastal Management SEPP') as the site is located within the coastal wetlands and buffer area and proposes 'other development' pursuant to Clause 10(1)(d). An Environmental Impact Statement ('EIS') is therefore required to be prepared.

The Secretary's Environment Assessment Requirements ('SEARs') for the EIS were issued in correspondence from the Department of Planning, Industry and Environment ('DPIE') dated 6 May 2019. The EIS is adequate and is considered further in this report.

Site Description

The site is legally described as Lot 6 in DP 17133 and is known as No 100 Bestic Street, Kyeemagh. The site is located directly adjoining Muddy Creek within land zoned RE1 Public Recreation. Muddy Creek flows into the Cooks River (located approximately 750 metres to the north-east of the site) which then flows into Botany Bay (located approximately 1.3 km to the east of the site). The location of the site is illustrated in **Figure 1**.

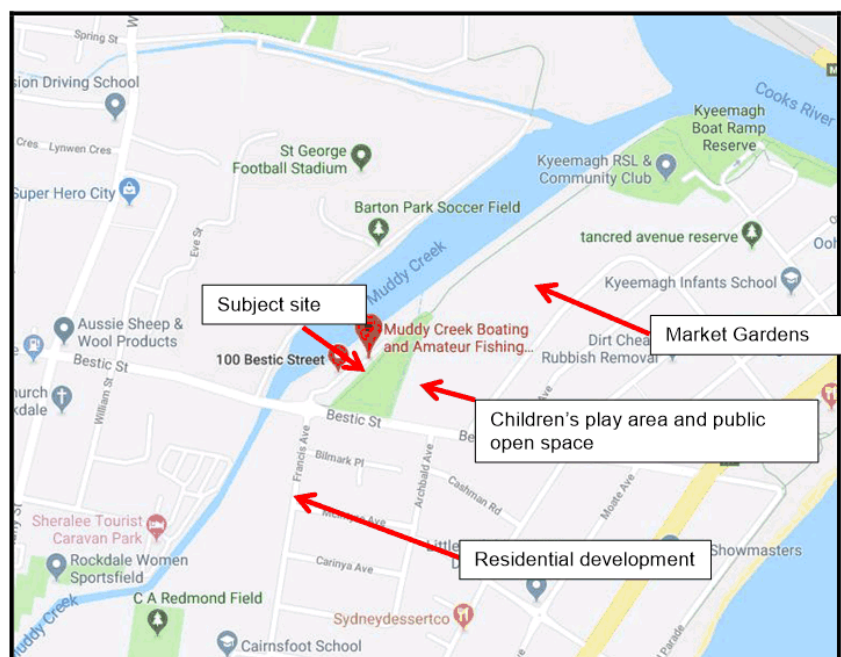


Figure 1: Site Location (Source: Google Maps)

The existing building on the site comprises a three storey building, known as the *Brighton Le Sands Fisherman's Club* located adjacent to Muddy Creek ('the Fisherman's Cub'), (Figure 2). The Fisherman's Club includes a two storey extension with concrete façade, which has been utilised by the *Muddy Creek Amateur Boating & Fishing Association Incorporated*. Both portions of the building are proposed to be demolished in this proposal.



Figure 2: Existing Building on the site to be demolished - view from Muddy Creek

A separate single level concrete block building exists in the north-east portion of the site, comprising the 'Men's Shed', which is currently tenanted by the 3 Bridges Community Limited. This building is not proposed to be demolished as part of this proposal.

There are also various waterfront structures on the site comprising two (2) jetties, concrete sliprails and concrete boatsheds which are proposed to be retained on the site. The area between the club building and Men's Shed has a boat ramp and a jetty for loading and unloading of boats, with a small standalone shed for storing limited amounts of fuel (**Figure 3**).



Figure 3: Existing Development at the site - Fisherman's Club (Source: Building Condition Report, Asset Technologies Pacific)

The site has vehicular access from Bestic Street, which provides access to a car parking area with approximately 80 formal car parking spaces. Pedestrian access is provided to the site from Bestic Street as well as from the Cook Park Trail.

The Fisherman's Club adjoins Muddy Creek to the north and faces the parking area to the south. A children's play area exists to the south beyond the car park as well as a Community Garden, known collectively as Studdert reserve. The land subject to *State Environmental Planning Policy No 33 – Cooks Cove* is located to the north-west of the site on the opposite side of Muddy Creek.

The existing building to be demolished and associated car parking (to be retained) is illustrated in **Figures 4, 5 and 6**.



Figure 4: Existing Building on the site to be demolished



Figure 5: Existing car park on the site



Figure 6: Existing Building on the site - 2 storey extension to be demolished

The site is generally level with a slight fall towards Muddy Creek in the north.

The surrounding area is characterised by a mix of public recreational areas, linking the public recreation land to the west and east and serving as part of the Cook Park Trail, as well as low density residential development. Small rural holdings also exist in the area, in the form to the State heritage listed Kyeemagh Market gardens, located to the south-east of the site along Occupation Road.

The closest residential properties comprising low density detached housing exists approximately 70 metres to the south-west of the site along Bestic Street.

Site constraints

Following review of the Planning Certificate pursuant to Section 10.7 of the EP&A Act, the site is not known to be affected by any critical habitat, conservation areas, coastal protection issues, mine subsidence, road widening, land acquisition, biodiversity certification, bushfire prone land, property vegetation plans, contaminated land or planning agreements.

The site is affected by flooding (1% level) and is located within the 25 ANEF contour for aircraft noise. These issues are not considered to be affected by the proposed demolition on the site.

Site History

It appears from a study of aerial photographs of the site and land ownership records (for the purposes of the Contamination Report), that the site has been in Council's ownership since the 1930s. Significant development at the site appeared to have commenced in the 1950s, largely associated with boating including the construction of a jetty and numerous boats being moored at the creek. Land near the site to the south-east has been used for market gardens since before 1943.

Photographic records held at the club indicate that a sewage farm was located at the site in the late 1950s where the building of a boatshed and clubhouse commenced in around 1957. The boathouse was opened in December 1958 while the Men's Shed had been constructed by 1979.

The previous development consents and building approvals issued for the site generally relate to building extensions for the fishing association. Construction of the pedestrian bicycle pathway and landscaping appears to have occurred in 1996.

The Contamination Report indicated that a certificate at the clubhouse indicated that the premises were licenced for petroleum retailing in 1994. Furthermore, discussions with a member of the Fisherman's club indicated that small amounts of fibre glassing repair work on boats had been undertaken at the site; however, there was no evidence of the presence of underground storage tanks.

Description of Development

The proposal is for the demolition of the Fisherman's Club comprising the three storey

building and the two storey extension to the original building on the site to slab level. This existing building on the site has an approximate gross floor area of 3,470 square metres.

The ground floor of the main portion of the building on the site comprises a foyer area, service area, office, bathrooms and store rooms while Level 1 consists of office areas, an auditorium, function room, bathrooms, kitchen, bar, lounge, and bistro areas. Level 2 comprises an office, bathroom and plant room areas. The two storey, 'L' shaped, extension which was a later concrete addition to the Fisherman's Club and is currently tenanted by the Muddy Creek Amateur Boating & Fishing Association Incorporated (MCBAFA), is also proposed to be demolished under this proposal.

The proposal will enable the removal of an existing dilapidated building which is currently vacant and which is not currently serving any community benefit. This building is in poor condition and has significant deterioration to the perimeter walls and roof with extensive water damage and fungal growth in isolated areas.

Demolition Works

The demolition works will involve the following:

- Installation of turbidity barrier to Muddy Creek, and of erosion and sediment control measures to protect existing drainage infrastructure and Muddy Creek;
- Establishment of site storage and waste areas / office area and amenities;
- Fencing of areas to separate the demolition zone from the accessible areas of the site;
- Demolition of the existing building over three levels; and
- Rehabilitation of disturbed ground around the building to be demolished.

The Erosion and Sediment Control Plan in **Figure 7** illustrates the proposal.

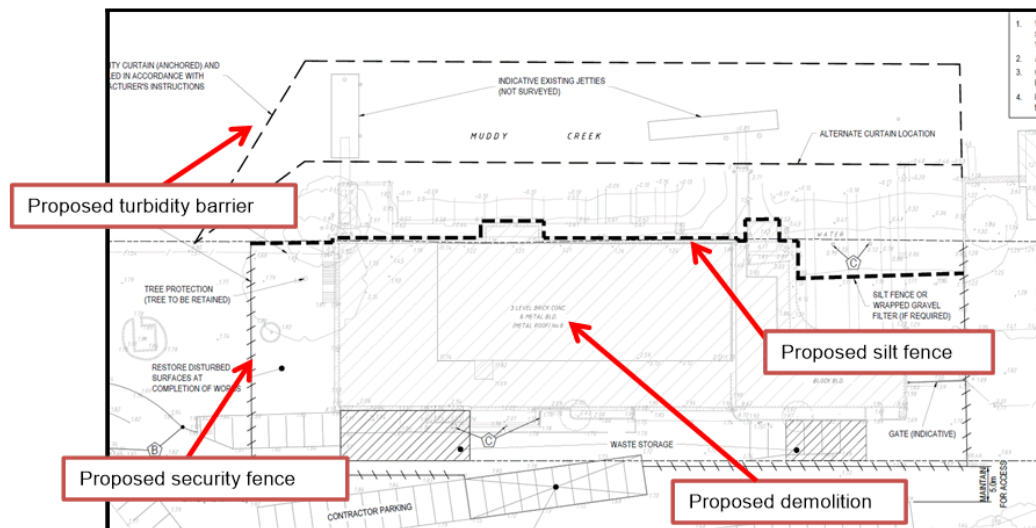


Figure 7: Proposed Demolition and Sediment Control Plan (Source: Cardno, July 2019)

Justification and Consideration of Alternatives

The removal of this building would allow for the future possible redevelopment for a use that could further contribute to the RE1 Public Recreation zone which would be subject to future consideration and community consultation to be undertaken in the future.

A *Condition Assessment Report* prepared by Asset Technologies Pacific dated 24 May 2018 accompanied the application which aims to provide Council with a clear understanding of the current status of the building in terms of the condition of the building structures and likely future maintenance. This Report assisted Council to make an informed decision in relation to the building occupancy strategy and possible refurbishment works.

This *Condition Assessment Report* provided the following conclusion:

Condition Status: *The foundation and loadbearing structures are in fair condition and would support a refurbishment. The shell (roof and perimeter) have deteriorated significantly and are in poor condition. Major repairs are required to replace the roof cover and remediate the internal construction elements and finishes. Electrical, hydraulic, fire, vertical transport and electronic security services are in fair to poor condition with significant deterioration evident. The mechanical services are in very poor condition and a comprehensive upgrade of the heating, ventilation and air-conditioning systems will be required.*

Functional Status: *The integrity of the structural elements is adequate to enable the building to be retained (subject to major refurbishment and fitout works). Remediation of the interiors will need to include removal of fungal growth and asbestos containing materials. For the building to be used as a registered club or other commercial purpose, a major refurbishment of the building interiors and services will be required to enable the facility to meet minimum acceptable standards.*

The Report confirmed that the building is in a dilapidated state and is generally unfit for occupancy without substantial refurbishment works.

After considering this *Condition Assessment Report*, the Council considered three (3) different options for this site in terms of the future of this existing building which included the following:

- Option 1 - refurbish the clubhouse, costing an estimated \$5.5 million to bring the building up to a habitable state;
- Option 2 - replace the existing building after doing a new masterplan for the area;
- Option 3 - demolish the building and upgrade the open space including a reconfigured 80 space car park, upgraded playground, and community garden and dog park (costing \$1.2 million).

Council voted for Option 2, to demolish the building to make way for a redevelopment of the site which would be guided by a future Masterplan and a Plan of Management for the site. The redevelopment will be part of an upgraded 3000sqm playground, 500sqm community garden and 2000sqm dog park. The redevelopment of this site, in conjunction with improved open space and amenity provision, is proposed to account for the expected population growth in the wider area.

Accordingly, the proposed demolition is a viable and recommended option.

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* ('EP&A Act') and the *Environmental Planning and Assessment Regulation 2000* ('the Regulations')

EP&A Act

The relevant matters to be considered pursuant to Section 4.15(1) of the EP&A Act are considered in this Report.

Designated Development

Pursuant to Section 4.10(1) of the EP&A Act, the development is declared to be designated development by *State Environmental Planning Policy (Coastal Management) 2018* ('the Coastal Management SEPP'). The site is located on land classified as coastal wetlands as set out in Part 2 Division 1 of the Coastal SEPP and therefore is designated development pursuant to Clause 10(2) of the SEPP, satisfying the tests for 'other development' in Clause 10(2).

Section 4.12(8) of the EP&A Act requires that an Environmental Impact Statement ('EIS') is prepared by the applicant as prescribed by the Regulations, which has been satisfactorily provided.

Pursuant to Section 4.16(9) of the EP&A Act, a consent authority must not determine a development application for designated development until after the submission period has expired, or if a submission is made with respect to the application within the submission period, until after 21 days following the date on which a copy of the submission is forwarded to the Planning Secretary have expired. There were twelve (12) submissions received which were forwarded to the Planning Secretary in correspondence dated 23 October 2019. Accordingly, this development application for designated development can now be determined with 21 days having lapsed (13 November 2019).

Integrated Development

Pursuant to Section 4.46(1) of the EP&A Act, the proposal is integrated development, being development within 40 metres of a watercourse and which would ordinarily require a controlled activity approval pursuant to Section 91(2) of the *Water Management Act 2000*. This allows the carrying out of a specified controlled activity at a specified location in, on or under waterfront land.

However, the proposed works do not involve any excavation, only demolition of material to slab level, retaining the existing slab in situ. The proposal is also exempt from this controlled activity approval as exemptions apply for public authorities including local councils pursuant to Clause 41 of the *Water Management (General) Regulation 2018*. Therefore, the proposal is not integrated development in this instance.

The Regulations

Clause 50(6) of the Regulations requires that the consent authority must forward to the Planning Secretary a copy of the environmental impact statement and applications for designated development. The Department has been provided with a copy of the application and accompanying EIS in correspondence dated 23 July 2019.

Clause 77 requires the consent authority, at the same time as giving public notice, must give written notice of a development application for designated development to such public authorities which may have an interest in the determination of that development application. Sydney Water and the Sydney Airport Corporation Limited were notified of the proposal in correspondence dated 11 October 2019. Comments from these agencies are discussed in this report.

Pursuant to Part 2 of Schedule 2 to the Regulations, the Secretary's Environmental Assessment Requirements ('SEARs') were obtained from the Department of Planning and Environment (DP&E) on 6 May 2019 (Reference No SEAR 1339). The SEARs are included with the application and stated that there were no specific requirements for the proposal except that the EIS must:

- Address the provisions of *State Environmental Planning Policy (Coastal Management) 2018*;
- Meet the minimum form and content requirements outlined in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*; and
- Be prepared in consultation with relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners and address any issues they raise.

The provisions of the Coastal Management SEPP are considered in the EIS in Section 6.2 (Part F) and in this report. The Regulations require certain matters to be addressed in the EIS pursuant to Part 3 of Schedule 2, which are considered in **Table 1**.

Adequate consultation has been undertaken by the applicant and Council in the notification process. The EIS is adequate as it has considered the matters outlined in the SEARs and is considered further in this report

Table 1: Consideration of Matters to be addressed in the EIS

Requirement	Addressed
Form of environmental impact statement (CI 6)	
(a) name, address and professional qualifications of the person by whom the statement is prepared	Provided on page ii
(b) name and address of the responsible person,	Provided on page ii
(c) address of the land: (i) in respect of which the development application is to be made, or (ii) on which the activity or infrastructure to which the statement relates is to be carried out,	Provided on page ii
(d) a description of the development, activity or infrastructure to which the statement relates,	Provided on page ii and Part C
(e) an assessment by the person by whom the statement is prepared of the environmental impact of the development, activity or infrastructure to which the statement relates, dealing with the matters referred to in this Schedule,	Provided in Parts D and F

(f) a declaration by the person by whom the statement is prepared to the effect that: <ul style="list-style-type: none"> (i) the statement has been prepared in accordance with this Schedule, and (ii) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which the statement relates, and (iii) that the information contained in the statement is neither false nor misleading 	Provided on page ii
Content of environmental impact statement (CI 7(1))	
(a) a summary of the environmental impact statement,	Provided on page vii
(b) a statement of the objectives of the development, activity or infrastructure,	Provided in Part C
(c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure,	Provided in Part C and Part G (justification)
(d) an analysis of the development, activity or infrastructure, including: <ul style="list-style-type: none"> (i) a full description of the development, activity or infrastructure, and (ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and (iii) the likely impact on the environment of the development, activity or infrastructure, and (iv) a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and (v) a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out, 	Provided in Part B (site analysis) C (description of the development), F (impacts and mitigation measures) and D (approvals and relevant legislation)
(e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d) (iv),	Provided in Part F
(f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).	Provided in Part G (justification)

Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

Under the *Environment Protection and Biodiversity Conservation Act 1999* ('the EPBC Act'), actions that have, or are likely to have, a significant impact on a matter of national environmental significance require approval from the Australian Government Minister for the Environment ('the Minister'). The Minister will decide whether assessment and approval is required under the EPBC Act.

A report has been provided from the Department of the Environment and Energy ('DOEE') dated 6 May 2019 which provided commentary on the nine matters of national environmental significance protected under the EPBC Act (refer to **Figure 8**).

World Heritage Properties:	None
National Heritage Places:	None
Wetlands of International Importance:	1
Great Barrier Reef Marine Park:	None
Commonwealth Marine Area:	None
Listed Threatened Ecological Communities:	2
Listed Threatened Species:	62
Listed Migratory Species:	57

Figure 8: Matters of National Environmental Significance

A summary of these matters and whether the proposal is affected by them are considered below:

- *World Heritage Properties* – There are no such properties in the vicinity of the site;
- *National heritage places* - There are no such places in the vicinity of the site;
- *Wetlands of international importance (listed under the Ramsar Convention)* – The Towra Point Nature Reserve is listed as a RAMSAR Wetland and is within 10km of the site. Since the proposal involves demolition only and there will be significant safeguards installed to ensure there will be limited impacts on Muddy creek as outlined in the Erosion and Sediment Control Plan and the Soil and Water Management Plan, it is considered that this wetland will not be significantly affected by the proposal;
- *Listed threatened species and ecological communities* – 62 threatened species and 2 threatened ecological communities listed in the vicinity of the site;
- *Migratory species protected under international agreements* – 57 species listed in the vicinity of the site;
- *Commonwealth marine areas* - There are no such areas in the vicinity of the site;
- *Great Barrier Reef Marine Park* – The site is not in the vicinity of this area;
- *Nuclear actions (including uranium mines)* – The site does not include any such actions;
- *Water resource, in relation to coal seam gas development and large coal mining development* – Not affected or proposed.

The matters requiring further consideration are addressed below.

Listed threatened species and ecological communities

The report from DOEE stated that there are 62 threatened species and 2 threatened ecological communities listed in the vicinity of the site. The threatened ecological communities likely to occur within area included Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland and the Coastal Upland Swamps in the Sydney Basin Bioregion. The proposal is unlikely to adversely impact on these ecological communities given there will be no trees or vegetation removed from the site and there are adequate safeguards proposed to protect nearby land and the waterway.

The 62 threatened species which are likely to occur in the area based on habitat and/or foraging area include 32 bird species, 3 fish species, 2 frog species, 7 plant species, 9 mammals and 3 sharks. The proposal is unlikely to adversely impact on these threatened species as there will be no trees or vegetation removed from the site and there are adequate safeguards proposed to protect nearby land and the waterway to ensure there are no adverse impacts on these species. It is also likely that some of these species do not occur in the site or near the site.

Migratory species protected under international agreements

The DOEE listed 57 migratory species likely to be located in the vicinity of the site. Of these species, there were 20 listed species of birds, 17 marine, 7 terrestrial and 13 wetland species listed. As outlined above, given the limited works on the site, the absence of any tree or vegetation removal and the proposed safeguards proposed including soil and water management techniques, it is considered that there are unlikely to be any significant adverse impacts on these species arising from the proposal.

Accordingly, it is considered that there will not be any significant impacts on any matters of national environmental significance which would require approval from the Commonwealth Government under the EPBC Act.

Protection of the Environment Operations Act 1997 (POEO Act)

The proposal does not trigger any thresholds in respect of the POEO Act and the proposed demolition of the building is not a scheduled activity pursuant to Schedule 1 of the POEO Act.

Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 provides the test for determining whether proposed development is likely to significantly affect threatened species or ecological communities, or their habitats. It also provides for the definition of key threatening processes. The biodiversity mapping from the Office of Environment and Heritage (OEH), illustrated in **Figure 9**, highlights the coastal wetlands as outlined in the Coastal Management SEPP (considered in detail below). This OEH Biodiversity Values Map identifies biodiversity either side of the existing building, consistent with the location of the coastal wetlands.

The proposal does not result in the removal of any trees or vegetation and does not involve the carrying out of a key threatening process under this Act. As outlined above in relation to the EPBC Act, it is considered that the proposal will not give rise to any significant impacts on any of the identified threatened species or ecological communities likely to occur in the area. Subsequently, it is considered that a Species Impact Statement is not required.

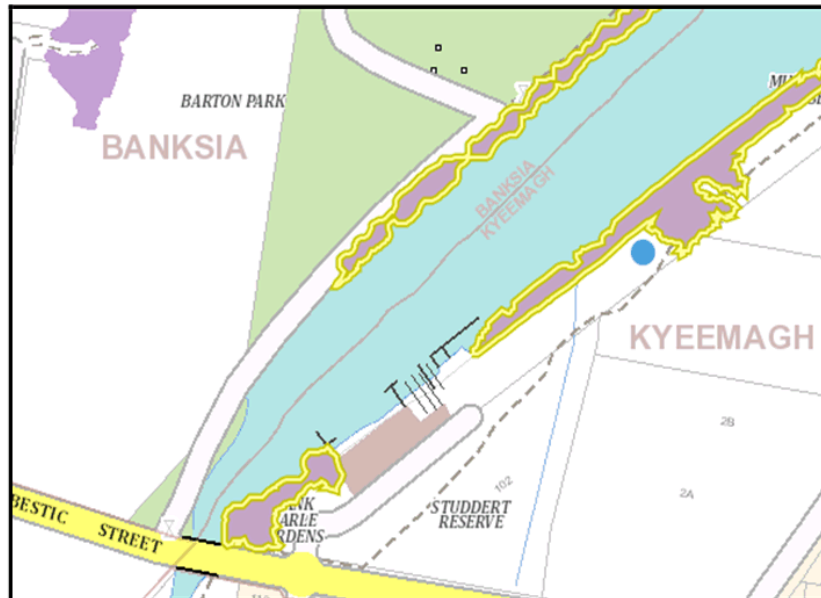


Figure 9: OEH Biodiversity Mapping
(Source: <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap>)

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 (Coastal Management) 2018*;
- *State Environmental Planning Policy No. 55 – Remediation of Land*;
- *Rockdale Local Environmental Plan 2011*; and
- *Rockdale Development Control Plan 2011*

It is noted that the provisions of *State Environmental Planning Policy No 19 — Bushland in Urban Areas* do not apply to the proposal as there is no bushland zoned for public open space purposes to be removed. Furthermore, *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)* also does not apply as Clause 65(3)(c) of the ISEPP (which allows demolition to occur within public reserves by Council without consent) does not apply as the Coastal Management SEPP prevails which specifies the proposal as designated development.

State Environmental Planning Policy (State and Regional Development) 2011 also does not apply as the proposal does not satisfy any of the thresholds listed in Schedule 1 and is therefore not state significant development.

State Environmental Planning Policy (Coastal Management) 2018

The Coastal Management SEPP commenced on 3 April 2018 and applies to land within the coastal zone, which aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*. The Policy outlines the mapping for the four (4) coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the *Coastal Management Act 2016*.

The site is located within the following areas as illustrated below:-

- **Coastal wetlands and littoral rainforests area** – areas which display the characteristics of coastal wetlands or littoral rainforests that were previously protected by SEPP 14 and SEPP 26 (**Figure 10**);
- **Coastal Environment Area** - areas that are characterised by natural coastal features such as beaches, rock platforms, coastal lakes and lagoons and undeveloped headlands. Marine and estuarine waters are also included (**Figure 11**); and
- **Coastal Use Area** - land adjacent to coastal waters, estuaries and coastal lakes and lagoons (**Figure 12**).

The controls of the Coastal Management SEPP are considered in detail in **Table 2**.



Figure 10: Coastal Wetlands and Buffer area under the Coastal Management SEPP



Figure 11: Coastal Environment Area under the Coastal Management SEPP



Figure 12: Coastal Use Area under the Coastal Management SEPP

Table 2: Consideration of the Coastal Management SEPP

REQUIREMENTS	PROPOSAL	COMPLY
Part 2: Development Controls for Coastal Management Areas		
Development on certain land within coastal wetlands and littoral rainforests area (CI 10)		
<p>(1) The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> only with development consent:</p> <p>(a) the clearing of native vegetation within the meaning of Part 5A of the <i>Local Land Services Act 2013</i>,</p> <p>(b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the <i>Fisheries Management Act 1994</i>,</p> <p>(c) the carrying out of any of the following:</p> <p>(i) earthworks (including the depositing of material on land),</p> <p>(ii) constructing a levee,</p> <p>(iii) draining the land,</p> <p>(iv) environmental protection works,</p> <p>(d) any other development.</p>	The site is located within the coastal wetlands area as identified on the maps. The proposal satisfies the 'other development' category in (d) and is therefore permissible with consent.	✓
(2) Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act	The proposal is designated development as outlined above.	✓
<p>(3) Despite subclause (1), development for the purpose of environmental protection works on land identified as "coastal wetlands" or "littoral rainforest" on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> may be carried out by or on behalf of a public authority without development consent if the development is identified in:</p> <p>(a) the relevant certified coastal management program, or</p> <p>(b) a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the <i>Local Government Act 1993</i>, or</p> <p>(c) a plan of management approved and in force under Division 6 of Part 5 of the <i>Crown Lands Act 1989</i>.</p>	The proposal does not propose environmental protection works.	N/A
(4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or	The proposal is accompanied by a Soil and Water Management plan and an Erosion and Sediment Control Plan which demonstrate the appropriate safeguards to protect the nearby wetland from the proposed works at the site. This includes,	✓

littoral rainforest.	among other things, the installation of a turbidity barrier to Muddy Creek, and of erosion and sediment control measures to protect existing drainage infrastructure and Muddy Creek.	
(5) Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the <i>Biosecurity Act 2015</i> .	Not proposed.	N/A
(6) This clause does not apply to the carrying out of development on land reserved under the <i>National Parks and Wildlife Act 1974</i> if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.	The site is not located within this land.	N/A
Development on land in proximity to coastal wetlands or littoral rainforest (CI 11)		
(1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> unless the consent authority is satisfied that the proposed development will not significantly impact on: (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.	The proposal is accompanied by a Soil and Water Management plan and an Erosion and Sediment Control Plan which demonstrate the appropriate safeguards to protect the nearby wetland from the proposed works at the site. This includes, among other things, the installation of a turbidity barrier to Muddy Creek, and of erosion and sediment control measures to protect existing drainage infrastructure and Muddy Creek. It is considered that these mitigation measures will adequately protect the nearby wetlands during the proposed demolition on the site.	✓
(2) This clause does not apply to land that is identified as "coastal wetlands" or "littoral rainforest" on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> .	The site is located within the wetlands area and within the buffer area.	✓
Development on land within the coastal environment area (CI 13)		
(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following: (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, (b) coastal environmental values and natural coastal processes,	<p>The site is located within the coastal environment area (see above).</p> <p>The proposal does not require the removal of any significant vegetation or require any significant changes to the natural landform.</p> <p>The proposal will not result in any adverse impacts on the coastal environment or natural coastal processes given the limited the works</p>	<p>✓</p> <p>✓</p>

	proposed and the safeguards proposed to be put in place during the works.	
(c) the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i>), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	The proposal will not result in any impacts on the marine environment given the limited extent of the proposed works and the construction management controls which will be undertaken.	✓
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	There will be neither impacts on the marine or native vegetation nor any impacts on their habitats given the limited scope of works.	✓
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	There is currently public access to the foreshore/waterway which may be temporarily affected while the demolition work is undertaken. However, in the long term, there will be improvements to public access to and along the foreshore.	✓
(f) Aboriginal cultural heritage, practices and places,	There is no known Aboriginal heritage on the site following a search of the AHIMS dated 1 July 2019.	✓
(g) the use of the surf zone.	No impacts on the surf zone arising from the proposal.	✓
(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:		
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The proposal will result in minimal environmental impact given the limited scope of works and the construction management controls to be implemented during works. Appropriate conditions have been recommended to be imposed in Schedule 1.	✓
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Impact is minimal.	N/A
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Impact is minimal.	N/A

(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> .	The site is not located in the SH REP 2005 area,	N/A
Development on land within the coastal use area (CI 14)		
(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:	The site is located within the coastal use area (see above).	
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:	There is currently public access in the area which may be temporarily obstructed during the works, however, there will be no long-term adverse impacts on public access to the foreshore.	✓
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,		
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	There will no overshadowing, loss of views from public places to the foreshore arising from the proposal.	✓
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	There will be no adverse impacts to the visual amenity of the coast arising from the proposal given only the demolition of a building is proposed.	✓
(iv) Aboriginal cultural heritage, practices and places,	No identified Aboriginal heritage on the site.	✓
(v) cultural and built environment heritage, and	No heritage on the site.	✓
(b) is satisfied that:		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or	The proposal will result in minimal environmental impact given the limited scope of works and the construction management controls to be implemented during works.	✓
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Impact is minimal.	N/A
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and	Impact is minimal.	N/A
(c) has taken into account the surrounding	The proposal is for demolition and	✓

coastal and built environment, and the bulk, scale and size of the proposed development.	accordingly there are no bulk, scale or size issues arising from the proposal such that there are no visual impacts arising from the proposal when viewed from the waterway.	
(2) This clause does not apply to land within the Foreshores and Waterways Area -Sydney REP (Sydney Harbour Catchment) 2005.	The site is not located in the SH REP 2005 area.	N/A
Development in coastal zone generally—development not to increase risk of coastal hazards (CI 15)		
Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.	The proposal will not increase the risk of coastal hazards on the land.	✓
Development in coastal zone generally—coastal management programs to be considered (CI 16)		
Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.	The proposal is not inconsistent with any coastal management program.	✓
Other development controls not affected (CI 17)		
Subject to clause 7, for the avoidance of doubt, nothing in this Part: (a) permits the carrying out of development that is prohibited development under another environmental planning instrument, or (b) permits the carrying out of development without development consent where another environmental planning instrument provides that the development may be carried out only with development consent.	The proposal requires consent, which is sought in this application.	✓
Hierarchy of development controls if overlapping (CI 18)		
If a single parcel of land is identified by this Policy as being within more than one coastal management area and the development controls of those coastal management areas are inconsistent, the development controls of the highest of the following coastal management areas (set out highest to lowest) prevail to the extent of the inconsistency: (a) the coastal wetlands and littoral rainforests area, (b) the coastal vulnerability area, (c) the coastal environment area, (d) the coastal use area.	The controls are consistent and the proposal is compliant with these controls.	✓

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 4.1.5 of the *Rockdale Development Control Plan 2011*, relating to contaminated land.

A *Report on Preliminary Site Investigation for Contamination* prepared by Douglas Partners dated January 2019 (Ref No 86658.00) (the 'PSI') accompanied the application. The objective of this report was to identify potential sources of contamination and potential contamination receptors from a review of site history information and a site walkover and provide recommendations for further work, if required.

This Report provided the following conclusion:

"Based on the site history review and site inspection, potential sources of site contamination have been identified to include imported contaminated filling; hazardous building materials from demolition of previous structures and the current (dilapidated) buildings; leaks and spills of petroleum from USTs and associated infrastructure; spills or leaks of fuels and oils used for boat maintenance, repair, cleaning and refuelling; and broad scale use of pesticides at off-site market gardens.

It is considered that there is at least a moderate potential for site contamination from one or more of the identified potential contamination sources. Mitigation measures have been recommended for the proposed demolition works (see Section 7.2). Further investigations should be undertaken for (post-demolition) development of the site once development plans are known (See Section 7.3)".

The proposed recommended mitigation measures have been incorporated into the recommended conditions in Schedule 1 of this Report. Council's Environmental Scientist has also reviewed this report and the proposal and provided comments and recommended conditions (discussed further in this report).

For future site development (i.e. after the completion of demolition works), a Detailed Site investigation (DSI) including intrusive soil and groundwater sampling is recommended to assess the contamination status of the site as well as the requirement for remediation with respect to the proposed development (once known).

A hazardous building materials survey has also been prepared by Douglas Partners, *Report on Hazardous Building Materials Survey, Proposed Demolition and Redevelopment, 100b Bestic Street, Kyeemagh*, dated January 2019 ('HBM Report'). This HBM Report conducted a HBM survey of selected areas of the building to assess the location, extent and condition of asbestos-containing materials (ACM) and other HBM including lead, synthetic mineral fibres ('SMF') and polychlorinated biphenyl ('PCBs').

The survey consisted of a visual inspection supplemented by a limited program of sample collection and laboratory analysis. The HBM report found evidence of non-friable Asbestos, SMF, Lead Paint and PCBs in various parts of the building, mainly in the flooring, walls, gutters and downpipes as well as the plant and servicing equipment such as the cool rooms, air conditioning units, lighting, insulation and safes.

The HBM Report provided a number of recommendations including that this HBM must be removed prior to any disturbance and prior to general demolition work proceeding. Removal must also be undertaken by the relevant licensed specialists, including asbestos removalist and that all HMB must be disposed of in accordance with the requirements of the local waste

disposal authority. Conditions have been recommended to be imposed in Schedule 1 to ensure that these HBM are carefully managed throughout the demolition process.

Subject to these recommended conditions, the proposal is considered to be satisfactory having regard to the provisions of SEPP 55.

Rockdale Local Environmental Plan 2011

Rockdale Local Environmental Plan 2011 ('RLEP 2011') is the principal environmental planning instrument relevant to the site. The controls of the RLEP 2011 have been considered in the assessment of the Development Application and the following information is provided in **Table 3**:

Table 3: Consideration of RLEP 2011

Principal Provisions of RLEP 2011	Compliance (Yes/No)	Comment
Land Use Zone (Part 2 of LEP)	Yes	The site is zoned RE1 – Public Recreation under the RLEP 2011. The use as a recreation facility is permissible in the zone.
Is the proposed use/works permitted with development Consent? (Part 2 of LEP)	Yes	The proposed development, being for demolition, is permissible with Council's consent under the RLEP 2011 pursuant to Clause 2.7 <i>Demolition requires development consent</i> (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"> • <i>To enable land to be used for public open space or recreational purposes.</i> • <i>To provide a range of recreational settings and activities and compatible land uses.</i> • <i>To protect and enhance the natural environment for recreational purposes.</i> <p>The proposal allows for the continued use of the site following the proposed demolition for public open space and allows for a use which is generally compatible with the outdoor open space use of the site. There will be no adverse impacts on the environment arising from the proposal given the safeguards proposed.</p>
Demolition requires development consent (Cl 2.7, Part 2 of LEP).	Yes	The demolition of a building or work may be carried out only with development consent, which is sought in this development application.
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?	Not	Not Applicable.

Principal Provisions of RLEP 2011	Compliance (Yes/No)	Comment
Does the FSR of the building comply with the maximum FSR? (Part 4 of LEP)	Applicable	
Is the land to be acquired? (Part 5 of LEP)	N/A	The land is not marked for acquisition.
Development below mean high water mark (CI 5.7, Part 5 of LEP)	Yes	The existing building to be demolished is located above the mean high water mark.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The site does not contain a heritage item, however, is located adjoining a state listed heritage item, being Item I201 – Kyeemagh market Gardens. The proposal will not adversely affect the heritage value of this item as outlined below.
Is the land affected by acid sulphate soils? (Part 6 of LEP)	Yes	The land is affected by Class 3 ASS, however, there is no excavation proposed and accordingly no further consideration of this issue is required. Consent is not required under this Clause.
Is the site affected by the flood planning? (Part 6 of LEP)	Yes	<p>Prior to granting consent, the consent authority is satisfied that the development:</p> <ul style="list-style-type: none"> (a) <i>is compatible with the flood hazard of the land</i> – the proposed demolition will be compatible with the flood hazard on the land, and (b) <i>is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties</i> – given only demolition is proposed, there will be no adverse impacts on flooding for surrounding properties arising from the proposal, and (c) <i>incorporates appropriate measures to manage risk to life from flood</i> – the proposal will not impact on the current risk posed by flooding on the site; (d) <i>is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses</i> – the proposes safeguards are likely to result in minimal adverse impacts arising from the proposal on the surrounding land or waterway, and (e) <i>is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding</i> – no additional costs likely to arise from the proposal.

The objectives and provisions of RLEP 2011 have been considered in relation to the subject development application. The proposal is considered satisfactory in terms of the RLEP 2011.

Strategic Context

There are a number of strategic plans and policies which should be considered in this assessment including the following:

- *Greater Sydney Region Plan 2018 - A Metropolis of Three Cities 2018* ('GSRP');
- *Eastern City District Plan 2018* - ('ECDP'); and
- *Rockdale City Urban Strategy 2010*

These strategic documents are briefly considered below.

Greater Sydney Regional Plan – A Metropolis of Three Cities ('GSRP')

The GSRP is built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. The Plan involves ten (10) directions, each with their own indicators and objectives across a framework of infrastructure and collaboration, liveability, productivity and sustainability.

It is considered that the proposed demolition is consistent with Direction 5 (A city of great places) and Direction 8 (A city in its landscape) which spans the liveability and sustainability frameworks respectively as outlined below:

- *Direction 4: Housing the City* – This Direction aims to provide ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population. In this case, the site is located within the Bayside West Precincts, which will support increased population growth in the area. The proposal is not contrary to the objectives of this growth area as it will allow for an improved use of public open space through the removal of a dilapidated building. In this way, the proposal is consistent with Objective 10: Greater housing supply.
- *Direction 5: A City of Great Places* – This direction aims to provide places for people to come together. Great places focus on the public realm and open spaces that attract residents, workers, visitors, enterprise and investment. They recognise and celebrate the local character of the place and its people, and include the green infrastructure that supports the sustainability of the region and people's wellbeing. In this case, the proposal is considered to be consistent with Objective 12: Great places that bring people together in that the proposed demolition will allow a better use of the site for public open space with the removal of the building and a redevelopment of the site for public open space.
- *Direction 8: A City in its Landscape* – This Direction is focussed on enhancing the outstanding natural and scenic landscapes of Sydney as it grows including the tree canopy and open spaces. In particular, the proposal is considered to satisfy **Objective 31** - Public open space is accessible, protected and enhanced by improving the public open space use of the site by the removal of the dilapidated building. Future redevelopment of the site will enhance the public use of the site for outdoor open space. In this way, the proposal is also consistent with **Strategy 31.1** which is to maximise the use of existing open space and protect, enhance and expand public open space.

Eastern City District Plan (ECDP)

The site is located within the Eastern City District and the proposal is considered to be consistent with this Plan outlined below:

- *Direction 2: A collaborative city* - This Direction aims to allow for working together to grow a Greater Sydney. Bayside West is a Growth Area being led by the NSW Department of Planning and Environment and includes the Arncliffe Communities Plus project (discussed below), which will deliver a mix of social, affordable and private dwellings. In this case, the proposal is not contrary to the objectives of this growth area as it provides for the demolition of a dilapidated structure which will allow for improved public open space. The proposal is therefore consistent with Planning Priority E2 Working through collaboration.
- *Direction 3: A city for people* – This direction aims to improve liveability which is about creating and renewing great places, neighbourhoods and centres. This requires place-based planning and design excellence that builds on local strengths and focuses on public places and open spaces. In this case, the proposal is considered to be consistent with **Planning Priority E3: Providing services and social infrastructure to meet people's changing needs**, in that the proposed demolition will allow a better use of the site for public open space with the removal of the building and a redevelopment of the site for improved public uses open space.
- *Direction 8: A city in its landscape* – This Direction is focussed on sustainability, all aspects of which rely on maintaining and managing green infrastructure, which is the network of green spaces, natural systems and semi-natural systems that support sustainable communities, with open spaces being a critical element of this green infrastructure. The proposal is considered to be consistent with **Planning Priority E18: Delivering high quality open space** since the proposed demolition will improve the existing public open space use of the site and surrounding area by removing the dilapidated building and allowing a redevelopment by Council for improved public open space.

Bayside West Precincts 2036 Plan

The *Bayside West Precincts 2036 Plan* was released on 9 September 2018 by the NSW Department of Planning and Environment. This Plan aims to revitalise the Bayside West Precincts comprising Arncliffe, Banksia and Cooks Cove which presents an opportunity for urban renewal to provide more open space, infrastructure, homes and jobs in accessible locations.

The site is located within this area as illustrated in **Figure 13**, being located along the south-eastern boundary of this area. This Plan must be considered in Planning Proposals subject to Ministerial Directions 7.9 and 7.10, although is considered here given the site is included in this area. The proposal is generally consistent with this Plan given the proposed removal of this dilapidated building will allow an improved use of the site for public open space.

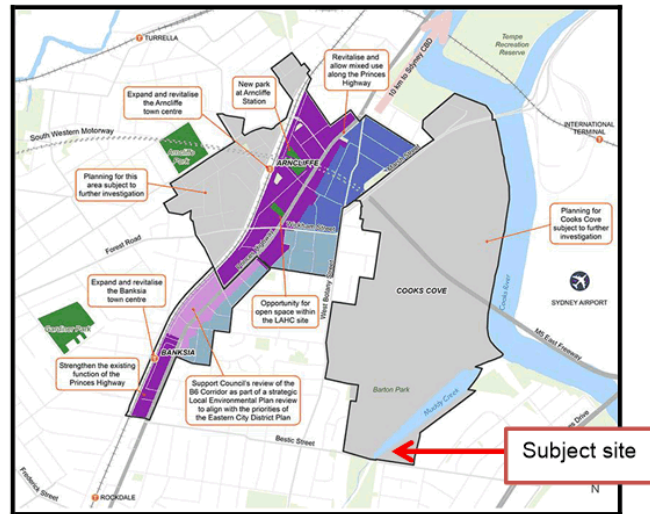


Figure 13: Bayside West Precinct (Source: <https://www.planning.nsw.gov.au/Plans-for-your-area/Priority-Growth-Areas-and-Precincts/Bayside-West-Precincts/Map>)

Rockdale City Urban Strategy 2010

This Strategy informed the RLEP 2011 and RDCP 2011 with which the proposal is generally consistent. No further consideration of this Strategy is required in this report.

Accordingly, the proposal is generally consistent with the strategic planning documents for the site.

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

There are several draft EPIs applicable to this development, including the following:

- Draft State Environmental Planning Policy – Remediation of Land;
- Amendments to State Environmental Planning Policy (Three Ports) 2013;
- Draft amendment to State Environmental Planning Policy (Affordable Rental Housing) 2009; and
- Amendments to State Environmental Planning Policy No. 70 (Affordable Housing)

The proposed provisions of these draft instruments are not directly relevant to the current proposal.

S4.151)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application;

Rockdale Development Control Plan 2011

The *Rockdale Development Control Plan 2011* (RDCP 2011) was adopted by Council on 4 May 2011 and came into effect on 5 December 2011, the date of gazettal of Rockdale Local Environmental Plan 2011. The relevant controls of this Plan are considered in **Table 4**.

Table 4: Consideration of Rockdale DCP 2011

Requirement	Development Response	Comply
Part 3: Site Analysis		
1. The Site Analysis Plan is to be drawn to a scale of either 1:100 or 1:200 and must include the following information. <u>With regard to the site:</u> a. the legal description of the site, including the lot and DP number b. site dimensions and site area; c. spot levels, contours and north point; d. location of easements for drainage and services; e. location of existing vegetation, including the height and spread of established trees; f. location of buildings and other structures; g. heritage features, including archaeology; h. orientation, micro climates and significant noise sources; i. views to and from the site; j. pedestrian and vehicle access k. identification of previous use and any contaminated soils or filled areas; l. location of fences, boundaries and any other notable features (natural or historical); m. prevailing winds; n. natural drainage; o. indicative footprint of the proposed buildings; and p. overshadowing of the site by neighbouring structures.	A Site Plan has been prepared by Hill & Blume Consulting Surveyors providing these requirements.	Yes
Part 4: General Principles for Development		
4.1 Site Planning		
4.1.2 Heritage Conservation		
Development in the Vicinity of Heritage Items 17. Adjacent to/nearby heritage item - no adverse impact on heritage item. 18. Development adjacent to a heritage item - similar scale and proportion so item is not dominated or overwhelmed.	The adjoining site is a state and local listed heritage item comprising the Kyeemagh market garden. The proposal will not adversely affect this item given it is located wholly within the subject site and comprises only the demolition of the building on this site. These heritage items are also located at a distance from the site whereby individual	Yes

Requirement	Development Response	Comply
	impacts are unlikely to result.	
4.1.3 Water Management		
<ul style="list-style-type: none"> • Stormwater Management – comply with Council's Technical Specification and WSUD. • Flood Management –Development must comply with Council's – Flood Management Policy which provides guidelines of controlling developments in different flood risk areas. It should be read in conjunction with the NSW Government's 'Floodplain Development Manual 2005'. • Water Conservation – comply with BASIX • Water Quality - refer to Council's Technical Specification - Stormwater Management. • Groundwater Protection - prevent contamination of groundwater. 	<p>These issues have been adequately addressed in the Soil and Water Management Plan prepared by Cardno dated 1 July 2019.</p> <p>No fill is proposed with demolition of an existing building to slab level only.</p> <p>The site is identified as flood affected. The demolition of the building is not considered to adversely increase the potential flood affectation for this or adjoining sites as there are no additional hard surfaces proposed, there are no excavation works or earthworks with works to slab level only and existing surrounding vegetation and trees are to be retained.</p>	Yes
4.1.4 Soil Management		
<ol style="list-style-type: none"> 1. Minimise soil loss from site to reduce impacts of sedimentation on waterways. 2. An erosion and sediment control plan required. 3. Minimise site disturbance (incl impacts on vegetation and significant trees and cut and fill). 	These issues have been adequately addressed in the Soil and Water Management Plan prepared by Cardno dated 1 July 2019.	Yes
4.1.5 Contaminated Land		
Refer to SEPP 55.	See assessment above.	Yes
4.1.6 Tree Preservation		
<ul style="list-style-type: none"> • Council consent required to undertake tree work • Existing significant trees, vegetation incorporated into landscape treatment. • Building setbacks preserve existing significant trees and vegetation, new planting. 	There are no trees or vegetation proposed to be removed under the proposal.	Yes
4.1.8 Biodiversity		
<ul style="list-style-type: none"> • Minimise/avoid impact on indigenous flora and fauna on site or on land adjacent to it. 	There are no trees or other significant vegetation proposed to be removed from the site under the current proposal.	Yes

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

Clause 92 of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. Pursuant to Clause 92(1)(b), in the case of a development application for the demolition of a building, the provisions of AS

2601 must be considered. In this case, the proposed demolition of the Fisherman's club and extension will be required to be undertaken in accordance with the requirements of AS 2601 - *The demolition of structures*. Relevant conditions have been recommended to be imposed in Schedule 1.

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 demolition is appropriate given the dilapidated condition of this existing building on the site and the future redevelopment potential of the site for improved public use.
- Access and traffic – The proposal will utilise the existing vehicle access to the site which is obtained off a roundabout at Bestic Street, to the south. This will ensure there is no obstruction of access to adjoining or surrounding lots. Traffic generation is likely to be relatively low and will be short-term while the proposed demolition is being undertaken. The proposal is considered to be satisfactory in this regard.
- Public Domain – The proposed demolition is considered necessary on the site to accommodate future public use of the site. The proposal will not utilise any of the existing footpaths or public roads. 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 proposal and as a consequence there are no impacts on utilities.
- Heritage – The site does not contain any heritage items and is not located within a Heritage Conservation Area. The Kyeemagh Market gardens adjoin the site to the east which is a state listed heritage item. The proposed demolition of the existing building on the site will not adversely impact on this heritage item as all access to and from the site during demolition will be from Bestic Street and there will be no other impacts arising from the proposal having regard to this heritage item. Accordingly, it is considered that the proposed demolition will not adversely affect any items of environmental heritage.
- Natural environment – The potential for impacts on the natural environment are of particular importance in this application given the site's proximity to the mean high water mark of Muddy Creek and its location within a wetland as outlined in the Coastal Management SEPP. There are two reports which have particular importance in regard to potential environmental impacts which include the Soil and Water Management Plan Report prepared by Cardno dated 1 July 2019 ('Soil and Water Plan') and the accompanying Erosion and Sediment Control Plan ('Erosion Control Plan').

The Soil and Water Plan documents the site conditions and together with the Erosion Control Plan outlines the proposed site management measures to be employed in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction, Landcom, 2004* ('the Blue Book'). These Plans provide for the following mitigation measures and observations:

- A turbidity curtain will be installed in Muddy Creek for the duration of the works to ensure that dust and sediment from the demolition works is collected close to the site. The demolition works are to be undertaken by the Contractor in a way that minimises the generation of air-borne particles, and discharges of sediment or waste from the site is prevented from discharging to Muddy Creek at all times;
- The proposed works involve demolition to slab level, and the extent of soil disturbance is expected to be minimal. Silt fences and the turbidity curtain must be in place to prevent any migration of sediment to Muddy Creek;
- Protection measures to be inspected daily and maintained as needed;
- The Erosion and Sediment Control Plan manages the stormwater runoff generated during construction and ensures sediment is trapped/collected prior to entering Muddy Creek;
- The proposed demolition works are restricted to slab level, therefore disturbance more than 1 metre below the natural ground level is not expected and accordingly acid sulphate soils are unlikely to be of concern;
- There are no trees or other vegetation proposed to be removed under the proposal; and
- All areas of disturbed ground are to be stabilised within ten days of completion. All erosion and sediment controls are to remain in place until stabilisation / revegetation of earthworks is established. All stabilised areas are to be free of vehicle and pedestrian traffic to prevent disturbance of stabilisation measures.

In terms of environmental impact arising from the demolition material, the *Waste Management Plan* prepared by MRA Consulting Pty Ltd dated 17 June 2019 provides methods to manage and sort waste to achieve a target of 80% diversion from landfill.

Accordingly, it is considered that the proposal will have minimal impact on the natural environment, as it proposes demolition only to ground level (and above mean high water mark), there are no significant trees or vegetation to be removed and appropriate construction management controls have been recommended. Such mitigation measures are incorporated into the recommended conditions to be imposed in Schedule 1 to ensure there are minimal environmental impacts arising from the proposed demolition.

- Social and economic impact – The proposal will improve the social environment of the locality through better utilisation of the site for public use. The economic benefits of the proposed demolition include reducing unnecessary maintenance or expenses for managing a vacant building in disrepair and providing short term employment to complete the demolition works.
- 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** – Appropriate conditions have been recommended to be imposed in Schedule 1 which ensures that the proposed demolition will be carried out in accordance with the AS 2601 - *The demolition of structures* and potential impacts on the natural environment will be minimised.
- **Cumulative impacts** – The proposal will not result in any adverse cumulative impacts as the proposal is for demolition and will allow for improved compliance with the zone objectives and the relevant objectives and standards in the planning controls for greater public use in the future.

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

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

The site is not known to be affected by any natural hazards which have not been considered in this assessment. There are no other site constraints that are likely to have a significant adverse impact on the proposed demolition. The site is affected by aircraft noise and flooding, however, the proposal is for demolition which will not result in any significant adverse impacts. The existing building on the site is in a dilapidated condition and is suitable for demolition. The site is considered suitable for the proposed demolition.

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

In accordance with Division 5, Part 6 of the *Environmental Planning and Assessment Regulation 2000*, the development application was notified for thirty (30) days from 1 August 2019 to 2 September 2019 with the EIS and other supporting documentation on display for viewing at three (3) separate locations including the following locations:

- Council's Customer Service Centres, Monday – Friday 8.30am - 4.30pm and Saturday from 9am to 1pm 152 Bunnerong Road, Eastgardens and 444-446 Princes Highway, Rockdale; and
- Offices of the NSW Department of Planning, Industry and Environment Information Centre Monday – Friday from 9am to 4.30pm, Level 22, 320 Pitt Street, Sydney.

The application was notified in the following manner:

- A site notice displayed in three (3) separate locations along the Bestic Street frontage of the site;
- Newspaper advertisements were placed on two separate occasions in two separate local newspapers comprising:
 - The Southern Courier on 30 July and 13 August 2019; and
 - The Leader on 31 July and 14 August 2019; and
- Written notification to 532 surrounding property owners.

There were twelve (12) submissions received, which raised the following issues:

- *No more apartments or traffic generating developments*

Comment: The proposal is for demolition of the existing building on the site only. No apartments or other development is proposed at this stage. Any future redevelopment of the site would be undertaken following a thorough master planning

and community consultation process to be undertaken by Council. A Plan of Management for the site would also need to be prepared which would also be subject to community consultation. The future use of the land is likely to include green space, children's play area, dog park and improved public open space to provide for existing residents and future population growth in the area.

- *Important part of local heritage and community and should be retained (or at least the facade)*

Comment: The existing building on the site is in a dilapidated condition and contains hazardous building materials, including asbestos. The demolition of the building is the most appropriate action and the future use of the site is to be further considered by Council as outlined above.

- *Land should be used for a café, restaurant, children's play area, bike paths and green space*

Comment: As outlined above, any future redevelopment of the site would be undertaken following a thorough master planning and community consultation process to be undertaken by Council. These uses are likely to be incorporated on the site in the future.

- *Leave for public use and access (should not be sold to developers), area needs more community facilities*

Comment: As outlined above, any future redevelopment of the site would be undertaken following a thorough master planning and community consultation process to be undertaken by Council. There is no zoning change proposed and therefore the site is likely to retain its public open space use in the future.

- *Protect local flora and fauna*

Comment: The proposal involves the demolition of the building on the site above mean high water mark and accordingly it is unlikely that there will be any adverse impacts on any native flora and fauna. Appropriate construction management conditions have been recommended to be imposed in Schedule 1 to ensure there are minimal impacts on the natural environment during demolition.

- *Retain community gardens and Men's shed*

Comment: The Men's Shed building and the community gardens to the east are to be retained by the proposal.

- *Provide fishing facilities*

Comment: Only demolition is proposed at this stage, however, any future redevelopment of the site would be undertaken following a thorough master planning and community consultation process to be undertaken by Council. A Plan of Management for the site would also need to be prepared which would also be subject to community consultation.

Referrals

External referrals

The application was referred to the following external agencies:

- *Sydney Water* – There no objections raised subject to imposition of condition relating to the Tap-In service, which has been included in Schedule 1;
- *Sydney Airport Corporation Limit* ('SACL') – There was no objections raised subject to the imposition of a condition regarding any cranes or other equipment greater than 7.62 metres in height will need a permit, which has been included in Schedule 1; and
- *Department of Planning, Industry and Environment* ('DPIE') - The DPIE were referred the applicant and the public submissions, however, there were no comments received.

Internal referrals

The application was referred to the following Council Officers:

- *Environmental Science* – Council's Environmental Scientist reviewed the application and associated contamination report and raises no objection to the proposal subject to recommended conditions of consent to be imposed. The following conclusions were provided in this referral:

Despite this, as the application is for demolition of the building to slab level, this does not inhibit the demolition subject to implementation of the following mitigation measures to address exposure risks:

1. *Ground slabs and asphalt should be left in place (as much as practical) and ground penetration works are to be avoided.*
2. *Identified hazardous building materials must be removed in accordance with current legislation, as documented in the DP Report on Hazardous Building Materials (HBM) Survey prior to the general demolition. Following demolition works, clearances from an occupational hygienist should be obtained for the removal of hazardous building materials.*
3. *Dust suppression should be adopted during demolition when required.*
4. *If signs of a UST(s) are encountered during demolition, an environmental consultant should be informed to provide further advice. Given the high environmental risk associated with damaged or leaking USTs, it is recommended that the presence or absence of USTs be established as part of the works and, if present, the tanks should be removed or decommissioned to ensure no further environmental harm. A ground penetrating radar (GPR) should be used to attempt to locate the USTs (if not identified during demolition);*
5. *Where soil remains exposed post-demolition, temporary measures to cover the soil (e.g. with imported topsoil and turf) may need to be adopted to prevent human exposure.*

These conditions are included at Schedule 1.

- *Engineering* – There were no engineering objections raised and no recommended conditions to be imposed; and

- Tree Management – There were no objections raised subject to the imposition of conditions relating to the retention of all trees outside of the footprint of the building proposed to be demolished. These conditions are included at Schedule 1.

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 will remove an under-utilised and dilapidated building which will allow the opportunity for future community and recreational space/buildings subject to future masterplans for the site by Council.

S7.12 Fixed Development Consent Levies

Rockdale Section 94A Development Contributions Plan 2008

The *Rockdale Section 94A Development Contributions Plan 2008* ('Section 94A Plan') commenced on 1 July 2008 and generally applies to all development with a cost of more than \$100,000 within the former Rockdale City Council area. The proposed development is exempt from the Section 94A Plan pursuant to Clause 3.9.2 as it involves development for public open space and recreation facilities.

Schedule 1- Conditions of Consent

Premises: 100 Bestic Street, Kyeemagh

DA No: 2019/253

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:

Plan	Author	Dated
Site Plan	Hill & Blume	12 June 2019; Received 16 July 2019
Survey Plan	Hill & Blume	12 June 2019; Received 16 July 2019
Erosion and Sediment Control Plan and Details	Cardno	July 2019; Received 16 July 2019
Reference Document(s)	Author	Dated
Environmental Impact Statement	Willowtree Planning Pty Ltd	July 2019; Received 16 July 2019
Soil and Water Management Plan Report	Cardno	1 July 2019; Received 16 July 2019
Report on Preliminary Site Investigation for Contamination	Douglas Partners	January 2019; Received 16 July 2019.

Hazardous Building Materials (HBM) Survey	Douglas Partners	January 2019; Received 16 July 2019.
Waste Management Plan	MRA Consulting	17 June, 2019; Received 16 July 2019.
Condition Assessment Report	Asset Technologies Pacific	24 May 2018; Received 16 July 2019

2. This consent relates to land at Lot 6 in DP 17133 and, as such, building or demolition works must not encroach on to adjoining lands or the adjoining public place (with the exception of erosion and sediment control equipment where required).
3. This consent authorises the demolition of the two and three storey main building on the site. This consent does not authorise the removal of the concrete block building, known as the 'Men's Shed' or any waterfront structures adjoining the site.

Permits, Notifications and Insurance

4. The following shall be provided to Council at least forty-eight (48) hours prior to the commencement of demolition:
 - a) Written notice, indicating the date when demolition of the building is to commence;
 - b) The Contractor's full name, address and licence number;
 - c) Details of Public Liability Insurance;
 - d) If the contract is entered into for the work to be done by a different licensee or if arrangements for the doing of the work are otherwise changed.
5. The applicant shall lodge a Damage Deposit and Performance Bond of **\$130,000.00** (GST Exempt), calculated on the basis of \$3,250 per metre frontage for the 40 metre site frontage, by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to satisfactory inspection by Council.
6. The applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during demolition. Any adjustments or damage to public utilities/services as a consequence of the development and associated demolition works shall be restored or repaired at the applicant's expense.
7. Any cranes or other equipment greater than 7.62 metres in height will need a permit from Sydney Airport Corporation Limited.
8. The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$10 million. A copy of the Policy must be submitted to the Council prior to commencement of demolition.
9. 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 this development. Any damage caused to other properties during

demolition 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 Council prior to the commencement of the demolition works. The insurance cover shall be a minimum of \$10 million.

10. The approved plans must be submitted to the Sydney Water *Tap in*TM 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.
11. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under *Road Act 1993* and *Local Government Act 1993*:
 - 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 to install temporary ground anchors in public land;
 - d) Permit to discharge ground water to Council's stormwater drainage system;
 - e) Permit for roads and footways occupancy (long term/ short term);
 - f) Permit to construct vehicular crossings, footpaths, kerb and gutters over road reserve;
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
 - h) Permit to place skip/waste bin on footpath and/or nature strip; and
 - i) Permit to use any part of Council's road reserve or other Council lands.

Demolition Work

12. All demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 *Demolition of Structures* and AS 4361.2:2017: *Guide to hazardous paint management, Part 2: Lead paint in residential, public and commercial buildings* and the requirements of the SafeWork NSW.
13. The applicant must give relevant notice to all relevant statutory authorities (such as Sydney Water Corporation, SafeWork NSW, etc) of the demolition. All existing utility services to the building to be demolished are to be terminated and sealed off in a manner that ensures there will be no leaks or odours escaping from their respective points of access to or within the building. Certification as to the proper termination / capping off of these disused utility services must be provided to Council at the completion of the demolition works.
14. No demolition material shall be burnt on site.
15. Prior to the commencement of demolition work a licensed demolisher who is registered with SafeWork NSW must prepare a Safe Work Method Statement ('SWMS') to the satisfaction of Council. A copy of the Statement shall also be submitted to SafeWork NSW and should outline the controls necessary to ensure that the risk of exposure to

the hazardous materials is adequately controlled.

The SWMS must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of SafeWork NSW and conditions of this Development Consent 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 – Firefighting 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) Water proofing 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 Avoidance and Resource Recovery Act 2001*.
 - n) Sewer – common sewerage system.
16. Any material containing asbestos or other hazardous building materials found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*;
 - c) *Protection of the Environment Operations Act 1997*;
 - d) *Protection of the Environment Operations (Waste) Regulation 2014*;
 - e) NSW Environment Protection Authority Waste Classification Guidelines 2014.

17. Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW EPA to accept asbestos waste. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate. More information can be found at <https://wastelocate.epa.nsw.gov.au>.
18. Ground slabs and asphalt shall be left in place (as much as practical) and ground penetration works are to be avoided to minimise transport pathways.
19. Identified hazardous building materials within the building to be demolished must be removed in accordance with current legislation and the approved Hazardous Building Materials Survey prior to the general demolition of the building. This hazardous building material removal must be undertaken by the relevant licensed specialists, as documented in the Hazardous Building Materials Survey.
20. Following demolition of the building, a clearance from an occupational hygienist must be obtained for the removal of all hazardous building materials either identified in the Douglas Partners Report on Hazardous Building Materials (HBM) Survey or during demolition works. This must be undertaken by an appropriately qualified consultant and documentation must be submitted to Principal Certifying Authority and Council within two (2) months of completion of demolition works.
21. Waste should be assessed and classified for disposal in accordance with the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste*, November 2014. All hazardous building materials must be disposed of in accordance with the relevant statutory requirements.
22. Dust suppression measures should be adopted during demolition when required.
23. If signs of an underground storage tank(s) ('UST') are encountered during demolition, works shall cease and an environmental consultant shall be informed to provide further advice. The removal of UST will require further development consent and a detailed site investigation. A ground penetrating radar (GPR) should be used to attempt to locate the USTs (if not identified during demolition).

Site Management (Prior to Commencement)

24. The land to which this Consent relates must be fenced and enclosed to protect the entry or access to the land and site by lawful persons. The fencing must be in place before demolition works commence.
25. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after-hours contact telephone number; and

e) Any such sign is to be removed when the work has been completed.

26. The turbidity barrier to Muddy Creek and all of the erosion and sediment control measures to protect existing drainage infrastructure and Muddy Creek as outlined in the approved Soil and Water Management Plan Report must be installed and functioning prior to any works being undertaken on the site.

These measures must prevent sediment and silt from site works being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition and for a minimum one (1) month period after the completion of the demolition where necessary.

27. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS49702009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines from the trunks around each tree or group of trees which are required to be retained. These include the Sydney Blue Gum located approximately 6 metres south of the club, the two brush box trees located at the entrance to the driveway from Bestic Street and the two palm trees located along the driveway.

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.

28. 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.

During Works

29. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage

management facility approved by the Council.

The provisions of toilet facilities in accordance with this condition must be in place before work commences.

30. The approved Waste Management Plan ('WMP') shall be complied with at all times during demolition, except where amended by this consent. This WMP will be retained on-site during the demolition, along with other waste management documentation (e.g. contracts with waste service providers). Responsibility for the WMP, waste documentation and processes during demolition and remediation works will be with the site or demolition manager. A logbook that records waste management and collection shall be maintained on site, with entries including:
- a) Time and date;
 - b) Description of waste and quantity;
 - c) Waste/processing facility that will receive the waste; and
 - d) Vehicle registration and company name.

Waste management documentation, the logbook and associated dockets and receipts must be made available for inspection by an authorised Council Officer at any time during site works.

31. Soil and water management on the site must be undertaken in accordance with the approved Soil and Water Management Plan. A copy of this Plan must be kept on site at all times and made available on request by Council.
32. The principal contractor must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Erosion and Sediment Control Plan;
 - b) *"Managing Urban Stormwater - Soils and Construction"* (2004) Landcom ('The Blue Book'); and
 - c) *Protection of the Environment Operations Act 1997*.
33. During demolition, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition. 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.
34. During demolition, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
35. Throughout the demolition, Council's warning sign for soil and water management

shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

36. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
37. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
38. Stockpiles are not permitted to be stored outside of the site unless prior approval has been granted and are to be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
39. All disturbed areas left uncovered as a result of the demolition works shall be covered by turf of an appropriate grass species or other appropriate methods to prevent any dust/sediment from the site being transported beyond its boundaries. These works are to be established within ten (10) days of completion of all the demolition works and prior to the removal of the sediment controls.
40. The shrubs, palms and small trees located within the footprint of the building to be demolished may be removed.
41. No other trees located within the site, adjoining properties or Council's nature strip shall be removed or pruned without the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
42. Existing soil levels within the drip line of trees to be retained shall not be altered without reference to Council's Tree Management Officer. Building materials, site residue, and machinery and building equipment shall not be placed or stored under the dripline of trees required to be retained.
43. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill must be appropriately certified material and must 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 must be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
44. Any new information that comes to light during demolition which has the potential to alter previous conclusions about site contamination and other hazardous materials must be notified to Council immediately. All work on the site must cease until the Council is notified of the appropriate measures to be implemented, by an appropriately qualified and experienced environmental consultant, to assess and manage the contamination in accordance with any relevant NSW EPA adopted guidelines.
45. Results of the monitoring of any field parameters such as soil, groundwater, surface water, and dust or noise measurements shall be made available to Council Officers on request throughout the demolition works.

46. Noise from demolition 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*.

a) Level Restrictions

Construction period of 4 weeks and under:

the L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

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

b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 6:30 pm

Saturday: 08:00 am to 03:30 pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

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

15 July 2019

WTJ19-100



Environmental Impact Statement

Proposed Demolition of Building Brighton Le Sands Fisherman's Club

100 Bestic Street, Kyeemagh
Lot 6 DP 17133

Prepared by Willowtree Planning Pty Ltd on behalf of
Bayside Council

July 2019

A national town planning consultancy
www.willowtreeplanning.com.au

Environmental Impact Statement

Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
100 Bestic Street, Kyeemagh (Lot 6 in DP 17133)

Document Control Table

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Date	Version	Author	Checked By
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15 July 2019	EIS for Lodgement	T. Holman	T. Cook

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Environmental Impact Statement

Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
100 Bestic Street, Kyeemagh (Lot 6 DP 17133)

EP&A REGULATION, SCHEDULE 2 PART 3 INFORMATION**Declaration Form****Submission of Environmental Impact Statement**

prepared under the *Environmental Planning and Assessment Act 1979*
and the *Environmental Planning and Assessment Regulation 2000*

EIS Prepared By

Name

Tom Cook

Qualifications

Bachelor of Planning (B.PLAN) (WSU)

Address

Suite 4, Level 7
100 Walker Street
North Sydney NSW 2060

In Respect Of

Proposed demolition of building – Brighton Le Sands Fisherman's Club

Development Application

Applicant Name

Bayside Council

Address

444-446 Princes Highway, Rockdale NSW 2216

Land subject to Demolition

Part of 100 Bestic Street, Kyeemagh (Lot 6 in DP 17133)

EIS

An Environmental Impact Statement is attached.

Certificate

I certify that I have prepared the contents of this EIS and to the best of my knowledge:

- It is in accordance with Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*;
- Contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which the statement relates; and
- That the information contained in the statement is neither false nor misleading.

Signature


Name

Tom Cook

Qualification

Bachelor of Planning (B.PLAN) (WSU)

Date

15 July 2019

Environmental Impact Statement
 Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
 100 Bestic Street, Kyeemagh (Lot 6 DP 17133)

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Environmental Impact Statement

Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
100 Bestic Street, Kyeemagh (Lot 6 DP 17133)

GLOSSARY OF TERMS

Term	Meaning
AHIP	Aboriginal Heritage Impact Permit
APZ	Asset Protection Zone
BC	Bayside Council
BC Act	Biodiversity Conservation Act 2016
Coastal Management SEPP	State Environmental Planning Policy (Coastal Management) 2018
Council	Bayside Council
DP&E	Department of Planning and Environment
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
LGA	Local Government Area
NP&W Act	National Parks and Wildlife Act 1974
OEH	NSW Office of Environment and Heritage
PBP	Planning for Bushfire Protection 2006
POEO Act	Protection of the Environment Operations Act 1997
RFS	Rural Fire Services
RMS	Roads and Maritime Services
SEARs	Secretary's Environmental Assessment Requirements issued on 06 May 2019
SEPP	State Environmental Planning Policy
The Site	The portion of 100 Bestic Street, Kyeemagh (Lot 6 DP 17133) subject to the proposed development
Willowtree Planning	Willowtree Planning Pty Ltd
RLEP2011	Rockdale Local Environmental Plan 2011
RDCP2011	Rockdale Development Control Plan 2011

Environmental Impact Statement

Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
100 Bestic Street, Kyeemagh (Lot 6 DP 17133)

EXECUTIVE SUMMARY

Willowtree Planning Pty Ltd on behalf of Bayside Council has prepared this Environmental Impact Statement (EIS). This EIS supports a development application (DA) which seeks development consent for the demolition of a building, being the Brighton Le Sands Fisherman's Club. The proposed development would take place at 100 Bestic Street, Kyeemagh (Lot 6 DP 17133) within the Bayside Local Government Area.

Pursuant to Part 2 Division 1 of the *State Environmental Planning Policy (Coastal Management) 2018*, the proposed development meets the thresholds for Designated Development being:

- **Clause 10(2)** *Development consent for which consent is required by subclause (1), other than environmental protection works, is declared to be designated development.*

The Site is zoned RE1 Public Recreation.

The proposed development is consistent with the objectives, provisions and strategies outlined within the *Greater Sydney Region Plan – A Metropolis of Three Cities*, *Eastern City District Plan*, *Rockdale Local Environmental Plan 2011* and the *Rockdale Development Control Plan 2011*.

This EIS was prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs) and the Key Issues identified by the relevant agencies. Key matters which were assessed in the EIS include:

- Addressing the provisions *State Environmental Planning Policy (Coastal Management) 2018*.

This EIS and its supporting technical reports have considered the above and conclude that the proposed development would not result in any significant environmental impacts. It is therefore recommended that Council's favourable consideration be given to the proposed development.

Environmental Impact Statement

Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
100 Bestic Street, Kyeemagh (Lot 6 in DP 17133)

PART A PRELIMINARY**1.1 INTRODUCTION**

Willowtree Planning Pty Ltd (Willowtree) has prepared this Environmental Impact Statement (EIS) on behalf of Bayside Council in support a Development Application (DA) for the proposed demolition of the Brighton Le Sands Fisherman's Club, to be submitted to the Local Planning Panel for determination under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This EIS seeks consent for the proposed demolition of a three (3) storey building and two (2) storey extension. The proposed development would take place in part of 100 Bestic Street, Kyeemagh (Lot 6 in DP 17133) within the Bayside LGA.

Pursuant to Part 2 Division 1 of the *State Environmental Planning Policy (Coastal Management) 2018* (Coastal SEPP), the proposed development meets the thresholds for Designated Development being:

- **Clause 10(2)** *Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development.*

The proposed development therefore requires an EIS to be prepared. Pursuant to Part 2 of Schedule 2 to the EP&A Regulation, the Secretary's Environmental Assessment Requirements (SEARs) were obtained from the Department of Planning and Environment (DP&E) on 06 May 2019. These are included in **Appendix 1**.

The structure of this EIS is as follows:

- Part A Preliminary;
- Part B Site Analysis;
- Part C Proposed Development;
- Part D Legislative and Policy Framework;
- Part E Consultation;
- Part F Environmental Risk Assessment;
- Part G Proposed Development Justification; and
- Part H Conclusion.

1.2 THE PROPONENT

The proponent is Bayside Council. See **Table 1** for contact details.

Table 1 Proponent Details	
Contact Name	Ali Rizwan
Company Details	Bayside Council 444-446 Princes Highway Rockdale NSW 2216
Contact Number	02 9562 1594

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PART B SITE ANALYSIS**2.1 SITE LOCATION AND EXISTING SITE CHARACTERISTICS**

The Site is identified as 100 Bestic Street, Kyeemagh, being legally described as Lot 6 in DP 17133.

The Site comprises the Brighton Le Sands Fisherman's Club located adjacent to Muddy Creek and accessible from Bestic Street.

The Fisherman's Club is located in the RE1 Public Recreation zone which is a stretch of land adjoining Muddy Creek.

The Site has vehicular access from Bestic Street and pedestrian access is from both Bestic Street and via the Cook Park Trail. The Fisherman's Club is the predominant building within the Site. The Fisherman's Club includes a two storey extension with concrete façade utilised by the Muddy Creek Amateur Boating & Fishing Association Incorporated (MCBAFA) that is also part of the proposed demolition.

The Fisherman's Club adjoins Muddy Creek to the north and faces a parking area to the south. Beyond the parking area exists a Kid's Playground and Community Garden.

The closest residential properties are located approximately 70m south-west of the Site and comprise of detached dwelling houses in a low-density setting.

The location of the Site and existing Site development are depicted in **Figure 1** and **2**.

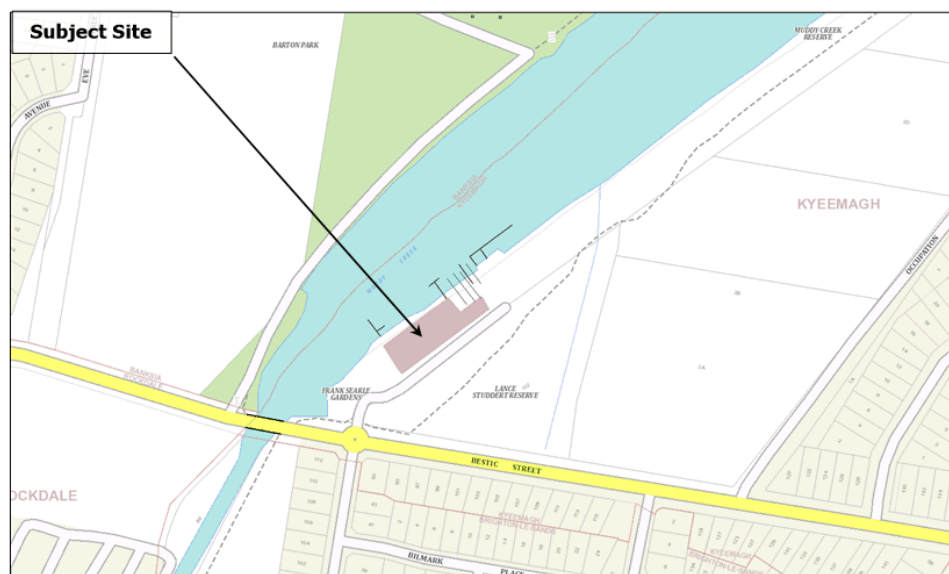


Figure 1 Cadastral Map (SIX Maps 2019)

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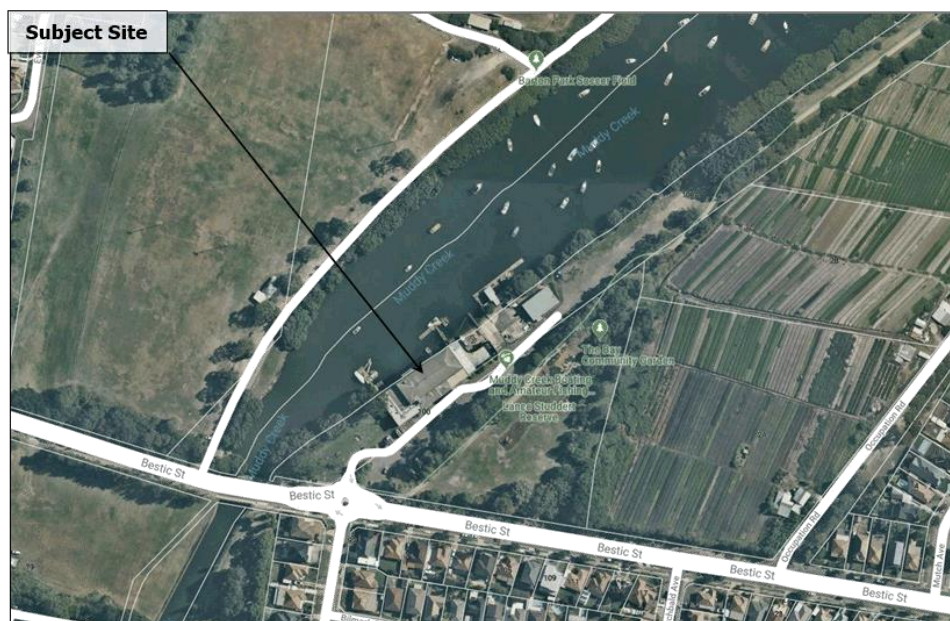


Figure 2 Aerial Map (Nearmap 2019)

2.2 LAND OWNERSHIP

The land is currently owned by Bayside Council (ABN: 80 690 785 443).

2.3 SITE CONTEXT

The Site predominately comprises the Fisherman's Club located adjacent to Muddy Creek and accessible from Bestic Street and the Cook Park Trail. A Site Context map is provided in **Figure 3**.

The Site is located in the RE1 Public Recreation zone. Immediately to the south-east land is zoned RU4 Rural Small Holdings. South of the Site land is zoned either R2 Low Density Residential or R3 Medium Density Residential.

The Site is situated within the suburb of Kyeemagh in the Bayside LGA which is characterised as primarily low to medium density residential development with surrounding public recreational land.

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Figure 3: Site Context Map (Source: Annotated Google Maps Image, May 2019)

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2.4 SURROUNDING DEVELOPMENTS

As shown in **Figure 2** and **3**, the Site is surrounded by similar undeveloped sites with a linear link of public recreation land and RU4 Rural Small Holdings to the South East. The Site abuts the watercourse Muddy Creek to the north. The Site links to public recreation land to the west and east and serves as part of the Cook Park Trail.

2.5 SITE SUITABILITY

The proposed development comprises the demolition of Brighton Le Sands Fisherman's Club. In summary, the suitability of the proposed development at this Site can be attributed to the following:

- The proposed development would enable removal of an existing dilapidated building which is currently vacant serving no community benefit and would allow future possible redevelopment for a use that could contribute to the RE1 Public Recreation zone;
- A Condition Assessment Report was completed dated 24 May 2018 for Bayside Council confirming the building is in a dilapidated state and is unfit for occupancy therefore, demolition is a viable and recommended option; and
- As outlined in **Table 4** in **Section 4.3** of this EIS, the Site is suitable for the proposed development as per the requirements of *State Environmental Planning Policy No 55 – Remediation of Land* (SEPP 55).

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PART C PROPOSED DEVELOPMENT**3.1 OBJECTIVES OF THE PROPOSED DEVELOPMENT**

The objectives of the proposed development are:

- Remove an underutilised and dilapidated building providing opportunity for future community and recreational space and or buildings subject to Council future masterplans for the Site;
- Generate employment opportunities within the Bayside LGA;
- Meet the objectives for the RE1 Public Recreation zone under RLEP2011;
- Remove a building that is in poor condition that has significant deterioration to the perimeter walls and roof. The internal condition of the building is in a poor condition with extensive water damage and fungal growth in isolated areas; and
- Undertake the demolition of the building with minimal environmental and amenity impact.

3.2 DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development is for demolition of the three storey building and the two storey extension (The Fisherman's Club) to slab level. The building has a gross floor area of approximately 3,470m². A description of the facilities within each floor is outlined as follows:

- Ground Floor – Foyer, service area, office, bathrooms and store rooms;
- Level 1 – Office areas, auditorium, function room, bathrooms, kitchen, bar, lounge, and bistro areas; and
- Level 2 – Office, bathroom and plant room areas;

The two storey 'L' shaped extension is a later concrete addition to the Fisherman's Club and is currently tenanted by the Muddy Creek Amateur Boating & Fishing Association Incorporated (MCBAFA).

3.3 NEED FOR THE PROPOSED DEVELOPMENT

The original three storey building was formerly leased to the Brighton Le Sands Amateur Fisherman's Association. However, the building is now vacant. The building shell is in a poor condition with significant deterioration of the perimeter walls and roof. The internal construction elements including fittings and finishes are considered to be varying from poor to fair in condition. There is extensive water damage and fungal growth in isolated areas of the building (**Appendix 2 - Condition Assessment Report**).

The proposed development is essential in ensuring that the Site can be redeveloped with a suitable replacement building for community and/or recreational opportunities to serve the greater Bayside community.

A more detailed justification of the need for the proposed development is provided in **Part G** of this EIS. The environmental risk assessment undertaken in **Part F** concludes that the proposed development is consistent and commensurate with State, regional and local planning objectives, the environmental characteristics of the Site and the surrounding context.

3.4 CONSIDERATION OF ALTERNATIVES

Three options were considered for the building:

- **Option One** – refurbish the clubhouse, costing an estimated \$5.5 million to bring the building up to a habitable state.
- **Option Two** – replace the existing building after doing a new masterplan for the area.
- **Option Three** – costing \$1.2 million, demolish the building and upgrade the open space including a reconfigured 80 space car park, upgraded playground, community garden and dog park.

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Bayside Council voted on **Option Two**, to demolish the current building to make way for a new development on the Site. The redevelopment of the Site will be guided by a Masterplan which will look at a new site layout and subsequent Plan of Management for the Site. The redevelopment will be part of an upgraded 3000sqm playground, 500sqm community garden and 2000sqm dog park.

The redevelopment of this Site, in conjunction with improved open space and amenity provision, is proposed to account for the expected population growth in the area.

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PART D LEGISLATIVE AND POLICY FRAMEWORK**4.1 ENVIRONMENT AND PLANNING LAW FRAMEWORK**

Table 2 outlines the current environmental and planning law requirements applying to the proposed development.

Table 2 Relevant Legislative Instruments	
Instrument	Application to Proposed Development
<i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act)	<p>The demolition of the building presents no identifiable impacts relating to matters of national environmental heritage. The Site is recorded as:</p> <ul style="list-style-type: none"> ▪ Not a World Heritage Property or National Heritage Place. Nearest Place of National Heritage is Centennial Park approximately 8.5km away. ▪ Not Wetlands of international importance – Ramsar Wetland. Site is within 10km of Towra Point Nature Reserve (approximately 5.65km) designated a Wetland of International Importance (Ramsar). ▪ There are 62 recorded Listed Threatened Species within 1km of the Site. ▪ There are two recorded Endangered Communities within 1km of the Site. ▪ 57 migratory species are within 1km of the Site. ▪ No nuclear action is proposed. ▪ Site is not a Marine Environment ▪ Site is not in the Great Barrier Reef. ▪ Site is not subject to coal seam gas development or large coal mining development. <p>A report from the Australian Government Department of Environment and Energy Protected Matters Search Tool confirms the above findings (Appendix 3).</p> <p>Despite there being 62 recorded Listed Threatened Species; two recorded Endangered Communities; and 57 migratory species being located within 1km of the Site, the proposed demolition would not have a significant impact on the recorded threatened species, endangered communities and migratory species.</p> <p>The proposed development has been considered against Part 3 – 'Requirements for environmental approvals' and it deduced that a Significance Assessment under the EPBC Act and referral to the Australian Government Minister for the Environment is not required.</p>
<i>Environmental Planning and Assessment Act 1979</i> (EP&A Act)	<p>Section 4.15(1) of the EP&A Act requires that, in determining a DA, a consent authority is to consider the following matters as relevant:</p> <ul style="list-style-type: none"> ▪ Current or proposed environmental planning instruments, development control plans, planning agreements, the EP&A Regulations, and any coastal zone management plan; ▪ The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality; ▪ The suitability of the site for the development; ▪ Any submissions made in accordance with this Act or the regulations; and ▪ The public interest.

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	<p>The matters listed in the first point above are considered in this Table 2. The remainder of the matters are dealt with in Part E, Part F and Part G of this EIS.</p>
<p><i>Environmental Planning and Assessment Regulation 2000</i> (EP&A Regulation)</p>	<p>SEARs were obtained from DP&E dated 06 May 2019 (Appendix 1) which listed no specific requirements except that the EIS must address the provisions of the Coastal Management SEPP 2018 and ensure the EIS meets the minimum form and content requirements outlined in Schedule 2 of the EP&A Regulation 2000.</p> <p>Part 2 of Schedule 2 of the EP&A Regulation which outlines Environmental assessment requirements has been met with preparation of a written application to the Planning Secretary for environmental assessment requirements. The application was in the form approved by the Planning Secretary resulting in issuance of the SEARs in Appendix 1.</p> <p>The EIS prepared is within two years of the issued SEARs and the EIS addresses the relevant provisions of the Coastal Management SEPP as per the SEARs requirements.</p> <p>Part 3 of Schedule 2 of the EP&A Regulation outlines the form and content of the EIS. The EIS form includes name and details of the person who prepared the EIS, the address of the land, description of the development, an assessment of the environmental impact and assurance information contained in the statement is neither false nor misleading.</p> <p>The EIS content provides a summary of the development and its impact, alternatives to carrying out the development, an analysis of the development including mitigation measures and reasons justifying the development.</p>
<p><i>Protection of the Environment Operations Act 1997</i> (POEO Act)</p>	<p>The proposal as submitted to Council does not trigger any thresholds in respect of the POEO Act.</p> <p>Demolition of the building is not a scheduled activity according to Schedule 1 of the POEO Act 1997.</p>
<p><i>Water Management Act 2000</i></p>	<p>Referring to <i>Part 3 of Chapter 3, Clause 91 Activity Approvals</i> the works are considered a controlled activity on waterfront land.</p> <p>The terms 'controlled activity', 'controlled activity approval' and 'waterfront land' are defined in the dictionary of the <i>Water Management Act 2000</i> as outlined below:</p> <p>controlled activity means:</p> <ul style="list-style-type: none"> (a) the erection of a building or the carrying out of a work (within the meaning of the <i>Environmental Planning and Assessment Act 1979</i>), or (b) the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or (c) the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or (d) the carrying out of any other activity that affects the quantity or flow of water in a water source.

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	<p>controlled activity approval means an approval referred to in section 91 (2).</p> <p>waterfront land means:</p> <ul style="list-style-type: none"> (a) the bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river, or (a1) the bed of any lake, together with any land lying between the bed of the lake and a line drawn parallel to, and the prescribed distance inland of, the shore of the lake, or (a2) the bed of any estuary, together with any land lying between the bed of the estuary and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the estuary, or (b) if the regulations so provide, the bed of the coastal waters of the State, and any land lying between the shoreline of the coastal waters and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the coastal waters, <u>where the prescribed distance is 40 metres or (if the regulations prescribe a lesser distance, either generally or in relation to a particular location or class of locations) that lesser distance.</u> Land that falls into 2 or more of the categories referred to in paragraphs (a), (a1) and (a2) may be waterfront land by virtue of any of the paragraphs relevant to that land. <p>The proposed demolition is a controlled activity as per Section 91(2) of the <i>Water Management Act 2000</i>. The proposed demolition is defined as 'development' according to Section 1.5 (1)(e) "Meaning of development" of the EP&A Act. Demolition works within 40 metres of waterfront land would normally require controlled activity approval however, the demolition is exempt from controlled activity approval as exemptions apply for public authorities including local councils pursuant to Clause 41 "Controlled activities – public authorities" of the <i>Water Management (General) Regulation 2018</i>.</p>
<i>Biodiversity Conservation Act 2016</i> (BC Act)	<p>Schedule 1 'Threatened Species' of the BC Act 2016 contains a list of animals and plants that are critically endangered, endangered or vulnerable.</p> <p>Schedule 2 'Threatened ecological communities' of the BC Act 2016 contains a list of threatened ecological communities of animals and plants comprising critically endangered, endangered or vulnerable ecological communities.</p> <p>The proposed works comprises the demolition of an existing building to the slab only with no excavation or landscape removal proposed.</p> <p>Therefore, the proposal would not give rise to any significant impacts on the identified threatened ecological communities and a Species Impact Statement is not required.</p> <p>The Office of Environment & Heritage OEH Biodiversity Values Map identifies biodiversity either side of the existing building. The OEH Biodiversity Map can include coastal wetlands and littoral rainforest. There is clear correlation between the OEH Biodiversity Values Map and the NSW Department of Planning and Environment Coastal Wetlands / Proximity Area Map (Figure 4).</p>

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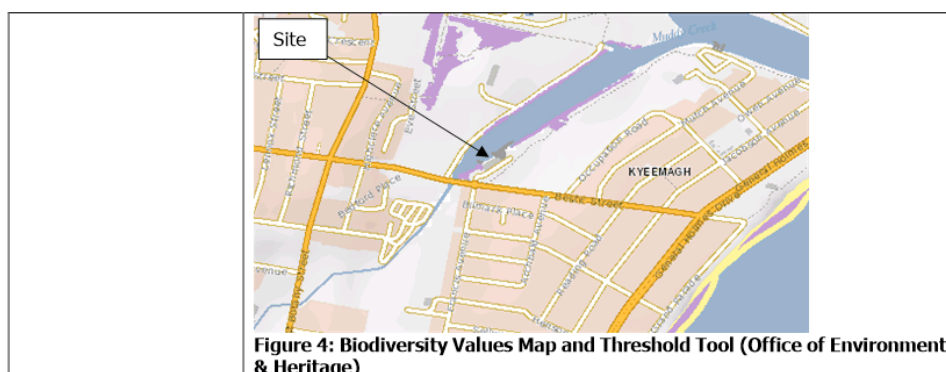
**4.2 LOCAL ENVIRONMENTAL PLANNING FRAMEWORK**

Table 3 outlines the local planning controls which apply to the proposed development.

Table 3 Local Environmental Planning	
Requirement	Application to Proposed Development
Rockdale Local Environmental Plan 2011	
Permissibility	The Site is zoned RE1 Public Recreation pursuant to RLEP2011 (Figure 5). The existing building provided community/recreational facilities, a use permitted with consent. The proposal is to demolish the building and, in the future, redevelop subject to the uses permitted within the RE1 Public Recreation zone.
Clause 2.3 Zone Objectives and Land Use Table	<p>Zone objectives and Land Use Table</p> <p><i>(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.</i></p> <p>The ensuing sections responds to how the development is consistent with these objectives.</p>
RE1 Objectives	<p><i>(a) To enable land to be used for public open space or recreational purposes.</i></p> <p>The proposed demolition would remove a building in poor condition not affecting the current provision of open space or recreation. The proposal is for demolition only of a vacant building with the future opportunity to seek an appropriate replacement recreational use. The works do not propose an alternative use which would conflict with the use of the land for public open space or recreation.</p> <p><i>(b) To provide a range of recreational settings and activities and compatible land uses.</i></p> <p>The bulk of the existing building is currently vacant and in a poor condition with significant deterioration to the external and internal features of the building. Removal of the unused building will pave a way for future plans to improve the Site for recreational purposes.</p>

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	<p><i>(c) To protect and enhance the natural environment for recreational purposes.</i></p> <p>The proposed development would have a neutral effect on the natural environment removing existing built form from the Site whilst not comprising works which might give rise to any measurable impact on the natural environment.</p>
Clause 4.1 – Minimum Subdivision Lot Size	The Site is not subject to a minimum lot size pursuant to RLEP2011 Lot Size Map – Sheet LSZ_004.
Clause 4.3 – Height of Buildings	The Site is not subject to a maximum building height pursuant to the RLEP2011 Height of Buildings Map – Sheet HOB_004.
Clause 4.4 – Floor Space Ratio	The Site is not subject to a maximum floor space ratio under RLEP2011 Floor Space Ratio – Sheet FSR_004.
Clause 5.7 – Development below mean high water mark	<p>The Site is not subject to a foreshore building line under RLEP2011 Foreshore Building Line Map – Sheet FBL_003</p> <p>Mean high water mark is defined in the RLEP 2011 as follows:</p> <p><i>mean high water mark</i> means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.</p> <p>The building is inland and does not abut the foreshore.</p>
Clause 5.10 – Heritage Conservation	The Site is not identified as containing a heritage item and is not in immediate proximity of any heritage items. The Site is not located within, or in proximity to, a heritage conservation area.
Clause 5.11 – Bushfire hazard reduction	The Site is not identified as bush fire prone land.
Clause 6.1 – Acid sulfate soils	<p>The Site is identified as being a Class 3 Acid Sulfate Soil (ASS) under RLEP Acid Sulfate Soils Map – sheet ASS_004.</p> <p>Clause 6.1(2) of the RLEP 2011 requires development consent for works more than 1 metre below the natural ground surface for land affected by Class 3 ASS. Further, Clause 6.1(3) requires an acid sulfate soils management plan to be prepared in accordance with the Acid Sulfate Soils Manual.</p> <p>The proposed demolition seeks to demolish to slab level therefore not impacting the below the natural ground surface. Therefore, an acid sulfate soils management plan is not warranted in this instance.</p>
Clause 6.6 – Flood planning	<p>The Site is shown within a flood planning area under RLEP2011 Flood Planning Map – Sheet FLD_004 (Figure 6). Clause 6.6(3) provides that:</p> <p><i>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</i></p> <p><i>(a) is compatible with the flood hazard of the land, and</i></p>

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	<p>(b) <i>is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</i></p> <p>(c) <i>incorporates appropriate measures to manage risk to life from flood, and</i></p> <p>(d) <i>is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</i></p> <p>(e) <i>is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</i></p> <p>The proposed demolition would have a neutral effect on the existing flood planning area not contributing additional hard surfacing or paving. No proposed replacement building and/or use is included as part of the proposed demolition. The proposed demolition is to slab level only with no excavation therefore, no erosion or siltation is expected and no impact to the river bank will be caused. Preventative erosion and sediment control measures have been prepared by Cardno in the Erosion and Sediment Control Plan (Appendix 8).</p> <p>The development is for demolition only with no removal of vegetation proposed.</p> <p>The Site is not immediately adjoining residential properties and is set within a Public Recreation zone with rural small holdings located east of the Site. The isolated location of the building combined with proposed works for purely demolition without earthworks would not influence with the existing flood behaviours within or surrounding the Site.</p>
Clause 6.8 – Biodiversity protection	The Site is not identified to contain aquatic or terrestrial biodiversity under RLEP2011 Terrestrial Biodiversity Map – Sheet BIO_004 (Figure 7).
Clause 6.10 – Wetlands	The Site is not identified as Wetland under RLEP 2011 Wetlands Map – Sheet WET_004 (Figure 8).
Rockdale Development Control Plan 2011	
General requirements	The RDCP2011 is also applicable to the Site. The proposed development is consistent with the provisions of RDCP2011. Appendix 4 considers the relevant development controls in more detail.

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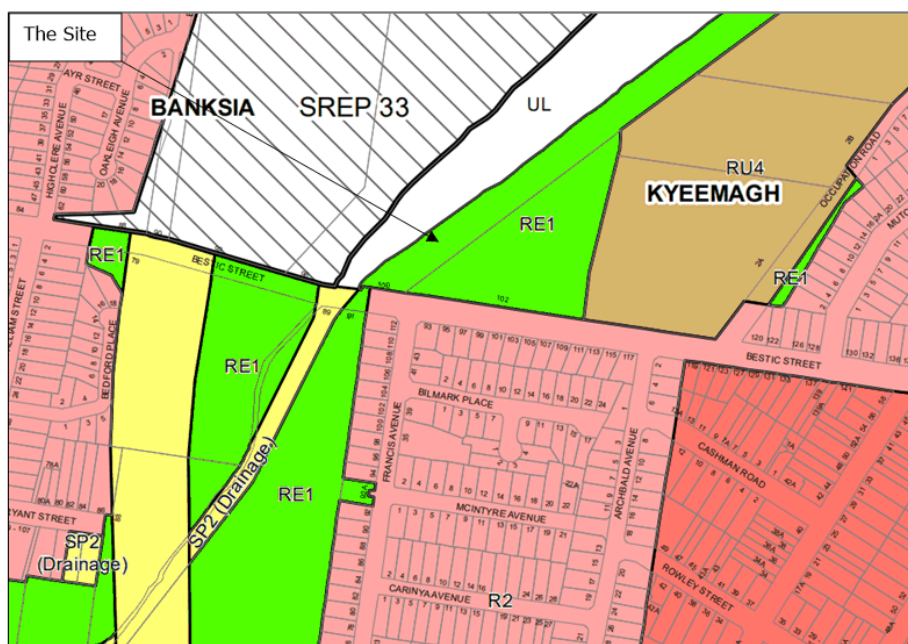


Figure 5: RLEP 2011 Land Zoning Map (NSW Legislation, 2019)

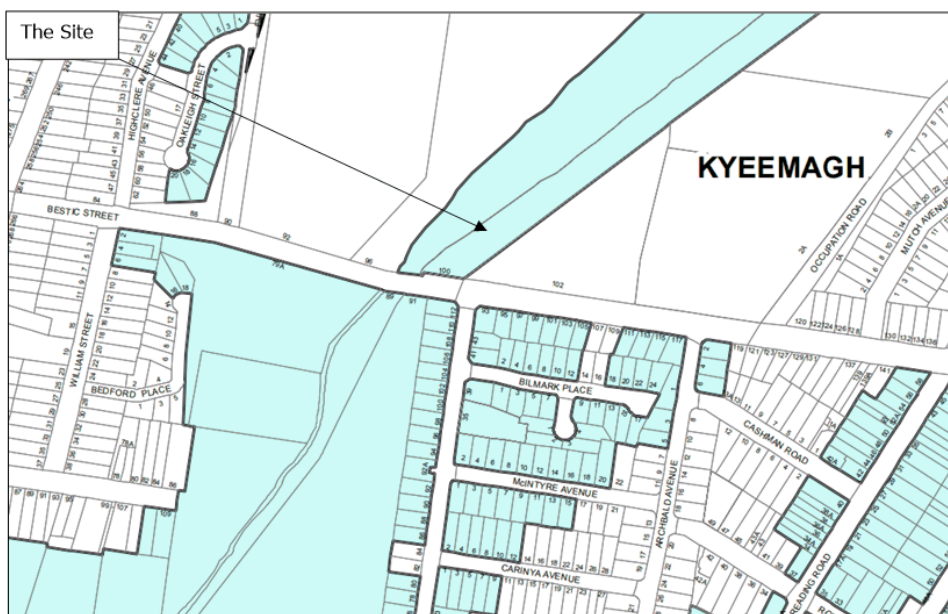


Figure 6: RLEP 2011 Flood Planning Map - Sheet FLD_004

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Figure 7: RLEP 2011 Terrestrial Biodiversity Map - Sheet BIO_004

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Figure 8: RLEP 2011 Wetlands Map - Sheet WET_004

4.3 ENVIRONMENTAL PLANNING POLICY FRAMEWORK

Table 4 outlines the State Environmental Planning Policies which apply to the proposed development.

Table 4 State Environmental Planning Policies	
Instrument	Application to Proposed Development
State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)	<p>Clause 7 Contamination and remediation to be considered in determining development application</p> <p>(1) A consent authority must not consent to the carrying out of any development on land unless:</p> <ul style="list-style-type: none"> (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be

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	<p><i>carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</i></p> <p>The Section 10.7 Planning Certificate (Appendix 5) dated 10 January 2019 (Certificate No. 52118) confirms the land is not significantly contaminated land within the meaning of the Contaminated Land Management Act 1997.</p> <p><i>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</i></p> <p>A change of use of the land is not proposed. The application is for demolition only.</p> <p><i>(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</i></p> <p>A preliminary or detailed investigation is not required as the proposed demolition is to slab level only causing no soil disturbance or change of use.</p> <p><i>(4) The land concerned is:</i></p> <ul style="list-style-type: none"> <i>(a) land that is within an investigation area,</i> <i>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</i> <i>(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:</i> <ul style="list-style-type: none"> <i>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</i> <i>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</i> <p>The land is not in an investigative area, a review of Table 1 of the contaminated land planning guidelines confirms the current use is not a potentially contaminating land use.</p>
State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)	Clause 65 (Development Permitted without consent), Division 12 (Parks and other public reserves) of the Infrastructure SEPP confirms that pursuant to subclause (3)(c):

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	<p><i>(3) Any of the following development may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council:</i></p> <p><i>(c) demolition of buildings (other than any building that is, or is part of, a State or local heritage item or is within a heritage conservation area). (emphasis added)</i></p> <p>Whilst the Infrastructure SEPP allows for this type of development to be carried out without development consent, Clause 7(1) (Relationship with other environmental planning instruments) of the Coastal Management SEPP confirms that <i>in the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.</i></p> <p>In light of the outcomes against the Coastal SEPP (see below), the proposal development may not benefit from Clause 65(3)(c) of the ISEPP for 'development without consent'.</p>
<i>State Environmental Planning Policy No 19 - Bushland in Urban Areas</i> (Bushland SEPP)	The provisions of <i>State Environmental Planning Policy No 19 — Bushland in Urban Areas</i> (SEPP 19) do not apply to the proposed development given that the development does not affect any bushland zoned for public open space purposes.
<i>State Environmental Planning Policy (Coastal Management) 2018</i> (Coastal Management SEPP)	<p>The Coastal Management SEPP mapping confirms the south-west end of the building is partially within Coastal Wetlands (Figure 9), wholly located within the proximity area for Coastal Wetlands (Figure 9), located in a Coastal Environment (Figure 10) and in a Coastal Use Area (Figure 11).</p> <p>Part 10, Division 1 'Coastal wetlands and littoral rainforests area' of Part 2 of the Coastal Management SEPP 2018 does restrict development consent for development which includes demolition.</p> <p>Further to the above, subclause 10(2) of the Coastal Management SEPP provides that any development application for the demolition of the building in question is designated development.</p> <p>Division 1 'Coastal wetlands and littoral rainforests area', Division 3 'Coastal environment area' and Division 4 'Coastal use area' of Part 2 of the Coastal Management SEPP provides development standards for which development consent must not be granted. The relevant Divisions within Part 2 of the Coastal Management SEPP are reviewed in Table 7 of the EIS.</p>
<i>State Environmental Planning Policy (State and Regional Development) 2011</i> (SRD SEPP)	The proposed development does not any of the thresholds listed in Schedule 1 of SRD SEPP which would require it to be assessed as State Significant Development.

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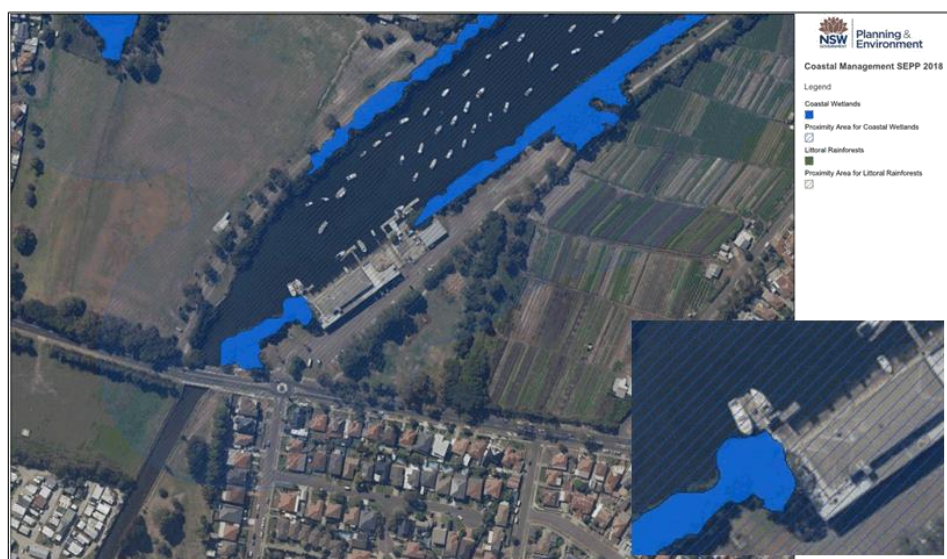


Figure 9: NSW Department of Planning and Environment Coastal Wetlands / Proximity Area Map (NSW Planning & Environment, 2019)

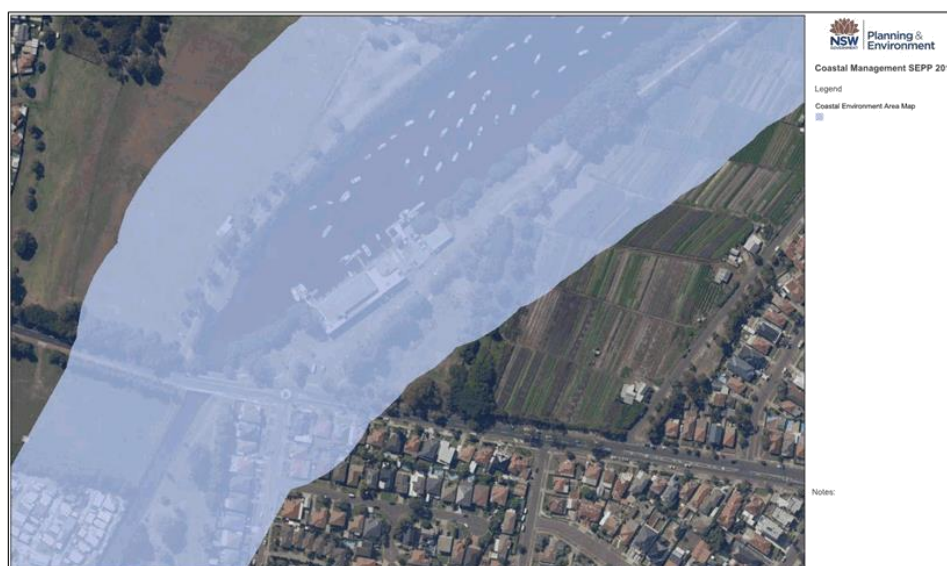


Figure 10: NSW Department of Planning and Environment Coastal Environment Area Map (NSW Planning & Environment, 2019)

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Figure 11: NSW Department of Planning and Environment Coastal Use Area Map (NSW Planning & Environment, 2019)

4.4 STRATEGIC PLANNING FRAMEWORK

This **Section 4.4** outlines the strategic planning context of the Site.

4.4.1 Greater Sydney Region Plan – A Metropolis of Three Cities

The *Greater Sydney Region Plan – A Metropolis of Three Cities* aims to meet and recognise the warranted needs of an accelerated and vastly changing population. The overall vision pursues an objective of transforming 'Greater Sydney' into a metropolis of three (3) cities, including:

- The Western Parkland City;
- The Central River City; and,
- The Eastern Harbour City.

The proposed development also contributes to the two (2) standardised elements communicated across for all three (3) cities, including:

- **Liveability** – The proposed demolition will enable removal of a vacant deteriorated building and provide an opportunity for future redevelopment in conjunction with the existing RE1 Public Recreation zone which will provide significant opportunities to residents within the immediate area and greater region. The future plans are to replace the building subject to a comprehensive Masterplan of the "Muddy Creek" precinct in anticipation for expected demand for services from population growth. The population of the Eastern Harbour City is projected to grow from 2.4 million people in 2016 to 3.3 million people by 2036;
- **Sustainability** – The proposed demolition would be a short term plan for the Coastal Wetland and RE1 Public Recreation Zone in which the building is situated. The future plans for the Site including redevelopment of the Site will address and respond to the appropriate sustainability outcomes. The Eastern Harbour Vision seeks to improve the Greater Green Grid with improvements to foreshore access, waterways for recreation, tourism and cultural events.

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In summary, the proposal seeks to demolish a vacant deteriorated building that would contribute to the objectives set out in the *Greater Sydney Region Plan – A Metropolis of Three Cities* by promoting minor environmental impacts and the liveability of the locality ensuring the opportunity for replacement recreational and community opportunities to benefit the RE1 Public Recreation zone. It is noted the Site is identified within the Bayside West Precinct an urban renewal area as per Figure 17 of the 'Greater Sydney Region Plan – A Metropolis of Three Cities'.

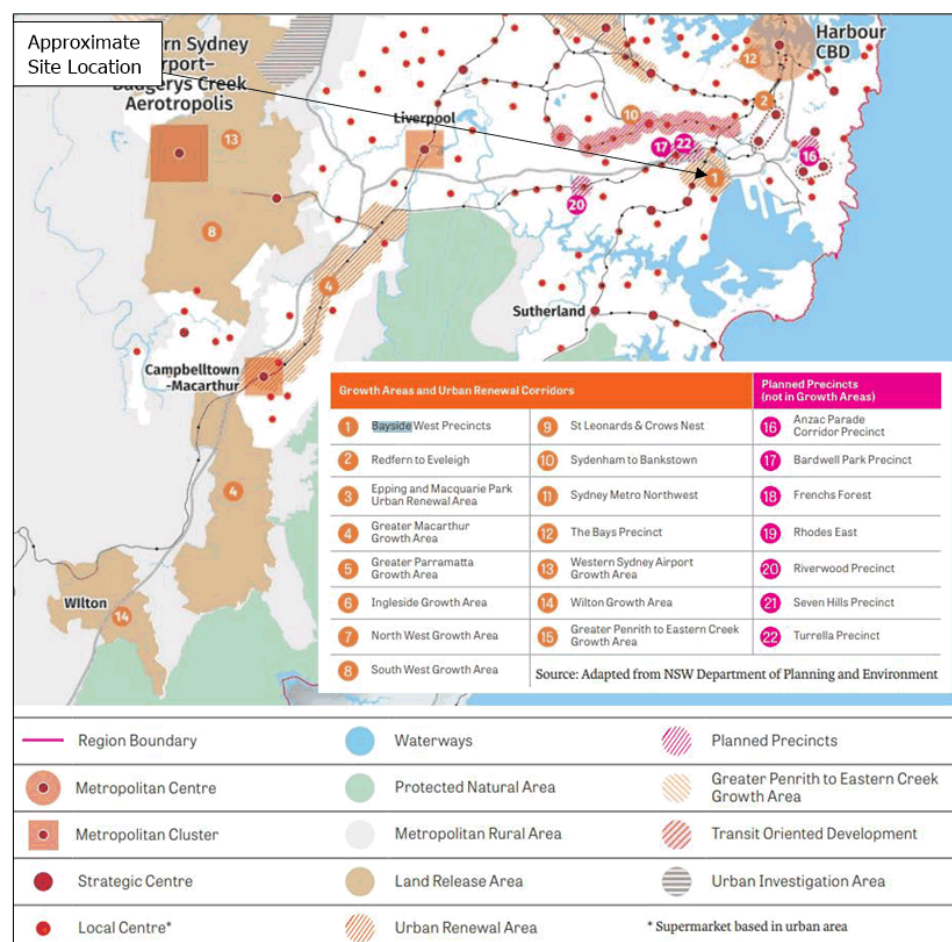


Figure 12: Figure 17 Future housing: government programs and preferred locations for consideration (Greater Sydney Commission – A Metropolis of Three Cities)

4.4.2 Eastern City District Plan

Rockdale and the greater Bayside area are within the Eastern City District as outlined by the Greater Sydney Commission. The Eastern City District Plan is a 20 year plan to manage growth in the context of economic, social and environmental matters to achieve the 40 year vision for Greater Sydney. The Plan provides the priorities and actions for implementing the *Greater Sydney Region Plan – A Metropolis of Three Cities*, at a district level. The Plan has the following key directions supported by planning priorities and the most applicable priorities are identified below.

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- Infrastructure and collaboration
- Liveability
 - Planning Priority E3 – Providing services and social infrastructure to meet people’s changing needs

The building previously used by community associations is in disrepair and provides an opportunity for redevelopment to provide new infrastructure to serve the community in accordance with Planning Priority E3 which seeks to ensure provision of services and infrastructure meet communities needs. The existing building referred to as the Brighton Le Sands Fisherman’s Club is currently vacant not contributing a service or infrastructure to support the varying needs of the community. Planning Priority E3 states planning must recognise the changing composition of population groups in local places and provide services and social infrastructure that meet the changes in people’s needs through different stages of life.

- Productivity
- Sustainability
 - Planning Priority E18 – Delivering high quality open space

Brighton Le Sands Fishermans Club is located on a large parcel of land adjacent to Muddy Creek zoned for RE1 Public Recreation. The building currently serves no purpose detracting from the public recreational space therefore demolition will provide future opportunity to revitalise the location and create a more accessible, protected and enhanced open space in accordance with Planning Priority E18 objectives. Planning Priority E18 outlines that planning for urban renewal should consider opportunities to deliver new, improved and accessible open spaces to meets the needs of the growing community. Bayside has been targeted as an urban renewal area in the Eastern City District Plan and Greater Sydney Region Plan – A Metropolis of Three Cities and the Site is representative of a renewal opportunity to benefit the needs of the surrounding community.

4.4.3 Bayside West Precincts 2036 Plan

The Bayside West Precincts Plan originated as a Rockdale City Council consensus for Arncliffe, Banksia and Cooks Cove to be opportunity areas for urban renewal. The Bayside West Precincts Plan 2036 was adopted in August 2018 by the Department of Planning and Environment.

The Plan sets out the strategic land use and infrastructure planning to guide the future transformation of the Bayside West Precincts. The Subject Site is located within the Bayside West Precinct. The Bayside West Precinct Plan has been adopted by the Department of Planning focusing redevelopment in Arncliffe and Banksia and improving open space in areas outside of Cooks Cove. Cooks Cove, which includes the Site, is not detailed within the Bayside West Precincts Plan and will be subject to further planning investigations and approvals per **Figure 13** below.

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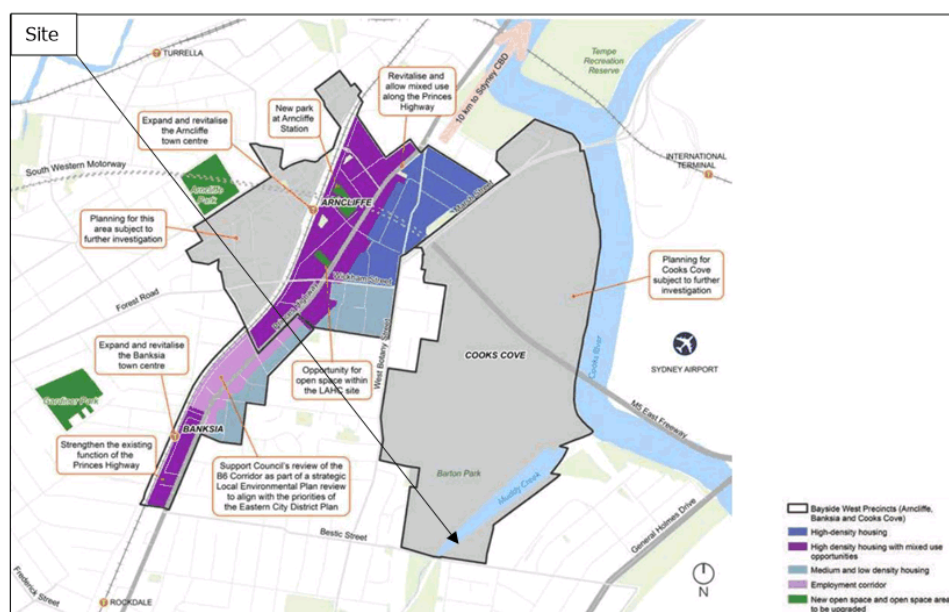


Figure 13: Bayside West Precincts 2036 Plan

Despite no rezoning proposed for Cooks Cove, the following planning principles have been developed to ensure future development at Cooks Cove meets Government objectives.

Table 5 Bayside West Precincts 2036	
Planning Principles for Cooks Cove	How Addressed
Enable the environmental repair of the Site and provide for new recreation opportunities	Demolition of the currently vacant and dilapidated building, serving no community purpose, allows for new recreational opportunities in the future.
Not compromise future transport links (such as the South-East Mass Transit link identified in Future Transport 2056 and the Greater Sydney Region Plan) that will include the consideration of the preserved surface infrastructure corridor, noting constraints, including the Cooks River, geology, Sydney airport and existing infrastructure will likely necessitate consideration of future sub-surface solutions and potential surface support uses.	The demolition works would not compromise future transport links being Site specific only.
Create a highly liveable community that provides choice for the needs of residents, workers and visitors to Cooks Cove.	The demolition is a necessity due to the poor condition of the building. Following demolition there is opportunity to replace with a building or use to serve the community.
Ensure best practice design and a high-quality amenity with reference to the NSW design policy Better Placed.	This principle is not applicable to demolition.

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Table 5 Bayside West Precincts 2036	
Planning Principles for Cooks Cove	How Addressed
Deliver an enhanced, attractive, connected and publicly accessible foreshore and public open space network and protect and enhance the existing market garden.	The demolition would provide the chance to improve the immediate locality surrounding the building.
Safeguard the ongoing operation of Sydney Airport.	The ongoing operation of Sydney Airport would not be affected.
Enhance walking and cycling connectivity and the use of public transport to encourage and support a healthy and diverse community and help deliver a 30-minute city.	The works are for demolition only not detracting from existing connectivity.
Deliver a safe road network that balances movement and place, provides connections to the immediate and surrounding areas, and is cognisant of the traffic conditions in this area.	Brighton Le Sands Fisherman's Club is located approximately 50 metres from Bestic Street.
Enhance the environmental attributes of the Site, including protected flora and fauna, riparian areas and wetlands and heritage.	The demolition works would have a neutral impact on the environmental attributes of its immediate locality including the adjoining waterbody Muddy Creek. Compliance with Erosion and Sediment Controls, prepared by Cardno, will minimise sediment pollution of Muddy Creek and no vegetation loss is proposed as part of the demolition works.

4.4.4 Rockdale City Urban Strategy 2010

The Urban Strategy for the City of Rockdale provides the basis for the future direction and planning of the City's urban and natural environment.

The Urban Strategy identifies the planning priorities which will be the focus of future planning aimed at improving the quality and character of the City.

The proposed demolition is consistent with the relevant principles and urban strategy of the Rockdale Urban Strategy outlined below:

- Revitalise villages and neighbourhoods;
- Ensure opportunities for future employment and growth;
- Encourage active and passive recreation and recognise the City's natural assets; and
- Protect.

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Chapter 5 of the Rockdale City Urban Strategy 2010 is titled 'Open Space Corridors'. The Site is identified as within the Rockdale Wetlands Corridor. The corridor is described as containing large tracts of open space that incorporate significant wetlands, sportsgrounds, parks and market grounds.

The proposed works do not seek to alter the characteristics or associated uses of the Rockdale Wetlands Corridor. The proposal is for demolition only and the demolition works are to be self-contained and mitigation measures will be imposed in accordance with Cardno Erosion and Sediment Control Plans.

4.5 PLANNING AGREEMENTS FRAMEWORK

The Site and the proposed development are not subject to any current Planning Agreements under Section 7.4 of the EP&A Act.

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PART E CONSULTATION**5.1 SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

An application to receive SEARs was submitted to DP&E on 3 May 2019 (Reference No. 1339). The SEARs were subsequently issued on 6 May 2019.

The SEARs issued by the DP&E are annexed at **Appendix 1**. An overview of how the requirements have been satisfied within the EIS is outlined in **Table 6**. This report has been prepared in accordance with the requirements for an EIS in Clauses 6 and 7 of Schedule 2 of the EP&A Regulation.

Table 6 How SEARs have been satisfied	
General Requirements	How Addressed
Key Issues	
The Department has reviewed the documentation submitted and confirms it has no specific requirements applicable to your proposal, except that the EIS must address the provisions of the <i>State Environmental Planning Policy (Coastal Management) 2018</i> .	The provisions of the Coastal Management SEPP are addressed in Section 6.2 of this report.
In addition, you should ensure that your EIS meets the minimum form and content requirements outlined in Schedule 2 of the <i>Environmental Planning and Assessment Regulation 2000</i> .	This EIS has been prepared in accordance with the requirements outlined in Schedule 2 of the <i>Environmental Planning and Assessment Regulation 2000</i> .
Consultation	
You should ensure that your EIS is prepared in consultation with the relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.	The EIS has been prepared in consultation with Bayside Council and has addressed the relevant issues raised by Council.
Further Consultation After Two Years	
If you do not lodge an application under Section 78A(8) of the <i>Environmental Planning and Assessment Act 1979</i> within 2 years of the issue date of these SEARs, you must consult with the Secretary in relation to any further requirements for lodgement.	Noted.

5.2 STAKEHOLDER CONSULTATION

Table 6 in **Section 5.1** lists the stakeholders which were required to be consulted with as per the SEARs issued by DP&E. These include:

- Bayside Council;
- Any other relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners;

Given that the proposal is anticipated to be advertised and notified, consultation with the surrounding landowners is not required. Further the Site is not immediately adjoining residential or commercial sites, located in a RE1 Public Recreation zone, land in ownership of Bayside Council and abuts Muddy Creek.

In response to the SEARs issued for the proposed development, the following consultation has been as detailed in **Table 7** below:

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Table 7 Consultation Record	
Stakeholder	Consultation Notes
Liverpool City Council	<p>One meeting has been held with Bayside Council.</p> <p>The meeting was held at Bayside Council on 07 May 2019 to seek pre-development application advice.</p> <p>Attendees included:</p> <p>Visitors:</p> <ul style="list-style-type: none"> ▪ Tom Cook (Consultant Planner) ▪ Thomas Holman (Consultant Planner) <p>Council Officers:</p> <ul style="list-style-type: none"> ▪ Ali Rizwan (Development Manager) ▪ Diane Sarkies (Development Advisory Officer) ▪ Angela Laridis (Senior Development Assessment Planner) <p>Matters discussed at this meeting included:</p> <ul style="list-style-type: none"> ▪ Issues to be addressed in the Development Application ▪ Information and documentation to be provided for the Development Application <p>The matters discussed at the meeting are considered in detail throughout this EIS.</p>
The surrounding landowners and occupiers that are likely to be impacted by the proposed development	<p>It is noted that the Site is located within a RE1 Public Recreation Zone adjoining Muddy Creek to the north. The Site abuts car parking to the South and south east of the Site land is zoned RU4 Primary Production Small Lots. The proposed development is anticipated to be advertised and notified as required for Designated Development, which enables consultation with surrounding landowners.</p>

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PART F ENVIRONMENTAL RISK ASSESSMENT**6.1 SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

The SEARs were issued on 6 May 2019. The Key Issues include:

- Addressing the provisions of the Coastal Management SEPP
- Meeting the minimum form and content requirements outlined in Schedule 2 of the EP&A Regulation 2000.

The above matters are addressed in the sections below.

6.2 COASTAL MANAGEMENT

The Site is identified as land partially within 'Coastal Wetlands', in the 'Proximity area for Coastal Wetlands', located in a 'Coastal Environment' and in a 'Coastal Use Area' under the Coastal Management SEPP. Therefore, the proposed demolition will be assessed against each applicable Division and Clause of the Coastal Management SEPP.

Table 8 State Environmental Planning Policy (Coastal Management) 2018	
Part 2 Development controls for coastal management areas	
10 Development on certain land within coastal wetlands and littoral rainforests area	
<i>(1) The following may be carried out on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:</i>	No clearing of land is proposed, the building would be demolished to slab level with no removal of vegetation.
<i>(a) the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,</i>	
<i>(b) the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,</i>	Harm to marine vegetation means gathering, cutting, pulling up, destroying, poisoning, removing or injuring marine vegetation. The proposed works are to demolish to slab only and preventative measures including silt fencing is proposed between the demolition and Muddy Creek as per the Erosion and Sediment Control Plan.
<i>(c) the carrying out of any of the following:</i> <i>(i) earthworks (including the depositing of material on land),</i> <i>(ii) constructing a levee,</i> <i>(iii) draining the land,</i> <i>(iv) environmental protection works,</i> <i>(d) any other development.</i>	The south west portion of the building is found to encroach on a coastal wetland mapped area as shown in the Coastal Wetland Map in Figure 9 and as such, pursuant to Clause 10(1)(d) any development which includes demolition must be carried out with development consent.
<i>(2) Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.</i>	Noted – the application is designated as per Clause 10(2).
<i>(3) Despite subclause (1), development for the purpose of environmental protection works on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map may be carried out by or on behalf of a public</i>	Not applicable – the development is not related to environmental protection works.

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Table 8 State Environmental Planning Policy (Coastal Management) 2018	
Part 2 Development controls for coastal management areas	
<i>authority without development consent if the development is identified in:</i> (a) <i>the relevant certified coastal management program, or</i> (b) <i>a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the Local Government Act 1993, or</i> (c) <i>a plan of management approved and in force under Division 6 of Part 5 of the Crown Lands Act 1989.</i>	
<i>(4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.</i>	The proposed development is to have a neutral impact on the biophysical, hydrological and ecological integrity of the coastal wetland by ensuring the building is demolished only to slab level and safe demolition procedures shall be implemented to prevent any pollution especially in the direction of Muddy Creek.
<i>(5) Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the Biosecurity Act 2015.</i>	Noted.
<i>(6) This clause does not apply to the carrying out of development on land reserved under the National Parks and Wildlife Act 1974 if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.</i>	Not applicable – the land is not reserved under the <i>National Parks and Wildlife Act 1974</i> .
11 Development on land in proximity to coastal wetlands or littoral rainforest	
<i>(1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:</i> (a) <i>the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or</i> (b) <i>the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</i>	The impact on the biophysical, hydrological and ecological integrity of the adjacent coastal wetland would be neutral with works focused and contained to demolition of the building only.
<i>(2) This clause does not apply to land that is identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map.</i>	Clause 11 applies as only part of the building encroaches within Coastal Wetland with the remainder located in the "proximity area for coastal wetlands".
13 Development on land within the coastal environment area	
<i>(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has</i>	As per the above considerations there would be a neutral impact to the coastal biophysical, hydrological and ecological environment.

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Table 8 State Environmental Planning Policy (Coastal Management) 2018	
Part 2 Development controls for coastal management areas	
<i>considered whether the proposed development is likely to cause an adverse impact on the following:</i>	
<i>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i>	
<i>(b) coastal environmental values and natural coastal processes,</i>	No impact would be caused due to the isolated demolition works.
<i>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i>	The Site is not classified as a sensitive coastal lake, undeveloped headland or rock platform.
<i>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i>	There are no foreseen impacts on marine vegetation and preventative measures will ensure this as detailed in the Erosion and Sediment Control Plan.
<i>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>	The Site does not adjoin the foreshore, beach, headland or a rock platform. During demolition, the Site will be suitably fenced to ensure safety of the public within the RE1 Public Recreation Zone.
<i>(f) Aboriginal cultural heritage, practices and places,</i>	A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management Systems) has shown that zero Aboriginal sites are recorded in or near the location and no aboriginal places have been declared in or near the above location. The AHIMS search result is in Appendix 6 .
<i>(g) the use of the surf zone.</i>	The Site is inland not adjacent to a surf zone.
<i>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</i>	As addressed in subclause (1) no adverse impact is proposed or anticipated and precautions are to be taken to ensure no adverse effect.
<i>(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or</i>	
<i>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>	Not applicable.
<i>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</i>	Impact to be minimised.
<i>(3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning</i>	Noted – The Site is located outside land within the Foreshores and Waterways Area as defined within the Sydney Regional

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Table 8 State Environmental Planning Policy (Coastal Management) 2018	
Part 2 Development controls for coastal management areas	
<i>of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</i>	Environmental Plan (Sydney Harbour Catchment) 2005.
14 Development on land within the coastal use area	
<p>(1) <i>Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:</i></p> <p>(a) <i>has considered whether the proposed development is likely to cause an adverse impact on the following:</i></p> <p>(i) <i>existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i></p> <p>(ii) <i>overshadowing, wind funnelling and the loss of views from public places to foreshores,</i></p> <p>(iii) <i>the visual amenity and scenic qualities of the coast, including coastal headlands,</i></p> <p>(iv) <i>Aboriginal cultural heritage, practices and places,</i></p> <p>(v) <i>cultural and built environment heritage, and</i></p>	<p>The building does not adjoin the foreshore, beach headland or rock platform.</p> <p>Overshadowing and wind funneling concerns are not applicable because no buildings are to be erected only demolished.</p> <p>The Site is located inland and not adjoining the coastal or located on a coastal headland.</p> <p>The Site has no heritage significance or Aboriginal cultural heritage.</p>
<p>(b) <i>is satisfied that:</i></p> <p>(i) <i>the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i></p> <p>(ii) <i>if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p>(iii) <i>if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i></p>	<p>The demolition is to slab only. The demolition area will be restricted with security fencing closely surrounding the building to be demolished.</p>
<p>(c) <i>has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i></p>	<p>The proposed demolition would not be a loss to the surrounding coastal and built environment. The immediate surroundings have limited built environment as the building is located within an RE1 Public Recreation Zone.</p>
<p>(2) <i>This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.</i></p>	<p>Noted – The Site is located outside land within the Foreshores and Waterways Area as defined within the SREP (Sydney Harbour Catchment) 2005.</p>

6.3 WASTE MANAGEMENT

MRA Consulting Group were engaged by Bayside Council to prepare a Waste Management Plan (WMP). The WMP dated 17 June 2019 is in **Appendix 7** of the EIS.

The WMP provides strategies to ensure waste is avoided and landfill minimised as per guidance documents such as NSW Waste and Avoidance and Resource Recovery (WARR) Strategy (NSW EPA 2014), and National Waste Policy: Less Waste, More Resources (EPHC 2009). The WMP provides methods to manage and sort waste to achieve a target 80% diversion from landfill.

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MRA Consulting Group provide methods for re-use and recycling as outlined in Table 1 of the WMP. Table 2 outlines recommended waste collection/management collectors and off-site recyclers.

Appendix A of the WMP provides large potential storage areas located away from Muddy Creek but in a location not to be a nuisance or obstacle to users of the RE1 Public Recreation zone.

6.2 SOILS AND WATER

Regarding sediment and erosion control, an Erosion and Sediment Control Plan has been provided to manage the stormwater runoff generated during construction (**Appendix 8**).

The Erosion and Sediment Control Plan (80519062-CI-001 Rev 1) outlined the waste storage areas as per the WMP. A silt fence would provide immediate protection to Muddy Creek and numerous no go areas including restorative practices are annotated on the plan.

A Soil and Water Management Plan Report for demolition has been prepared by Cardno (**Appendix 9**). The report confirms provisions to protect stormwater pits during demolition and installation of a turbidity curtain in Muddy Creek for the duration of the works to ensure that dust and sediment from demolition works is collected.

Table 5-1 of the Soil and Water Management Plan Report limits Access and Construction areas ensuring land disturbance is kept to a minimum.

The report also outlines restorative measures if there is any unexpected soil and vegetation disturbance.

6.3 SOCIAL AND ECONOMIC

The proposed development would remove an existing vacant building serving no public benefit and allow for future redevelopment with a building that could potentially add to the social benefit of Bayside.

There are short term economic benefits with the demolition ensuring there are no unnecessary maintenance or expenses for managing a vacant building and providing short term employment to complete the demolition works. The demolition would assist in Council future plans for redevelopment which would provide in turn provide an economic benefit.

If the building is not removed and left vacant, it is likely to become a site for vandalism and safety concerns for the community. Demolition of this dilapidated building would pave the way for redevelopment and it is understood Bayside Council’s desired outcomes for the Site include the delivery of recreational and community facilities which will provide a significant contribution to the local community and the environmental credentials of the Site.

In light of the above, the proposal is considered to present cumulative impacts which shall result in positive social and economic outcomes of the area.

Environmental Impact Statement

Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
100 Bestic Street, Kyeemagh (Lot 6 in DP 17133)

PART G PROPOSED DEVELOPMENT JUSTIFICATION**7.1 JUSTIFICATION**

The proposal seeks to would demolish a vacant deteriorating and dilapidated Council asset which would generate short term employment through the demolition process and provide opportunity for redevelopment in association with a Council masterplan for the greater Site.

The proposed development is justified in the context of environmental, social and economic terms. Furthermore, it is compatible with the locality in which it is proposed.

This EIS is lodged on the basis of the following.

7.1.1 Supporting State, Regional and Local Planning Objectives

The proposed demolition is consistent with the five key strategies under NSW 2021 particularly with respect to contributing towards the strengthening of the local environment and communities.

The proposed demolition is consistent with the objectives of the *Greater Sydney Region Plan – A Metropolis of Three Cities*. Demolition with the intention to redevelop the Site for a more beneficial purpose is representative of positive renewal and it is noted the Site is within a renewal area 'Bayside West' identified as a renewal area by the *Greater Sydney Region Plan – A Metropolis of Three Cities*.

The demolition works meet key renewal, infrastructure and open space planning priorities outlined in the *Eastern City District Plan*. Further the development has been assessed against the Cooks Cove planning principles outlined in the Bayside West Precincts 2036 Plan and found to comply.

The proposed demolition is not contrary to application RLEP 2011 considerations and consistent with provisions and objectives of the RDCP 2011.

For the reasons above, the proposed development is considered to positively contribute to the attainment of State, Regional and Local planning objectives.

7.1.2 Environmental Impacts have been Minimised

Specialist consultants have assessed the risks and planned the associated waste control measures, soil and water measures to ensure the proposed development can be undertaken with minimal environmental impacts. No significant risks to the locality would result from the proposed development. Where impacts have been identified, these would be appropriately managed and mitigated through the compilation of mitigation measures.

Mitigations measures include the installation of a turbidity barrier to Muddy Creek to ensure dust and sediment from the demolition works are collected. Further a silt fence is proposed in the Erosion and Sediment Control Plan (80519062-CI-001 Rev 1) by Cardno to further trap sediment from entering Muddy Creek.

MRA Consulting Group acknowledge according to Douglas Partners HBM Survey (2019) non-friable asbestos material is expected to be present therefore the WMP provides precautionary measures for removal of asbestos.

7.1.3 Compatibility with Surrounding Development

The Site and subject building is located in an RE1 Public Recreation zone. The surrounding locality is defined as Cooks Cove in the Bayside West Precincts 2036 Plan and identifiable features of Cooks Cove including open space, wetlands and market gardens. The demolition would not adversely affect or alter the surrounding areas of open space, wetlands and have no impact to the market gardens.

Environmental Impact Statement

Proposed Demolition of Existing Building – Brighton Le Sands Fisherman's Club
100 Bestic Street, Kyeemagh (Lot 6 in DP 17133)

PART H CONCLUSION

The proposed development is Designated Development as the building proposed to be demolished is identified as being located within Coastal Wetlands under the Coastal Management SEPP.

The Site is located within the Bayside Local Government Area and has direct access to Bestic Street located in RE1 Public Recreational land with links to the Cook Park Trail.

The provisions of RLEP2011 permit the proposed development. No adverse environmental impacts are anticipated to result from the demolition of the vacant building. The proposed demolition via strict waste and demolition procedures would not impose any foreseeable adverse environmental impacts, as outlined in **Part F** of this EIS, formulated in response to the findings and recommendations of the specialist reports.

The proposed development is consistent with the objectives, provisions and strategies outlined within the *Greater Sydney Region Plan – A Metropolis of Three Cities and Eastern City District Plan*. The proposed development would contribute to management and provision of future community and recreation facilities in the RE1 Public Recreation zone.

Further, the demolition will entail appropriate precautionary measures to prevent pollution to the surrounding land and waterway following the implementation of management procedures per the Erosion and Sediment Plan and Waste Management Plan to guide on potentially hazardous materials as well as minimise landfill. The surrounding coastal wetland, coastal environment and coastal use area have been carefully considered to ensure minimal to no impact on the respective coastal biophysical, hydrological and ecological environment.

Based on the findings of this EIS, the proposed development is justifiable, suitable for the local context and is appropriate based on social, cultural, economic and environmental considerations.

As such, it is recommended that the proposed development be supported by Bayside Council.

Environmental Impact Statement

APPENDIX 1 SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Environmental Impact Statement

APPENDIX 2 CONDITION ASSESSMENT REPORT

Environmental Impact Statement

APPENDIX 3 EPBC PROTECTED MATTERS REPORT

Environmental Impact Statement

APPENDIX 4 ROCKDALE DCP COMPLIANCE TABLE

Environmental Impact Statement

APPENDIX 5 SECTION 10.7 PLANNING CERTIFICATE

Environmental Impact Statement

APPENDIX 6 AHIMS WEB SERVICE SEARCH

Environmental Impact Statement

APPENDIX 7 WASTE MANAGEMENT PLAN

Environmental Impact Statement

APPENDIX 8 EROSION AND SEDIMENT CONTROL PLAN AND DETAILS

Environmental Impact Statement

APPENDIX 9 SOIL AND WATER MANAGEMENT PLAN REPORT

Environmental Impact Statement

APPENDIX 10 SITE PLAN

Environmental Impact Statement

APPENDIX 11 SURVEY PLAN



**Planning &
Environment**

Industry Assessments

Contact: John Booth
Phone: (02) 8275 1281
Email: john.booth@planning.nsw.gov.au

Mr Ali Rizwan
Development Manager
Bayside Council
PO Box 21
ROCKDALE NSW 2216

SEAR 1339

Dear Mr Rizwan

**Demolition Works
100 Bestic Street, Kyeemagh, Bayside Council LGA (Lot 6 DP 17133)
Secretary's Environmental Assessment Requirements (SEAR) 1339**

I refer to your correspondence dated 03 May 2019, seeking Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the proposed demolition of a three (3) story building within a Coastal Wetland.

The Department has reviewed the documentation submitted and confirms it has no specific requirements applicable to your proposal, except that the EIS must address the provisions of the *State Environmental Planning Policy (Coastal Management) 2018*. In addition, you should ensure that your EIS meets the minimum form and content requirements outlined in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*.

You should ensure that your EIS is prepared in consultation with the relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.

If you do not lodge an application under Section 78A (8) of the *Environmental Planning and Assessment Act 1979* within 2 years of the date of this letter, you must consult with the Secretary in relation to any further requirements for lodgement.

Should you have any further enquiries, please contact John Booth, Planning Services, at the Department on (02) 8275 1281.

Yours sincerely

Chris Ritchie
Director
Industry Assessments
as delegate of the Secretary

6/5/19.

Department of Planning & Environment

Level 22, 320 Pitt Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 1300 305 695 | www.planning.nsw.gov.au





Bayside Local Planning Panel

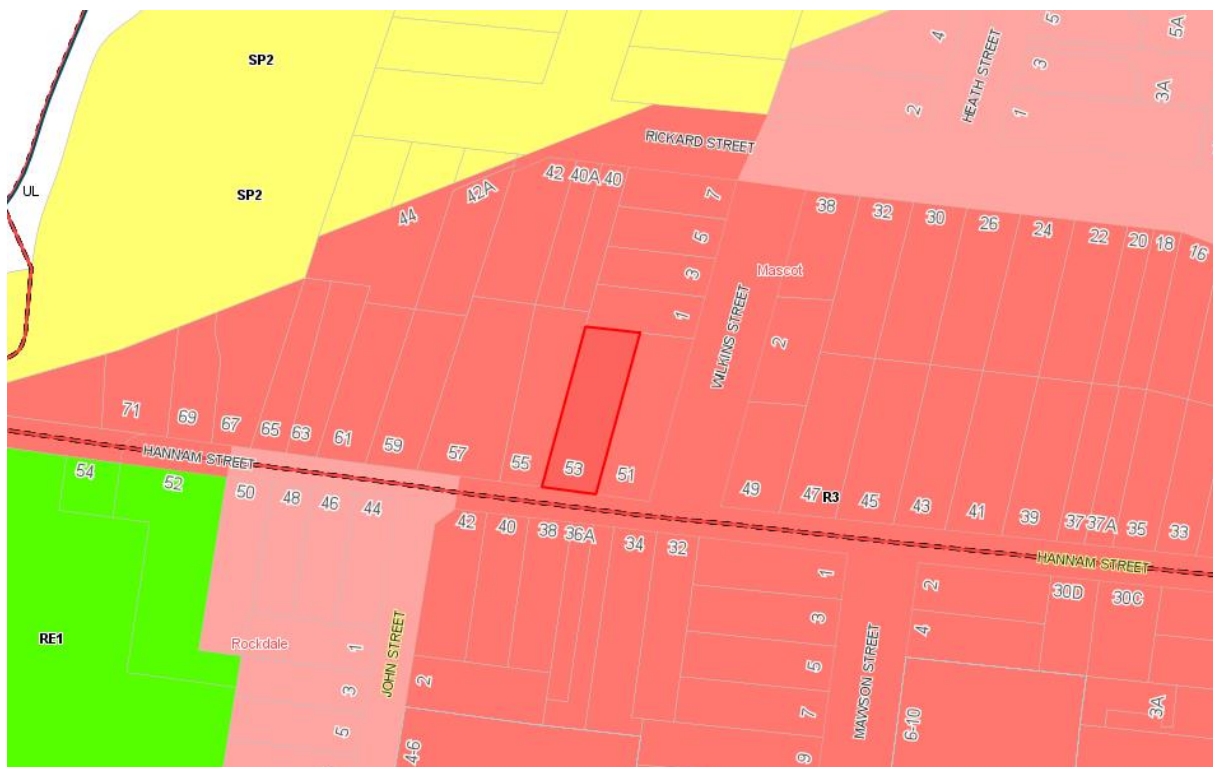
10/12/2019

Item No	6.3
Application Type	Development Application
Application No	DA-2018/29
Lodgement Date	12/02/2019
Property	53 Hannam Street, Bardwell Valley
Ward	Ward 3
Owner	Mr M Chahine
Applicant	Mr B Moroz
Proposal	Demolition of existing structures and construction of a two (2) storey boarding house containing ten (10) rooms with associated landscaping and basement car park
No. of Submissions	20 in response to the first notification; and 5 in response to the second.
Cost of Development	\$936,240.00
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That development application DA-2018/29 for the demolition of existing structures and construction of a two storey boarding house containing ten rooms with associated landscaping and basement car park at 53 Hannam Street, Bardwell Valley, 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.
 - 2 That the submitters be notified of the Bayside Local Planning Panel's decision.
-

Location Plan



53 Hannam Street Bardwell Valley

Attachments

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

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/29
Date of Receipt:	12 February 2018
Property:	53 Hannam Street, BARDWELL VALLEY (Lot 6 DP 6670)
Owner:	Mr Moussa Chahine
Applicant:	Mr Bernard Moroz
Proposal:	Demolition of existing structures and construction of a two (2) storey boarding house containing ten (10) rooms with associated landscaping and basement car park
Recommendation:	Approved
No. of submissions:	<ul style="list-style-type: none">• 20 in response to the first notification period; and• 5 in response to the second
Author:	Michael Maloof
Date of Report:	22 November 2019

Key Issues

The key issues related to this application are:

- Privacy
- Streetscape and External Appearance
- Number of boarding house rooms
- Traffic and Parking
- Site isolation

The above matters have been addressed in this report.

Recommendation

1. That development application DA-2018/29 for the demolition of existing structures and construction of a two storey boarding house containing ten rooms with associated landscaping and basement car park at 53 Hannam Street, Bardwell Valley, 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.
2. That the submitters be notified of the Bayside Local Planning Panel's decision.

Background

History

Council's records show that the following application was previously lodged:

DA-2012/232 for the demolition of an existing shed, alterations and rear addition, including deck and pergola to existing dwelling - Approved on 23 March 2012

Proposal

Council is in receipt of a development application DA-2018/29 at 53 Hannam Street Bardwell Valley, which seeks consent to carry out demolition of the existing structures and construction of a two (2) storey boarding house containing ten (10) rooms with associated landscaping and basement car parking.

Specifically, the proposal consists of the following key elements:

- demolition of existing structures,
- construction of a two (2) storey building
- construction of a basement car park containing 5 car parking spaces (one disabled), 2 motorcycle spaces and 4 bicycle parking spaces
- ten (10) boarding rooms, including seven (7) double rooms and three (3) single rooms with a total of seventeen (17) occupants
- direct but separate access to the site for pedestrians and vehicles from Hannam Street
- bin store in front setback adjacent to the front boundary
- communal room 21.92m² on the ground floor at the rear,
- communal open space terrace at ground level at the rear of 17.79m² and a ground level communal open space area (lawn) in the rear setback of 138.91m²,
- a landscaped front setback (36.95m²) and landscape planting around side and rear boundaries,

The proposed boarding house does not contain a manager's residence as it has been reduced from 15 to 10 rooms. The amended plan varies from the previous plans as the applicant has reduced the number of rooms from 15 to 10, increased the rear setback, relocated the parking from the front setback to the basement and redesigned the rooms to reduce overlooking and increase privacy.

Site location and context

The subject site is known as Lot 6 in DP 6670, at 53 Hannam Street Bardwell Valley. The site is a rectangular shape with front and rear boundary widths of 15.24 metres. The side boundaries are 47.29m and 47.555m deep. The total site area is 714.5 sq.m. The topography of the site is such that it has a moderate fall to the rear of 1.59m (3.3%) and a small fall across its frontage of 0.4m to the west.

The subject site contains a single storey dwelling of brick and tile roof construction and detached garage at the rear of the dwelling. The site is located on the northern side of Hannam Street between Wilkins Street and the Railway line. The site is one lot away from the corner of Wilkins Street with the adjoining lot to the east being No. 51 Hannam Street. Adjoining development to the sides includes one single storey dwelling house to the west (No. 51) and a two storey dwelling house to the east (No. 55). A one storey dwelling house is situated on the adjoining property to the rear which fronts Wilkins Street (No.1). There is a mix of one storey and two storey residential buildings within close proximity to the subject property.

The site contains small shrubs along the front boundary and several along the side boundaries to the rear. There are no trees to be removed from the 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

Part 2 – New Affordable Rental Housing			
Division 3 – Boarding Houses			
Clause	Requirement	Proposed	Complies
26 - Land to which this division applies	SEPP applies to R3 zoned land	Land zoned R3 Medium Density Residential	Yes
27 – Accessible Area	Site to be located within an "accessible area" i.e. 400m walking distance of bus stop with regular service	Site is located within an "accessible area" under the SEPP	Yes
29 -Standards that cannot be used to refuse consent	FSR – 0.6:1 (bonus 0.5:1 as permitted by clause 13(2)(a)(i) of SEPP)	FSR of 0.48:1 proposed (340.87m2) Site Area 714.5m2	Yes
	Height – 8.5m maximum	8.3m maximum	Yes
	Landscape front setback – compatible with streetscape	Landscaped front setback which is compatible with the existing streetscape	Yes
	Solar Access – 3hrs midwinter to communal living room	The communal living room is north facing and benefits from more than 3 hours of direct sunlight all year round	Yes

30 - Development Standards	Private Open Space – 1 x 20sq/m with min dimension 3m for lodgers	Communal open space of 17.79m ² at ground floor terrace at rear + garden 139m ² (80m ² minimum effective area) (private terraces provided for some boarding rooms)	Yes
	Parking – 0.5 spaces per room <i>10 rooms = 5 car spaces (1 accessible spaces required)</i> <i>1 Manager = no manager unit thus 0 car space required</i> Total required = 5 spaces	5 on site car parking spaces provided within the basement car parking level	Yes
	Accommodation Size – 12sq/m per single room excl kitchen / bathroom OR 16sq for multiple	Room sizes are in excess of 12m ² for single and 16m ² for double rooms excluding the kitchen and bathrooms	Yes
	Facilities – Can be shared or independent e.g. kitchen / bathroom	Both kitchenettes provided and a communal kitchen with bench space provided	Yes
	5+ rooms / min one communal living room	Communal living room provided	Yes
	Boarding room max size 25sq/m	Maximum size 23.55 double	Yes
	Boarding room max 2 adult person occupancy	Maximum 2 per room - detailed in POM and conditioned	Yes
	Provision of kitchen / bathroom facilities for each lodger	Provision of kitchen sink/ bench and bathroom is provided in each boarding room	Yes
	No ground level residential accommodation if zone is for commercial purposes.	Zone is residential and the proposal includes boarding rooms on the ground floor	Yes

	Boarding House Manager required on site if boarding house has capacity to accommodate 20 or more lodgers. Boarding room or dwelling to be provided for manager.	10 rooms for a maximum of 17 occupants is proposed as such a manager room is not required for the site	Yes
	2 bicycle & 2 motorcycle spaces required (1 per 5 BH rooms)	4 bicycle spaces and 2 motorcycle spaces have been provided in the basement.	Yes
30A - Character of local area	Development to be compatible with local area	Consideration has been given to the Land and Environment Court Planning Principles. The proposal has been found to be compatible with the local area.	Yes - see <i>Note 1</i> for further detail.
52 - Subdivision	No subdivision of boarding houses	Subdivision is not proposed	Yes

Note 1 - Character of Local Area

Clause 30A of the ARH SEPP states that "A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area".

Recent Land and Environment Court of NSW (L&E Court) decisions relating to boarding houses have utilised the Planning Principle 'Compatibility in the urban environment' published in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 to establish whether the proposal satisfied the 'character test' under the Affordable Housing SEPP. Consideration has therefore been given to the two key questions identified in the L&E Court Planning Principles. These relate to whether or not the physical impacts on the surrounding development are acceptable and if the appearance of the proposal is in harmony with neighbouring buildings and the character of the street.

In this regard, the proposal is not likely to result in any unreasonable physical impacts on the adjacent development and the appearance of the proposal is sympathetic with surrounding development and not likely to challenge or dominate the existing development within the street.

The existing streetscape includes a variation in roof forms with predominantly single and two storey low density residential development comprising a pitched tile roof having different roof pitches. The amended scheme includes a row of attached boarding rooms which is broken up into three segments that step down the site rather than one big long building form. It includes a metal pitched roof comprising different roof forms over each built form on the site.

The facade design relates to a dwelling house opposite the site at No. 38 Hannam Street which has a steeply sloping pitched tile roof. The proposed walls comprise a mixture of rendered and painted walls with three different colours and stonework feature walls. Building elements include glazing in metal spandrels, aluminium screening for privacy and metal balustrades.

Based on the above, the proposal contains many suitable materials and finishes that relate to existing residential developments in the vicinity of the site. The proposal will add diversity to the character of the area without challenging or dominating it. The proposal is different but not out of character with the surrounding locality and as such, is acceptable in this instance.

Accordingly, the proposal is acceptable in respect to the character of the local area and is consistent with Clause 30A of the Affordable Housing SEPP.

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 983572_M.

The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 45 %
Reduction in Water Consumption 40%
Thermal Comfort Pass

A condition has been imposed on the consent to ensure that these requirements are adhered to.

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

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

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

The proposal will include the removal of one 5m high and one 3m high tree in the rear yard of the site. These two trees are located adjacent to the western and eastern side boundaries respectively. The proposal will include the removal of these two trees and provision of replacement trees and shrubs within the site around the proposed boarding house.

Council's Tree Management Officer has recommended appropriate conditions that have been imposed in the draft Notice of Determination, regarding the removal of the existing two 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 DCP2011.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R3 Medium Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	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 - see discussion	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

2.3 Zone R3 Medium Density Residential

The subject site is zoned R3 - Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a boarding house which constitutes a permissible development only with development consent. The objectives of this zone are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The proposed development is consistent with the objectives of the zone.

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing dwelling house and hence satisfies the provisions of this clause.

4.3 Height of buildings

The height of the proposed building is 8.3m (front building) and therefore does not exceed the maximum 8.5m height shown for the land on the Height of Buildings Map. Further, the proposed development will result in a high quality urban form, maintain satisfactory sky exposure and daylight to buildings, key areas and public domain, and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of this clause.

4.4 Floor space ratio - Residential zones

The gross floor area of the proposed development has been calculated as 340.87m² over a site area

of 714.5m². In this regard, the proposed floor space ratio (FSR) for the building is 0.48:1 and therefore does not exceed the maximum FSR for the land (0.6:1) 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 known as "Forsythe" which is located at 57 Hannam Street Bardwell Valley. The item of environmental heritage is a single storey masonry dwelling house with metal pitched roof which is located one lot away to the west and is opposite the intersection of John Street.

The Statement of Environmental Effects submitted with the application states the following:

"The front southern portion of the proposed boarding house will be shielded from the Item by the existing dwelling located at 55 Hannam Street. Where the proposed building will be potentially visible from the Item within the northern portion of the site, it is set well away from the dividing boundary with No 55 and therefore even greater levels of separation are provided to the heritage Item. Any views to and from the Item will not be adversely compromised."

Based on the above, and a detailed assessment of the application, the proposed development is not unreasonable and while it is considerably different to the heritage item, it does not challenge or dominate it in terms of building design, materials and streetscape. In this regard, the proposed development will add to the diversity of buildings in the street but does not affect the setting, integrity or character of the heritage item.

Therefore the qualities that makes the heritage item and it's 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 including excavation are required on site for the basement level and rear building which steps down the site. 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 and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. However, notwithstanding, relevant conditions are included in the draft Notice of Determination to ensure that the environmental amenity of surrounding land is maintained, and soil erosion, sedimentation, and drainage impacts are minimised.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51.0 metres to Australian Height Datum (AHD). The proposed building height is at 8.12m (RL 16.277m to

AHD) and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.6 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 retention system to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes - see discussion	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes - see discussion	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.1.3 Flood Risk Management	Yes	Yes
4.1.3 Groundwater Protection	Yes	Yes - see discussion
4.1.4 Soil Management	Yes - see discussion	Yes - see discussion
4.1.6 Development on Sloping Sites	Yes	Yes - see discussion
4.1.7 Tree Preservation	Yes - see discussion	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes - see discussion	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design	Yes - see discussion	Yes - see discussion
4.4.1 Energy Efficiency - Residential	Yes - see discussion	Yes - see discussion
4.4.2 Solar Access - General Controls	Yes - see discussion	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes - see discussion	Yes - see discussion
4.4.4 Glazing - General Controls	Yes - see discussion	Yes - see discussion
4.4.5 Visual privacy	Yes - see discussion	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.4.5 Acoustic privacy	Yes - see discussion	Yes - see discussion
4.4.6 Noise Impact	Yes - see discussion	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes - see discussion	Yes - see discussion
4.6 Parking Rates - Other Uses	Yes - see discussion	Yes - see discussion
4.6 Car Park Location and Design	Yes - see discussion	Yes - see discussion
4.6 Vehicles Enter and Exit in a Forward Direction	Yes - see discussion	Yes - see discussion
4.6 Driveway Widths	Yes	Yes - see discussion
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes - see discussion	Yes - 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 - see discussion	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings	Yes	Yes - see discussion
5.1 Building Design - General	Yes - see discussion	Yes - see discussion

4.1.1 Views and Vista

The subject site does not contain any iconic or significant views and is not located higher or above any of the adjacent properties. In this regard, the only views on the site or adjoining properties is of the top of the existing tree canopy of existing trees located to the north along Bardwell Valley on the northern side of the Railway Line. Apart from the trees, the views from the site and adjoining properties is limited to the curtilage of the existing adjoining and neighbouring properties which is not significant or worthy of retention.

The proposed boarding house will include two storeys and a basement car parking level which is consistent with the existing built form in the street. In this regard, the siting and design of the proposed development is not likely to result in any significant or unreasonable impacts on any existing views from the site or surrounding views presently enjoyed by adjacent residents.

4.1.2 Heritage Conservation - Vicinity of Heritage Item

This has been addressed previously in this report. (Please refer to section 5.10 of this report).

4.1.3 Water Management

The roofwater and runoff is to be directed to an absorption trench on the site. A stormwater plan has been submitted.

4.1.3 Groundwater Protection

The site is affected by the Groundwater Protection Zone 3, however it is considered that excavation in relation to the proposed building is not deep enough to cause any adverse impact on the Zone. Notwithstanding, an appropriate condition is to be included in the consent to ensure the provisions of this Clause are satisfied.

4.1.4 Soil Management

The Soil & Water Management Plan has been submitted and general erosion and sediment control

strategies are proposed to ensure that the potential for impact on adjoining land and surrounding waterways is minimised.

Temporary fencing is to be erected along the boundaries of the site. A builders all weather access is required to be provided onto the site.

4.1.6 Development on Sloping Sites

The objectives of this clause are to limit site excavation and minimise cut and fill by allowing the building mass to step in accordance with the slope of the land; and to protect the amenity of adjoining properties. In this regard, the topography of the site is unique, such that the site falls to the rear up to 1.5m across its length.

In this regard, design elements have been incorporated in the proposed development, allowing it to respond to the natural sloping topography of the land. These include:

- Having a split level design, with the building stepping down at the rear of the site
- A pitched tile roof design with two ridges and valley in between (one part skillion) to reduce the overall bulk and scale and height of the development when viewed from the street and adjoining properties.
- The building steps in accordance with the topography of the site, in an attempt to lower the rear section of the development.

Taking into consideration the above, the proposed development appropriately responds to the slope of the land, minimising environmental impacts and amenity impacts on adjoining residents.

4.1.7 Tree Preservation

The development proposal involves the removal of two existing trees in the rear yard being 5m and 3m high. Council's Tree Management Officer has recommended appropriate conditions that have been imposed in the draft Notice of Determination, regarding the removal of the two existing trees subject to suitable replacement trees being planted in appropriate locations. The proposed landscape plan includes the provision of such trees and the proposal is acceptable in respect to the provision of trees on the site. The trees proposed to be planted in the rear yard shall be located a minimum of 1.5m from the side and rear boundaries of the site to ensure they are able to sustain suitable root systems that will not be affected by fencing on the site. Accordingly, the proposal complies with the requirements of this clause.

4.1.9 Lot size and Site Consolidation - isolated sites

The subject site is zoned R3 Medium Density Residential and the current proposal is to construct a two storey boarding house with basement car parking on the site. As such, the proposal does not involve the amalgamation of the adjoining property to the west at No. 55 Hannam Street with the construction of a development for which the land is zoned, i.e. medium density residential or multi dwelling housing development. The applicant has submitted a statement stating the following:

- The adjoining property at No. 55 Hannam Street can be redeveloped for a dual occupancy or semi-detached dwellings whilst providing a high level of amenity and comply with the FSR, height and setback controls.
- While short of 15m frontage requirements for dual occupancy development, a variation could be supported and this non compliance would not rule out redevelopment of the site. An example of this is the property opposite at No. 36 Hannam Street (12m width) and 54 Dowling Street (13.7m

width) which also contain attached dual occupancy developments that do not strictly comply with the frontage controls.

- Given the low density nature of the development in the street, redevelopment of No. 55 with a dual occupancy is more consistent with the existing and emerging two storey form of buildings presenting to Hannam Street.

Notwithstanding the above, there are no townhouse developments within this part of Hannam Street that is zoned R3 Medium Density Residential i.e. for this purpose. The existing streetscape is composed of single detached dwellings and dual occupancy developments. The existing dual occupancy development at No. 51 Hannam Street is on land having a width of 14.8m while the property adjoining the site at No. 55 Hannam Street is 4.3m deeper at the rear. In this regard, amalgamation of the lots in question at Nos 53 and 55 Hannam Street would create an irregular shaped lot that does not represent the optimal yield for a townhouse development.

In addition to the above, the applicant has submitted to Council a valuation of the property at No. 55 and letters showing that attempts have been made to consolidate the lots. The owner of the adjoining land has indicated that they do not accept the offers made by the applicant for the purchase of the land.

The Planning Principles espoused by the Land and Environment Court of NSW identify site isolation and generally state two questions to be used as a guide in consideration any development application that may result in the isolation of land. In this regard, the two questions are as follows:

A. Firstly, is amalgamation of the sites feasible? In determining the answer to this question the principles set out by Brown C are relevant.

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

These two questions have been considered in relation to the current application and comments made in relation to each as follows:

A. Is amalgamation of the sites feasible? To determine the answers to this question the principles set out by Brown C in *Melissa (Grech V Auburn Council (2004) NSWLEC 40* is used):

Negotiations have been carried out with the owners prior to determination of any development application. No satisfactory result was achieved from the negotiations and details have been submitted by the applicant confirming reasonable offers were made for the owner of the isolated property. These were based on an independent valuation of the land and included expenses likely to be incurred by the owner of the isolated property.

Although negotiations between owners did not occur before the application was lodged, sufficient information has been submitted to confirm discussions were carried out and reasonable offers were made. After the final offer was made, no response was provided from the neighbouring land owner.

Based on the above information, and that an offer was made that is considered reasonable but was not accepted by the owner of the adjoining land, it is considered that the applicant has satisfied this part of the Planning Principles espoused by the Land and Environment Court NSW in relation to the isolation of land. Under the Planning Principles espoused by the court, consideration can be made if an offer is reasonable and does not have to be high relative to the market. Accordingly, the current proposal is

acceptable in this regard.

B. Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible? To answer this question, the following principles established in Cornerstone Property (Group Pty Ltd V Warringah Council [2004] NSWLEC 189, and further established in Karvellas V Sutherland Shire Council [2004] NSWLEC 251, are used):

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

The adjoining lot (No. 55) which will be isolated by the proposed development will contain a lot frontage of 12.2m and site area of 742.5m². While the adjoining lot does not comply with the minimum lot width frontage requirement of 15m for a dual occupancy, it exceeds the minimum 700m² requirement for dual occupancy development. An application for a secondary dwelling on the site could be considered by Council in accordance with the residential zone. The adjoining lot is constrained by its width and adjoining a heritage item to the west. The lot is deep enough to accommodate a secondary dwelling to the rear. Similarly, the zone of the site allows a range of uses for the existing dwelling house at the front of the site. The surrounding locality contains similarly constrained lots which have all been redeveloped for residential purposes.

The applicant has indicated that the adjoining property which is being isolated is capable of being redeveloped on its own in accordance with the current residential zone of the land. This has been confirmed despite the applicant not submitting a plan showing the independent redevelopment of both properties. It is considered that the redevelopment of both properties independently could occur whilst maintaining acceptable levels of amenity for each and other adjoining sites. It is considered that the redevelopment of both lots can occur without any likely impacts upon either the site or adjoining properties, however maximum development potential may not be able to be achieved due to site constraints including lot width, topography of the site and the adjoining heritage item. Accordingly, the current proposal is consistent with the planning principals and qualifies for the tests outlined above.

Based on the above, the proposal is not inconsistent with the requirements of this clause and the proposal is not unreasonable in respect to lot isolation.

4.2 Streetscape and Site Context - General

The proposal is located in a Medium Density Residential R3 Zone under the RLEP 2011. The immediate context is relatively low scale, consisting of single and two storey dwelling houses and attached dual occupancies. However, the area is undergoing change, as reflected in a number of new two storey residential developments. The proposed development is modern but 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 variable setbacks of surrounding two storey buildings 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 of materials

which adds visual interest to the facades. The front elevation includes a two storey component and a first floor component over the ramp. The main two storey component includes a front wall with full length glazing in aluminum frame behind vertical and horizontal aluminium louvres all underneath a pitched metal roof with fascia above the first floor. This part includes horizontal metal louvres (Venetian) on the ground floor and vertical timber screening (slats) on the first floor balcony. Part of the modern first floor over the driveway ramp includes an attached boarding room with separate butterfly roof form which rises to the side boundary with masonry front wall having one window / opening to that boarding room. The facade design relates to a dwelling house opposite the site at No. 38 Hannam Street which has a steeply sloping pitched tile roof. Overall, the proposal contains many suitable materials and finishes that relate to the existing residential development in the vicinity of the site. As such, it will add diversity to the character of the area without challenging or dominating it.

The front yard will be landscaped and include a turfed lawn, a landscaped and paved front yard with landscape plantings, a bin storage area inside the front boundary, a pedestrian access path to the middle of the site and the driveway ramp. To further improve the external appearance of the site, the bin storage area shall be relocated to the eastern side of the pedestrian entry path behind the front building line. This will improve the landscaping in the front setback and can be addressed through the imposition of a condition of development consent. As such, the scheme will result in a suitable front setback which is capable of accommodating landscaping to soften the proposed development. The building design and use of materials is modern but relates well to the existing buildings in the street and will include suitable architectural elements so that it is consistent with the future design character of the area.

The proposal is not likely to dominate the site, challenge any existing buildings in the street or result in any significant adverse impacts on the context of the site. The building will include boarding rooms at the front that will overlook the street and increase passive surveillance. Pedestrian and vehicular entries have been separated to reduce conflict and will result in suitable levels of safety.

Based on the above the proposal will result in a suitable external appearance that is not likely to result in any detrimental visual or aesthetic impacts on the existing streetscape. This was also the conclusion reached in assessment of the proposal against Clause 30A of the Affordable Rental Housing SEPP (refer to assessment above).

The proposed development will have a front door and living room with first floor boarding room windows addressing the street. The building's frontage and entry points are readily apparent from the street with increased legibility. Accordingly, the proposal is acceptable in respect to streetscape and complies with the requirements of this clause.

4.2 Streetscape and Site Context - Fencing

The proposal will include a masonry front fence with a height of 0.8m to 1.2m along the front boundary comprising a mixture of metal blades over a dwarf wall and a full masonry height in the middle of the site. The bin storage area shall be relocated further within the site to the eastern side of the front boarding room. The fencing is consistent with the existing fencing along adjoining properties and those within the surrounding locality which also include 1m high masonry fences along the front boundary. The proposed fence is open with increased transparency and will be made of durable and robust materials. The fence will allow increased sight distances and complies with the requirements of this clause.

4.3.1 Open Space and Landscape Design

The proposal will provide 17.79m² of private open space on the rear terrace and 139m² in the rear

yard at natural ground level. As such, the proposal complies with the minimum open space requirements under the SEPP (Affordable Rental Housing) 2009 as indicated previously in this report. Private and communal open spaces are usable, accessible, clearly defined and will meet occupant's requirements of privacy, solar access, outdoor activities and landscaping. They are provided throughout the site and will contribute to the internal amenity of the future occupants of the site.

4.4.1 Energy Efficiency - Residential

The applicant has submitted a BASIX Certificate for the proposed development. The commitments made result in reductions in energy and water consumption, and will achieve the efficiency target set under SEPP BASIX.

4.4.2 Solar Access - General Controls

Shadow diagrams were submitted with the application and appear to be accurate. The plans indicate the proposed development will cast a shadow to the road and front yard (south) for most of the day with some affectation to the adjoining properties in the morning and afternoon in mid winter.

The site has a north south orientation and the proposal will not afford 3 hours of direct solar access to the side windows of the dwellings on the adjoining properties. This is largely a result of the orientation of the site and is unavoidable. However, the shadows are cast over 3 sites throughout the day and the rear elevation and rear yards of the site and adjoining properties all face north and achieve well over 3 hours of direct sunlight every day in mid winter. Further, the site is oriented in a north/south direction and a driveway is located on the adjoining property to the west which results in an increased setback to the dwelling house on the adjoining property at No. 51 Hannam Street.

Notwithstanding the above, the proposal affords more than 3 hours of direct solar access to the private open space areas of the adjoining properties and complies with Council's requirements this regard. Despite the non compliance with the windows in the side elevations of dwellings on the adjoining properties, the proposed development complies with side setback, height and FSR requirements and is similar in scale to adjoining and nearby developments. The proposal is therefore considered to generally have minimum impact on the level of sunlight currently received by adjoining properties and within the development site and is acceptable with regards to the objectives of the control.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating minimum ceiling heights of 2.8m to the ground floor and a raked ceiling with between 2.7m and 4.2m in parts on the first floors.

4.4.4 Glazing - General Controls

The proposed development provides appropriate sun protection/shading devices during summer for glazed areas facing north, west and east, including the use of eaves, awnings, external louvers and balustrade design.

4.4.5 Visual privacy

The proposed boarding house development has been redesigned and sited to minimise the overlooking of adjoining properties, incorporating:

- a privacy screen to the western side of the landing with a setback of 1.5m from the western side boundary,
- windows in side elevations with sill height of 1.7m above the finished floor level,

- landscape hedging/ tree screening located along boundary fences at a height of 3m,
- windows are offset to preclude views into windows of adjacent buildings, and
- the building has two recesses with three separate forms having increased side setbacks between the forms,

The front and rear balconies have increased side and rear setbacks with a full length wall on the side edges of each balcony to retain privacy to the adjoining properties. In this regard, the first floor balconies have been redesigned and are a significant improvement with the reduction in overlooking and retention of adequate privacy between adjacent dwellings. The first floor balconies to the rear will result in some overlooking to the adjoining properties to the rear (north) and sides (east and west). To minimise this overlooking, the balustrade shall be made solid and up to a minimum height of 1.4m above the finished floor level of the balcony. This shall be addressed through the imposition of a condition of development consent. While a solid balustrade is not in keeping with the vertical timber louvre design, the balustrade may contain the vertical timber elements on the outside with the solid material on the inside of the balustrade to minimise its visual contrast.

While the above measures represent a significant improvement, the detailed design of the privacy screen between the second and third building form has not been provided. In addition, the rear terrace is raised and requires provision of a privacy screen along the western side edge to retain privacy between the stairs and adjacent dwellings. In this regard, a condition of development consent shall be imposed relating to the specific design of the privacy screen to ensure it will be effective and an additional screen along the edge of the rear terrace. It is noted that the level of the rear terrace cannot be reduced due to flooding.

Having regard to the above, the proposed development, as conditioned, provides a reasonable level of visual privacy between the site and adjoining properties.

4.4.5 Acoustic privacy

The proposal has been designed with compliant setbacks and modern building design with separated building forms. An acoustic report has been submitted with the application in respect to internal and external noise levels. The report was prepared by Koikas Acoustics dated 8 May 2019 and a condition has been imposed requiring compliance with the report recommendations. 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. In addition, a Plan of Management will implement noise restrictions and the measures will be adhered to in the operation of the use. Accordingly the proposal complies with the requirements of this clause.

4.4.6 Noise Impact

An Acoustic report prepared by a suitably qualified Noise Consultant (Koikas Acoustics dated 8 May 2019) has been submitted with the application which provides recommendations on appropriate measures to be incorporated into the design of the building so it will meet this standard. Appropriate conditions have been incorporated in the draft Notice of Determination for the implementation and compliance of the recommendations in the Acoustic report.

4.5.1 Social Equity - Housing Diversity and Choice

Part 4.5 of RDCP 2011 contains objectives and controls that aim to ensure that residential developments are flexible, maximise housing choice and provide equality of access. The proposal is considered to satisfy the relevant objectives and requirements.

- A minimum 10% of units are to be adaptable in accordance with AS 4299, and provide barrier free access to a minimum of 20% of apartments.

The proposal includes at least one (1) accessible dwelling on the site (that is adaptable) in accordance with AS 4299. The proposed apartment has access to a car parking space that is accessible from the unit (and associated car parking spaces), and achieves compliance with the BCA.

The proposal is therefore considered to satisfy the requirements of Part 4.5 of RDCP 2011 subject to inclusion of recommended conditions.

4.6 Parking Rates - Other Uses

The proposal will include a boarding house with 10 rooms and will provide 5 on site car parking spaces within the basement parking level. This complies with the minimum on site car parking requirements under the SEPP (Affordable Rental Housing) 2009 as indicated previously in this report.

Accordingly, the proposal complies with the on site car parking requirements in this clause.

4.6 Car Park Location and Design

The proposal will include vehicular and pedestrian access from Hannam Street at the front via a ramp to the basement level. The vehicular access point is clearly visible with adequate sight distances along Hannam Street and sufficient queuing distance to the basement level along the ramp. The proposal will retain adequate vehicular and pedestrian safety at the front of the site as the pedestrian point is separated from the driveway and leads directly to the front of the development.

4.6 Vehicles Enter and Exit in a Forward Direction

The proposal will include a basement car parking level that has a central aisle perpendicular to the entrance ramp. The design provides vehicular access to the basement parking level and allows vehicles to reverse into the central corridor and exit the site in a forward direction. Subject to conditions to be imposed, the proposal will provide sufficient turning and access areas to allow the safe passage of vehicles into and out of the site.

The proposal will include visitor car parking spaces which are clearly marked in the basement level and are accessible from the adjacent ramp directly from Hannam Street. The proposal includes a parking space for people with a disability provided in close proximity to the access point. In addition, conditions are to be imposed requiring compliance with the BCA and AS1428 relating to disabled access.

Based on the above, the proposal complies with the requirements of this clause.

4.6 Driveway Widths

The proposed driveway width complies with Council's Technical Specifications and hence satisfies the provisions of this Clause. Notwithstanding this, a condition has been imposed limiting the driveway width to be in accordance with the specifications and the proposal is acceptable in this regard.

4.6 Pedestrian Access and Sustainable Transport

The proposal includes separate vehicular and pedestrian access to the site and incorporates suitable sight distances on either side of the proposed driveway. In this regard, the proposal is not likely to reduce road safety within the surrounding street network and complies with the requirements 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

The application was referred to Council's Waste Management Officer who raised no objections to the proposal and advised that it can comply with the requirements of Council's DCP in respect to waste. The proposal includes a bin store area at the front of the site behind a masonry wall and can cater for residential waste from the proposed boarding rooms. Rockdale Council's Technical Specification - Waste Minimisation and Management states that "the on site bin storage area must be located so as to avoid vandalism and adverse impact on the visual amenity of the area and should preferably be located in the rear yard of the premises." The current proposal will include the bin store on the inside of the front masonry fence and does not comply with this requirement. However, the proposed bin store will be masonry construction and will be taller than the bins and therefore not be visible from the street. Notwithstanding this, the bin store shall be relocated to within the site between the eastern side of the front dwelling and the driveway ramp. This new and improved location will not impact on the existing streetscape, shall be accessible from each boarding house room, have unobstructed access to the bin collection point and will ensure adequate traffic and pedestrian safety is maintained on the site. The proposal will include a bin collection service using the 240L yellow and red bins picked up from the site.

The above requirements shall be addressed through the imposition of a condition of development consent. In this regard, the proposal, as conditioned, complies with the Technical Specification - Waste Minimisation and Management and the requirements of this clause.

4.7 Service Lines/Cables

A condition has been imposed on the draft Notice of Determination requiring the applicant to liaise with Ausgrid to provide the necessary services to the proposed development in accordance with their requirements. Such services may include the provision of electrical energy to the site along with internal communications such as telephone, internet and cable television services. Discussions with Ausgrid are also to include the relocation of the existing power pole within the nature strip adjacent to the western edge of the proposed vehicle crossing and driveway to ensure there is no conflict with vehicles entering and exiting the site. Accordingly, the proposal is acceptable and subject to the proposed conditions, can satisfy the requirements of this clause.

4.7 Laundry Facilities and Drying Areas

An inspection of the plans submitted with the application reveal that each room will contain a washing and drying machine and complies with the requirements of this clause. No objections are raised to the proposal which comply with the requirements of Council's DCP in respect to laundry and drying areas. In this regard, the proposal complies with the requirements of this clause in respect to laundry and drying facilities.

4.7 Letterboxes

The proposal shall include letterboxes at the front boundary of the site and shall be clearly visible from the street. The proposed letterboxes shall comply with the requirements of this clause. In addition, a

condition shall be imposed requiring the letterboxes be provided in accordance with the requirements of the Australia Post Guidelines. Accordingly, the proposal is acceptable in this regard.

4.7 Hot Water Systems

A condition is imposed on the draft Notice of Determination which requires hot water systems on balconies to dwellings 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 Storey Height and Setbacks - Dwelling house and Attached Dwellings

The proposed boarding house will have setbacks as follows:

DCP 2011 - Minimum setback	Proposed	Complies
Front setback consistent with street	6.5m to front balcony ground floor 8.5m to front wall ground floor 6.0m to front balcony first floor 6.4m to front wall first floor	Yes Yes Yes Yes
Ground floor side setback 900mm	1.5m western side boundary 3.0m eastern side boundary	Yes Yes
First floor side setback – 1.5m	1.5m western side boundary 1.5m (front) and 3.0m (rear building) to the eastern side boundary	Yes Yes
Rear setback ground – 3m	Ground – 8.9m to 10m to the edge of the terrace	Yes
Rear setback first floor – 6m	First floor – 11m to 12.5m to the edge of the balcony	Yes

Further, the proposal has a staggered building design with three separate built forms and the side setbacks exceeding the minimum requirement in between and for the most part. The proposal is not considered to unreasonably impact upon the adjoining dwelling by way of overshadowing and overlooking, and will not significantly reduce the solar access, light and air received by the adjoining dwelling. Therefore, the proposed setbacks are consistent with the objectives of this control.

5.1 Building Design - General

The proposed boarding house has been designed with a modern architectural style and responds to the character of the surrounding locality. The building includes sufficient architectural elements, different textures and finishes and articulation to provide architectural interest within each elevation. The development does not include large expanse of walls and has appropriate fenestration. While the stair cases are not internally located, they are between the built forms and contain a privacy screen where necessary. The building has a ramp to the basement parking level which is located within the building footprint. The roof form responds to existing building fabric within the street and contains similar pitch and scale. In this regard, the proposal is acceptable and complies with the building design requirements outlined in this clause.

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 condition of consent is proposed to ensure compliance with the standard.

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

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:

Social Impact

Boarding houses serve an important role in providing low cost accommodation for people who value affordability and location over space, and who prefer simple and flexible tenure arrangements. For cost or other reasons, boarding houses are a preferable option for many people and provide for a positive social impact.

Economic Impact

The proposal will contribute to the economic vitality of the Bardwell Valley area not only through the provision of affordable rental housing but also in the construction of the building and on going management of the use. The development will enhance the provision of accommodation, add value to the land and adjoining properties and make a positive contribution to the street. The proposal will provide cost efficient housing for future occupiers and add to the economic diversity of residents in the area.

Health Impact

The proposed development was referred to Council's Health Officer who raised no objections to the proposal subject to recommended conditions. The conditions require the proposed development be constructed and operated in accordance with the requirements of the Local Government Act 1993, Public Health Act 2010, the Boarding Houses Act 2012 and all of their ancillary Regulations. In addition, the proposal has been conditioned to ensure that it is registered with Council prior to its occupation. Accordingly, the proposal is acceptable in respect to its health impacts.

Safety and Security

The proposal has been accompanied by a Plan of Management, (POM) which seeks to manage the ongoing operation of the boarding house and the use of indoor / outdoor communal areas in order to avoid neighbour disturbances. The Plan of Management details house rules which seek to manage guest behavior throughout the duration of their stay, non adherence to guest rules may result in fines & eviction. The POM outlines the minimum length of stay for boarders as 3 months, with restrictions on occupancy based on single or double rooms.

Plans indicate the provision of a secure entry gate to the vehicular access area and secure 1.8m high

walls along the side boundaries of the site with secure front doors to the residential lobby to the boarding house, providing restricted access to the site and clearly delineating between public and private property. This will ensure the safety and security of vehicles entering and exiting the site and that of future occupants. The development will be secure with each room being lockable and will incorporate sensor lighting to the main entry of the development.

Construction

The residential building is to be constructed in concrete and masonry and pitched metal roof with concrete floors. The proposal has been conditioned to comply with the requirements of the Building Code of Australia (BCA) particularly, in regards to fire safety of the building. There are no specific issues relating to the BCA in the proposed design.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. The proposal was significantly amended to ensure it was suitable and 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 twice in accordance with the provisions of Rockdale DCP 2011. The first notification period was for the original scheme submitted which ended on 14 March 2018 and the second notification period was for the substantially reduced scheme and ended on 16 January 2019. During the first notification period Council received twenty (20) submissions while during the second notification period Council received five (5) submissions in respect to the scheme. The issues raised in the submissions are discussed below:

First Notification Period - Responses:

Traffic and Parking

Issue 1: The 15 boarding house includes rooms which means there will be 15 cars parked in the street. If they each have a visitor that's 30 cars. Where are they going to park? Hannam Street is narrow and two cars can barely pass each other. Parking will spill into the surrounding streets and near Turrella Railway Station. Most cars parked already come from the apartments near the station. The proposal should have at least thirty (30) car parking spaces to cater for residents and their guests.

Issue 2: A boarding house with 15 rooms is hardly a sensible option to alleviate illegal parking on footpaths in the area. Additional vehicles will increase the risk to local residents.

Issue 3: The street is narrow and the proposal will therefore result in unreasonable impacts on pedestrians and result in illegal parking on footpaths.

Issue 4: The parking provided does not cater for service deliveries, staff, tradesmen, suppliers and the like, and the proposal fails to provide one parking space for the resident employee on the site

Issue 5: On street parking will become a problem – inadequate car parking - Even the 3D montage shows cars parked illegally on the footpath demonstrating the traffic and parking problems in the area – pedestrians are forced onto the street

Issue 6: Cars will be reversing out of the car parking area at the front of the site which is dangerous

and will disrupt traffic in the street including school and public buses - This will result in oncoming vehicles having a collision which has so far barely been avoided in Hannam Street – insufficient room for buses to pass

Issue 7: Increase in traffic congestion - Hannam Street is a growing thoroughfare with more vehicles from the M5 with increased speeds. The road is narrow and vehicles park on the footpath blocking the pavement.

Issue 8: If supported, a compromise should be reached for the residents including parking permitted on one side of the street with part over the footpath and no parking on the other side.

Comment: The proposal has been reduced in scale to include 10 boarding rooms for a total of 17 occupants and includes a basement car parking level with turning and manoeuvring area for 5 vehicles at any one time. While Hannam Street is narrow, the proposal complies with car parking required by the SEPP and no additional parking can be required. The spaces and access thereto will ensure the safe passage of vehicles to and from the site. The basement parking level complies with the minimum on site car parking requirements and includes access areas and temporary parking for tradesmen, staff, and suppliers. The basement includes adequate turning and manoeuvring areas to ensure vehicles can enter and exit the site in a forward direction. Suggestions made in relation to parking on one side of the street and not on the other have been forwarded to Council's Traffic Section for consideration.

Character and Streetscape:

Issue 8: The character of the area will be affected in out nice quite suburb

Issue 9: Not in keeping with the residential area – out of character

Issue 10: The development is not suitable for this location. I support affordable housing but not in this quiet residential area with limited parking and not in keeping with the existing residential development.

Issue 11: The proposal does not adequately relate to the neighbouring heritage item with small amounts of landscaping around the car park at the front of the site

Issue 12: The streetscape information submitted is out of date as No. 51 Hannam Street has a new two storey dwelling house and the small cottage in the photograph has since been demolished

Comment: The existing streetscape includes a variation in roof forms with predominantly single and two storey low density residential development comprising a pitched tile roof having different roof pitches. The amended scheme includes a row of attached boarding rooms which is broken up into three segments that step down the site rather than one big long building form. The proposal includes a metal pitched roof comprising different roof forms over each built form on the site. The facade design relates to a dwelling house opposite the site at No. 38 Hannam Street which has a steeply sloping pitched tile roof. The proposed walls comprise a mixture of rendered and painted walls with three different colours and stonework feature walls. Building elements include glazing in metal spandrels, aluminium screening for privacy and metal balustrades. As such, the proposal contains many suitable materials and finishes that relate to the existing residential development in the vicinity of the site. The proposal will add diversity to the character of the area without challenging or dominating it. The proposal is different but not out of character with the surrounding locality and as such, is acceptable in this instance. The subject site is not directly adjacent to the existing heritage item in the street and is not likely to dominate or detract from its setting and context. This matter has also been addressed in further detail previously in the report.

Density:

Issue 13: The precinct is the subject of a draft plan to be released later this year. It would be prudent to await the results of the draft plan for the current DA is assessed. The current DA is adhoc.

Issue 14: Up to 27 people living on one 714.5m² lot is excessive. Another boarding house was reduced in size by Council thankfully and this should be carried out here.

Issue 15: Insufficient outdoor common open space for 27 people. The size and style of the build is not appropriate and is situated just one lot from a beautiful and protected sandstone property. The proposal will tower over the one storey property at the back of it. The proposal is not suitable for the site and if people want a high rise they should wait to see the rezoning of the suburb. Excessive site coverage and insufficient green space provided on completion. A better development on the site would include a duplex or even a shop to provide the local area with bread and groceries

Comment: The amended scheme has been reduced in size and scale and will accommodate up to 17 people. The amended scheme complies with the requirements of the SEPP in relation to outdoor common private open space on the site. The proposed built form is consistent with the medium density residential zone and sufficient open space has been provided on the site. Accordingly, the proposal is acceptable in this regard.

Stormwater Drainage and Sewer Pipe:

Issue 16: The plans fail to show that there is a Sydney Water Sewer Main on the property which limits the amount of land that can be built over

Issue 17: The plans fail to show the 6 linear metre exclusion area from the fence line required by Sydney Water which is drawn at an angle of 45 degrees from the base of the Sewer Main i.e. around 3m from the centre line of the sewer main

Issue 18: The sewer man hole at the rear has been covered over with soil to hide it

Issue 19: Apartment buildings need to drain sewerage directly to a normal gravity fed sewer line so they do not over load the lower level, pump out system – otherwise overflow will run into the creek behind the lower level pumping station

Comment: The amended scheme details the above matters on the plans submitted to Council and consideration of these matters has been included by the applicant. In this regard, the proposal is acceptable and these matters have been addressed through the imposition of conditions of development consent.

The proposal will include direct connection with the existing sewerage main located at the rear boundary of the site and all sewerage will be fed under gravity to the sewer system without a pump. The location of sewer main is identified on the survey submitted with the current application. The stormwater system however will include an absorption pit in the rear yard and has been designed to reduce any impacts on the creek behind the site. Notwithstanding this, a condition has been imposed to ensure the two systems do not affect the operation of each other. In this regard, subject to the imposition of conditions, the proposal is acceptable in respect to stormwater and sewerage.

Privacy:

Issue 20: The first floor entrance has no screening and a full view into the bedrooms, lounge and dining rooms of dwellings on adjoining properties – no privacy – all stairs should be internal to avoid lighting and noise transfer

Issue 21: The plans fail to show my workshop in my rear yard which will be highly visible from the first

floor, rear stairs and common room and veranda at the rear. My machinery, tools, etc. will all be visible and seen by anybody who wants to steal from me.

Comment: The access stair from the ground to first floor is located within the site between the three building forms and contains substantial distances away from the eastern side boundary and a privacy screen along the western side boundary. A condition of development consent has been imposed relating specifically to the privacy screens to be used to ensure they will be effective in minimising overlooking. In this regard, the degree of overlooking has been dramatically reduced and the areas for people to congregate have been reduced in size. The rear terrace is required to have a privacy screen and this has been addressed through the imposition of a condition of development consent. The rear detached buildings on the adjoining properties to the rear are only likely to be viewed from the first floor balconies at the rear which are directly off two bedrooms, reduced in width and contain privacy louvres. In addition, the rear balustrade to the first floor balconies at the rear will be made solid to minimise overlooking. The amended scheme has an increased rear setback and includes more landscaping elements within the rear yard. Given the degree of separation, less intense balconies, provision of privacy screens and additional landscaping elements in between, the degree of overlooking to the rear has been dramatically reduced and is found to be acceptable subject to additional conditions proposed. As conditioned, the proposal is not likely to result in any significant overlooking to the rear and is acceptable in this regard.

Miscellaneous:

Issue 22: The exterior raised walkways for this development will require lighting at night time and adverse impact on all adjoining properties in addition to lights going on and off at all hours

Issue 23: The large bin store will result in many rubbish bins directly opposite my door and bedroom window with significant odour - The large number of bins placed on the footpath for collection will create further risk to pedestrians in addition to cars parked on the footpath

Issue 24: No disabled access to any rooms by wheelchair or any lifts.

Issue 25: There is no provision for a commercial laundry room which is essential for 15 rooms in a boarding house.

Issue 26: The proposed layout of rooms is impractical and lacks sufficient space/common area

Issue 27: Public safety – Bardwell Valley is a quiet, peaceful and safe neighbourhood – Council has already approved a boarding house in Rickard Street - we haven't had a chance to see the impact from this one yet as it is in the final stages of completion

Issue 28: Safety and security is questioned due to the vicarious nature of boarding house tenants

Issue 29: Allowing 2 boarding houses to be built so close to each other shows a lack of care and absolute disdain for the residents of Bardwell Valley

Issue 30: Based on the range of issues upon which to object, the application is absurd and an inspection of the site would confirm this

Comment: The proposal has been amended and the raised external walkways have been deleted from the scheme and replaced with a better access stair solution for the site and a standard condition is proposed to ensure lighting impacts are minimised in accordance with the relevant standard. The bin storage area shall be relocated to within the site in an appropriate housing that will contain the bins and prevent odors and visibility from the street and adjoining properties. The proposal includes disabled access to specified boarding rooms on the ground floor, service rooms and a disabled space within the basement parking level. In respect to its bulk and scale, the proposal is not unlike a two storey dwelling house. Each boarding house room contains a washing machine and dryer so a communal laundry

room is not required. The room layout has been improved with substantial common area including both an internal common room and open rear terrace and room sizes comply with the SEPP requirements. The proposal contains sufficient setbacks and well landscaped yard areas in which to screen and soften the proposal. As such, the proposal is acceptable, complies with the controls applying to the land and will result in an appropriate and permissible residential use on the site.

A condition has been imposed to ensure a Plan of Management is in operation with the proposed use. The POM will ensure that the safety and security of both the future occupants of the site and those on the adjoining properties are maintained. While several issues have been addressed in this report and the application has been significantly amended to address issues identified, the proposal is a legitimate use of the site in accordance with the State policy.

Overshadowing:

Issue 31: The proposal will cast shadow over my solar hot water heater until 11am (not 10am) and remove 2 hours of heating costing me even more for my electricity. Overshadowing on numbers 51 and 55 Hannam Street and 1 Wilkins Street

Comment: The proposal will increase the amount of overshadowing on the adjoining properties however, it is acceptable with respect to the requirements of Council's DCP in respect to overshadowing. Overshadowing has been addressed previously in this report (please refer to section 4.4.2).

Permissibility:

Issue 32: Objection as the proposal is a business use in the middle of a residential/family area

Comment: The proposal is a boarding house which is a residential use and is permissible within the Medium Density Residential zone under the RLEP 2011. Accordingly, the proposal is acceptable in respect to permissibility.

Second Notification Period - Responses:

The following issues were raised in the submissions during the second notification period:

Issue 1: The property is too close to Coolibah Reserve and I do not want the reserve to be affected by the development

Comment: The proposal, as designed and if approved subject to conditions, is not likely to result in any significant adverse impacts on Coolibah Reserve.

Issue 2: Boarding houses have a reputation for insecurity and other safety issues in residential zones

The transient nature of boarding house residents will result in a higher risk of robbery

The proposal is not in keeping with the neighborhood and will create a slum like atmosphere

Comment: The safety and security of the proposed boarding house has been addressed previously in this section of the report. No information has been submitted that would substantiate a claim relating to higher risk of robbery. The proposal will result in a built form that is not unlike other larger dwellings in the street.

Issue 3: My property may be affected by the excavation, due to soil collapse affecting my driveway,

retaining wall and brick archway

Comment: Modern construction methods can be used by the builder to ensure that the proposal does not result in any adverse impacts on the buildings on the adjoining properties. In this regard, conditions have been imposed in relation to construction. Such conditions include ensuring that the applicant submits a dilapidation report and takes appropriate steps in the construction methods used in excavating the site.

Issue 4: Why should Council support such an over-development on such a small property

Comment: The amended scheme has been reduced in size and scale and complies with the planning controls applying to boarding houses. Consideration has been given to the design, bulk and scale of the proposed and, based on a detailed assessment, the proposal is not an over development of the site.

Issue 5: The DA is clearly for a commercial development

Comment: The proposal includes a residential use (boarding house) which is permissible within the Medium Density Residential zone under the RLEP 2011.

Issue 6: There is no disabled access on the plan for residents which is required

Comment: The proposal includes disabled access to specified boarding rooms and services on the ground floor and includes a disabled parking space within the basement parking level.

Issue 7: The plans fail to show where the bins will be kept

Comment: The amended plans show the bins will be stored in their own housing behind the front fence along the front property boundary. However, a condition has been imposed requiring the bin store to be relocated to within the site which will improve the external appearance of the site. This has been addressed previously in this report (please refer to section 4.7 of this report).

Issue 8: The proposal will demolish a federation style house that is in keeping with the area and replace it with an over development that is strange and ugly

Comment: The proposal will involve the demolition of the existing dwelling house and construction of a new two storey boarding house that is permissible in the medium density zone, no different to the bulk and scale of a new townhouse development which is permissible in the zone and comprises a modern architectural style that includes building elements that relate to the existing development in the street.

The aesthetics and suitability of the proposal in the context of the area has been discussed further elsewhere in this report.

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 \$88,802.44 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

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 15.24m Building Height Civil Aviation Regulations, however the proposed building height at 8.3m 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.

Plan/Dwg No.	Drawn by	Dated	Received by Council
Basement Floor Plan, Project No. 1729A, Drawing No. A-0100, Revision C,	Benson McCormack Architecture	February 2019	26/05/19
Ground Floor Plan, Project No. 1729A, Drawing No. A-0101, Revision D,	Benson McCormack Architecture	February 2019	26/05/19
First Floor Plan, Project No. 1729A, Drawing No. A-0102, Revision D,	Benson McCormack Architecture	February 2019	26/05/19
Roof / Site Plan, Project No. 1729A, Drawing No. A-0103, Revision D,	Benson McCormack Architecture	February 2019	26/05/19

Elevations Plan, Project No. 1729A, Drawing No. A-0201, Revision C,	Benson McCormack Architecture	February 2019	26/05/19
Sections Plan, Project No. 1729A, Drawing No. A-0221, Revision D,	Benson McCormack Architecture	February 2019	26/05/19
Driveway Profile Plan, Project No. 1729A, Drawing No. A-0222, Revision B,	Benson McCormack Architecture	February 2019	26/05/19
Finishes Plan, Project No. 1729A, Drawing No. A-1105, Revision C,	Benson McCormack Architecture	February 2019	26/05/19
Landscape Plan, Project No. 17754, Drawing No. LP01, Issue C,	Matthew Higginson Landscape Architecture Pty Ltd	23/05/19	23/05/19

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. 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.
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. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent street 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.

8. 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.
9. 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.
10. All existing and proposed lights shall comply with the Australian Standard AS4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting". In this regard, the lighting of the premises shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads.
11. All hot water 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.
12. 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 prior to the release of the Occupation Certificate.
 13. Trading shall not commence until a final inspection has been carried out by Councils Environmental Health Officer and all health related requirements have been complied with.
 14. No amplified/ stereo/music/ speakers/ are permitted in all outdoor communal areas.
 15. 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.
 16. Adopt and implement all recommendations contained in acoustic assessment by Koikas acoustics Pty Ltd – Acoustical Report Proposed Boarding House Development – 53 Hannam Street Bardwell Valley NSW - File Reference: 3653R20190410pd53HannamStreetBardwellValleyv2 dated the Wednesday 8 May 2019.
 17. 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) kitchen / 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 seventeen (17) persons at any one time.
 - (iii) The proposed boarding rooms shall accommodate the following schedule for all rooms proposed:

Room 1 - (2) person maximum

Room 2 - (2) person maximum
 Room 3 - (2) person maximum
 Room 4 - (1) person maximum
 Room 5 - (1) person maximum
 Room 6 - (1) person maximum
 Room 7 - (2) person maximum
 Room 8 - (2) person maximum
 Room 9 - (2) person maximum
 Room 10 - (2) person maximum

The maximum total amount of boarders permitted at any one time is 17 Boarders for the premises.

- (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) Cooking facilities including hotplates, ovens and the like are not permitted within boarding rooms. Microwaves are permitted.
- (vii) 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.
- (viii) The proprietor/operator of the proposed development must limit patron numbers in external areas to no more than 17 (seventeen) at any one time.
- (ix) Use of the external common area is not permissible during the night time period (10 pm to 7am).
- (x) 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).
- (xi) 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.
- (xii) 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.
- (xiii) 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.
- (d) Plan of Management (PoM)
 - (i) The boarding house shall at all times be operated in accordance with the approved Plan of Management (PoM) prepared by BMA Urban Planning and received by Council on 21 May 2019.

- (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. the PoM is updated, 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) The boarding house component of the building shall be designed, constructed and maintained to comply with the requirements of the Local Government Act 1993, Local Government (General) Regulations 2005, Public Health Act 2010, Public Health Regulation 2012, Boarding Houses Act 2012 and Boarding Houses Regulation 2013.
- (i) Prior to issue of the Occupation Certificate:
 - (i) The boarding house must be registered with Council.
 - (ii) Details, including name, contact number & 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.
 - (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.

18. Construction Certificate plans must comply with the following:

- (a) Planter boxes constructed over a concrete slab shall be built in accordance with the following requirement
 - (a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - (b) Adequate soil volume and depth must be provided for planting at podium level. The podium area adjacent to Room 8 must accommodate a minimum soil depth of 900mm and soil volume of 105m³ to ensure adequate soil for trees and vegetation.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) Finish externally with a suitable paint, render or tile to co-ordinate with the colour schemes and finishes of the building.
 - (g) All planter boxes shall be irrigated, and shall have the required depth to sustain the proposed planting.
 - (b) 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) All natural features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approval plans.
19. The bin storage area shall be relocated from the front setback to further within the site replacing the northern end of the landscape planting bed behind the front building setback, on the eastern side of the central pedestrian access path between the first boarding house room and the driveway ramp. The bin store housing shall contain a flat roof over its length and be accessible from the pedestrian access pathway in the middle of the site. Details are to be provided to Council prior to the release of the Construction Certificate.
20. A privacy screen shall be provided along the western edge of the rear terrace to prevent overlooking from the terrace and stair access to the western adjoining property. Privacy screens up to 1.8m in height above finished floor level shall be

provided in order to retain adequate levels of privacy between adjacent dwellings. All privacy screens detailed on the approved plans and conditioned in this development consent shall be constructed in solid materials and extend the full length of the edge of the terrace. Details are to be submitted with the Construction Certificate. (This does not include the timber screen (SCR2) on the front and rear elevations of the boarding house).

Details of the privacy screen shall be submitted to the Director of City Futures or his employees, for approval prior to the release of the Construction Certificate. This is to ensure that the approved privacy screens will be effective and comply with the requirements of this condition.

21. The first floor balustrade within the rear elevation to two boarding house rooms shall be made solid up to a minimum height of 1.4m above the finished floor level of the balcony in order to reduce overlooking to the adjoining properties. To minimise its visual contrast, the solid balustrade material may be incorporated / attached to the inside of the balustrade (from the balcony) so that the vertical timber elements may remain visible from the outside.
22. The full length vertical timber screening within the front elevation shall retain passive surveillance of the street. In this regard, details of the design of the screening shall be submitted to and approved by Council's Director of City Futures, or a delegated employee, prior to the release of the Construction Certificate.

Prior to issue of the construction certificate

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

23. 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.
24. Prior to the issue of the Construction Certificate, all surface runoff from parking facilities and access ways 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 to the Principal Certifier.
25. Prior to the issue of any Construction Certificate, any part of the proposed building within 3m of the proposed underground rainwater tank or absorption 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.
26. Prior to the issue of the Construction Certificate, The development plans shall comply with the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 6 July 2017.
27. The underground basement and substructures, access stairs, lift entry, windows etc. shall be flood proofed and protected to a minimum of 300mm 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.
28. 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.

29. Prior to the issue of the Construction Certificate, a Construction Traffic Management Plan (CTMP) must be submitted to and approved by your 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'.
30. Driveway width shall comply the Council with Council's technical specification for traffic, parking and access. The width of the single driveway shall be a minimum of 3.0 metres and a maximum of 4.5 metres.
31. 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 geo-technical investigations to demonstrate the efficacy of all design assumptions.

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. In this regard, the applicant must seek approval from the relevant public utility, state authority or service provider.

The relocation of the existing electricity supply pole in the road reserve along Hannam Street a minimum of 1m to the west (away from the proposed driveway) is required to avoid conflict with the new driveway. The relocation works shall be undertaken in accordance with the requirements of Ausgrid. The applicant shall enter into a contract with Ausgrid for the relocation works prior to the issue of the Construction Certificate, and the works must be completed prior to the commencement of the driveway works and issue of the Occupation Certificate. The applicant is responsible for all relocation costs, including costs associated with other cabling such as telecommunications cables.

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. 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.
35. (a) 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.

(b) A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction Certificate. Hannam Street verge strip shall be planted as per Rockdale Street Tree Master plan/ Botany Bay Street Tree Management Plan. All public domain landscape works shall be carried out as per Council specifications.
36. A Section 7.11 contribution of \$ 88,802.44 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 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:

Open Space	\$80,247.35
Community Services & Facilities	\$2,735.20
Town Centre & Streetscape Improvements	\$1,452.56
Pollution Control	\$4,056.27
Plan Administration & Management	\$ 311.06

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.

37. The applicant shall confer with Ausgrid to determine if an electricity distribution substation is required. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.
38. 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. Note the sewer line at the rear of the property shall be clear of the on site retention tank (absorption) in the rear yard.

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>

Prior to commencement of works

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

39. 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.
40. 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.

41. 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.
42. 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.
- 43. Where it is necessary to import landfill material onto the site to fill the land to levels shown on the plans forming part of the consent, a certificate, prepared by a suitably qualified and experienced Contaminated Land Consultant, shall be submitted to Council being the Regulatory Authority prior to the commencement of works, certifying that the imported fill is suitable for the land use.
- 44. 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.

During demolition / excavation / construction

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

- 45. 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.
- 46. 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.

A copy of any written direction required by this condition must be provided to the Principal Certifier 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.

47. 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.
48. 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.
49. 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.
50. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

51. 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.
52. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
53. 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.
54. 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.
55. Any new information discovered during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council being the Regulatory Authority for the management of contaminated land.
56. Provide drop edge beams where and if necessary to contain all filling within the building envelope.
57. 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.
58. 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.
59. 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.

60. 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.
61. All existing trees located within the site may be removed. The proposed replacement trees identified in the Landscape Plan to be provided within the rear yard shall be located a minimum distance of 1.5m from the side and rear boundaries of the site to ensure adequate soil space is provided for sustainable root growth that will not be affected by the proposed fencing on the site.

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.

62. 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.
63. 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 Detention 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 Detention 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.
64. 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. Reconstruction 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;

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.
65. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
66. 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 prepared by Mathew Higgins issue C, dated 23rd May 2019 for the approved development. The landscaping is to be maintained to

the approved standard at all times.

(b) A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifier) stating that the landscape works have been carried out in accordance with the approved plans and documentation (refer to Conditions 23 and 24 which relate to landscaping).

67. 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.
68. 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".
69. 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.
70. 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.
71. The noise reduction measures specified in the noise report prepared by Koikas Acoustics dated 8 May 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.
72. The privacy screens required to be provided between the three building forms and the rear terrace are to be constructed prior to the release of the Occupation Certificate.

Roads Act

73. 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.

74. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
75. 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.

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 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. If Council is the Principal Certifying Authority for the development, a drainage inspection fee shall be paid prior to the issue of the Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

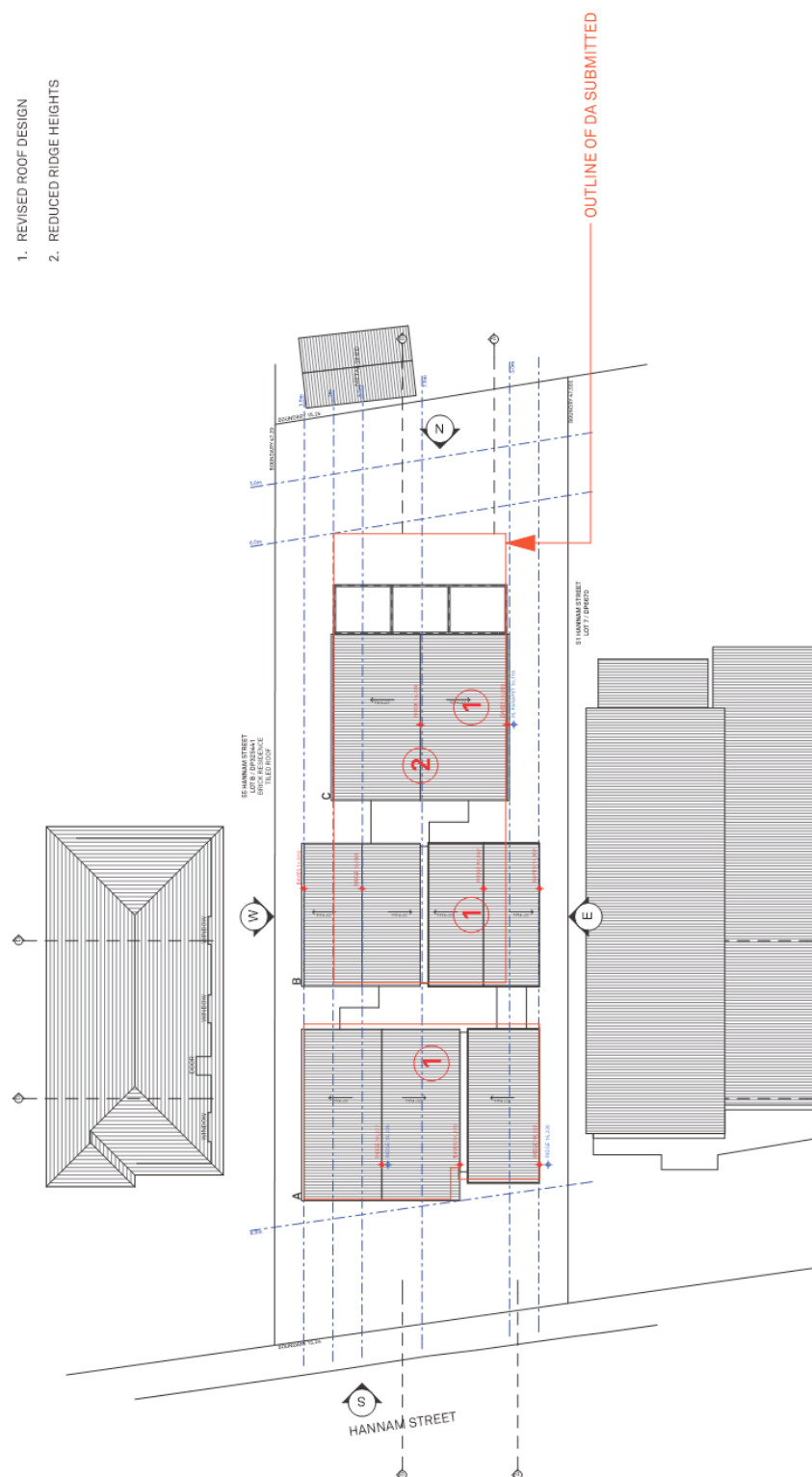
NB: This fee does not include a confined space entry into the on-site detention tank. Where a confined space entry is required, an additional fee is payable. A confined space entry will be required where:

- a) Information provided in the works-as-executed drawing and engineering certification is inconclusive as to the compliance of the system with the approved plans; and/or
 - b) Visual inspection from outside the tank is inconclusive as to the compliance of the system with the approved plans.
- e. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.

- f. 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.

SCHEDULE OF CHANGES

1. REVISED ROOF DESIGN
2. REDUCED RIDGE HEIGHTS

H
3
5

DA

NOTES	REV	DATE	ISSUE
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	B	NOV 18	RESUBMITTED TO COUNCIL
	C	JULY 18	RESUBMITTED TO COUNCIL
	D	FEB 19	RESUBMITTED TO COUNCIL

CLIENT
TOPAZ GROUP
21 / 244 Mc
Millerra N

PROJECT DETAILS
53 H
33 Henham St
Bardwell Valley



PROJECT NORTH

SCALE
1:200 @ A3

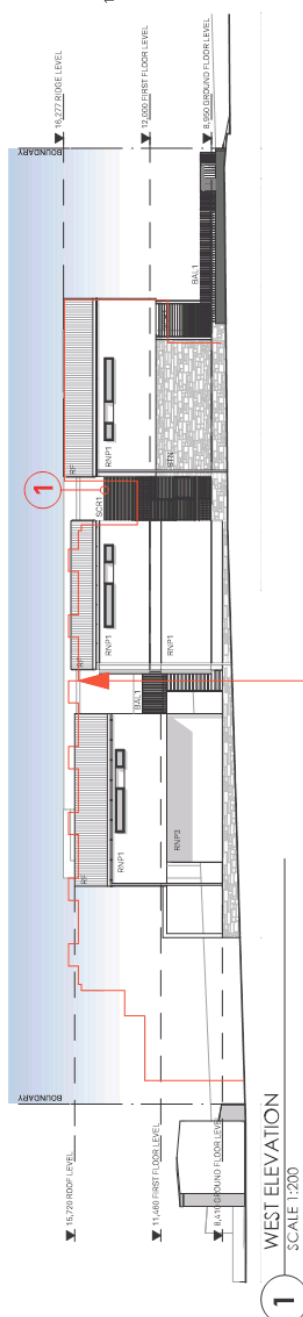
PROJECT NO. 729A DRAWING NO. A-0103 DRAWING ROOF / SITE PLAN

C
ISSUE

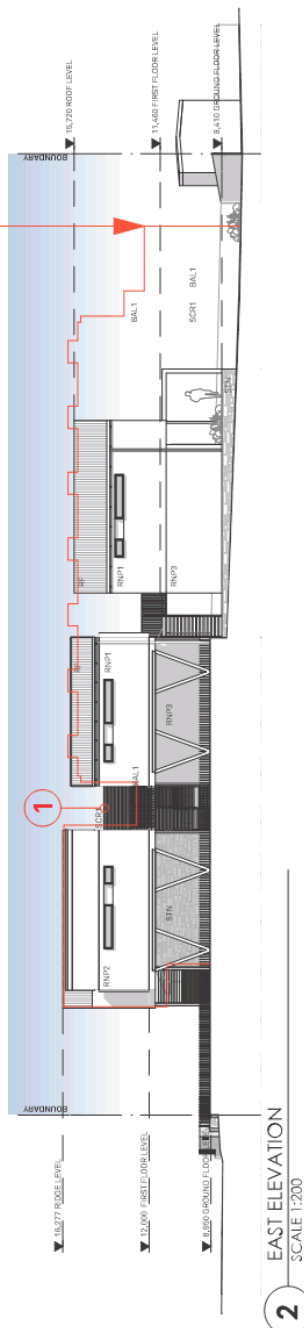
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SCHEDULE OF CHANGES

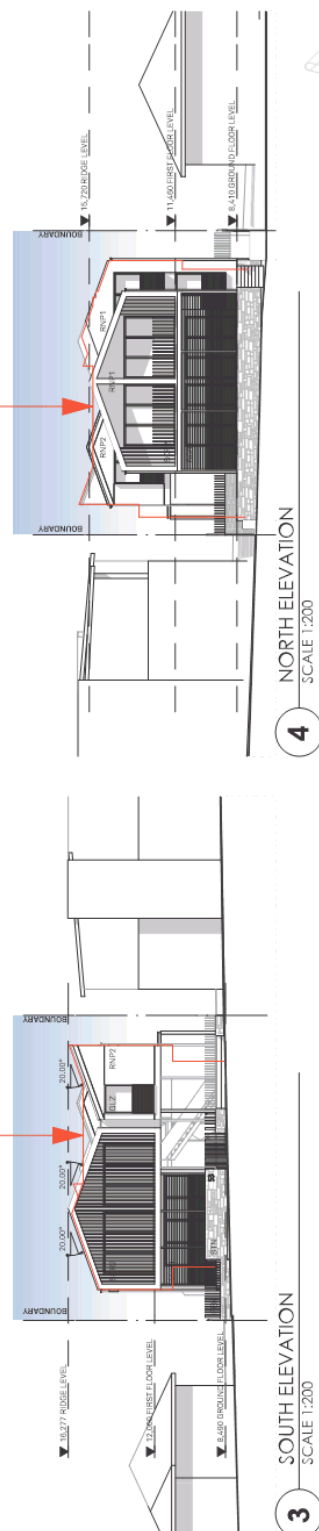
J. IMPLEMENTATION OF PRIVACY SCREEN



OUTLINE OF DA SUBMITTED



OUTLINE OF DA SUBMITTED



531

DA

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ISSUE
DEVELOPMENT APPLICATION
RESUBMITTED TO COUNCIL
RESUBMITTED TO COUNCIL

CLIENT
TOPAZ GROUP
21 / 244 Horsley Road
Milperra NSW 2214

PROJECT DETAILS
53 H
33 Henham St
Bardwell Valley



PROJECT NORTH

SCALE 1:200 @ A3 PROJECT NO. 1729A

DRAWING ELEVATIONS

ISSUE 8

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ISSUE
C

SCALE
@ A3

PROJECT NO.
1728A

DRAWING NO.
A-1104

DRAWING
MASSING STUDY

PROJECT NORTH

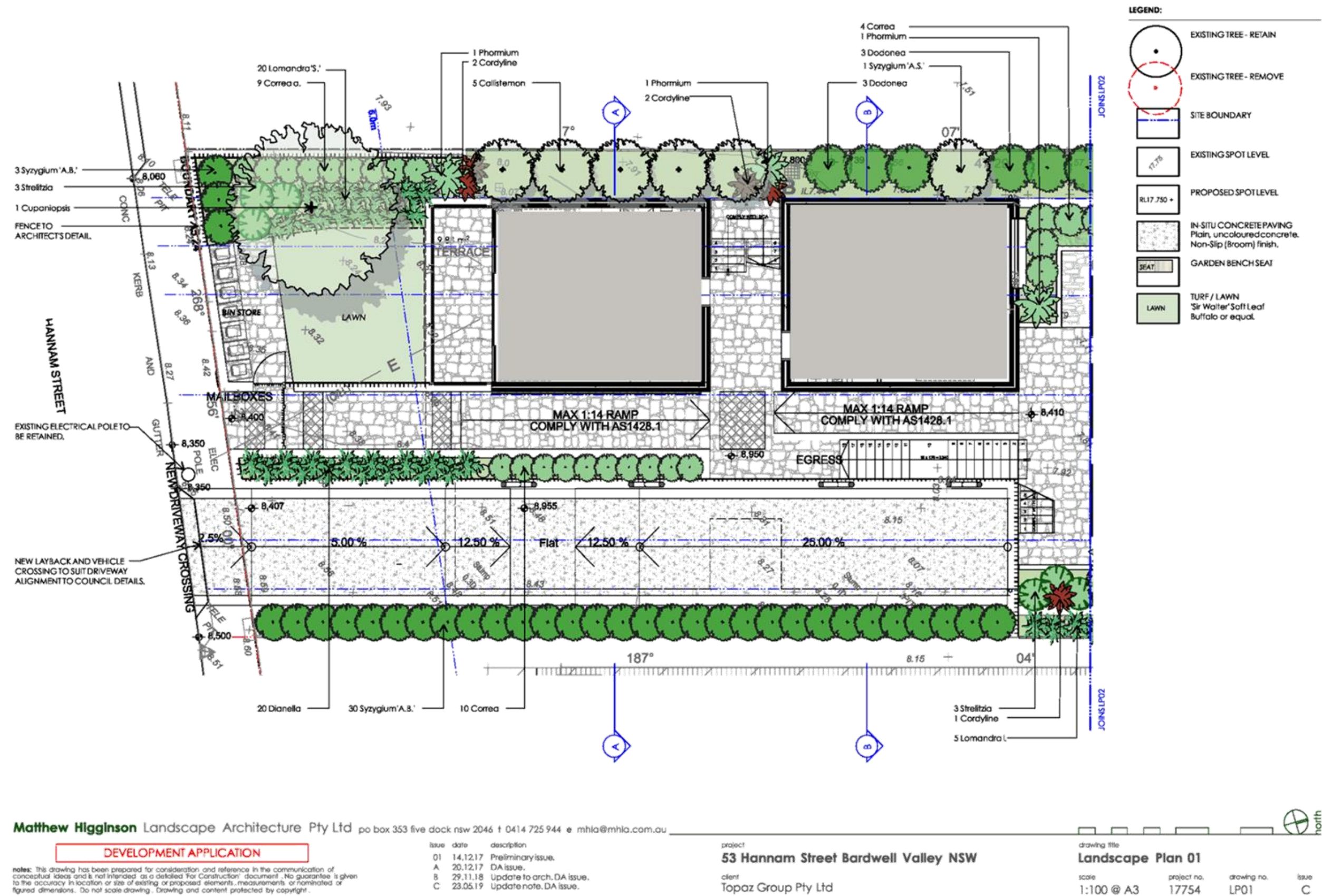
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TOPAZ GROUP

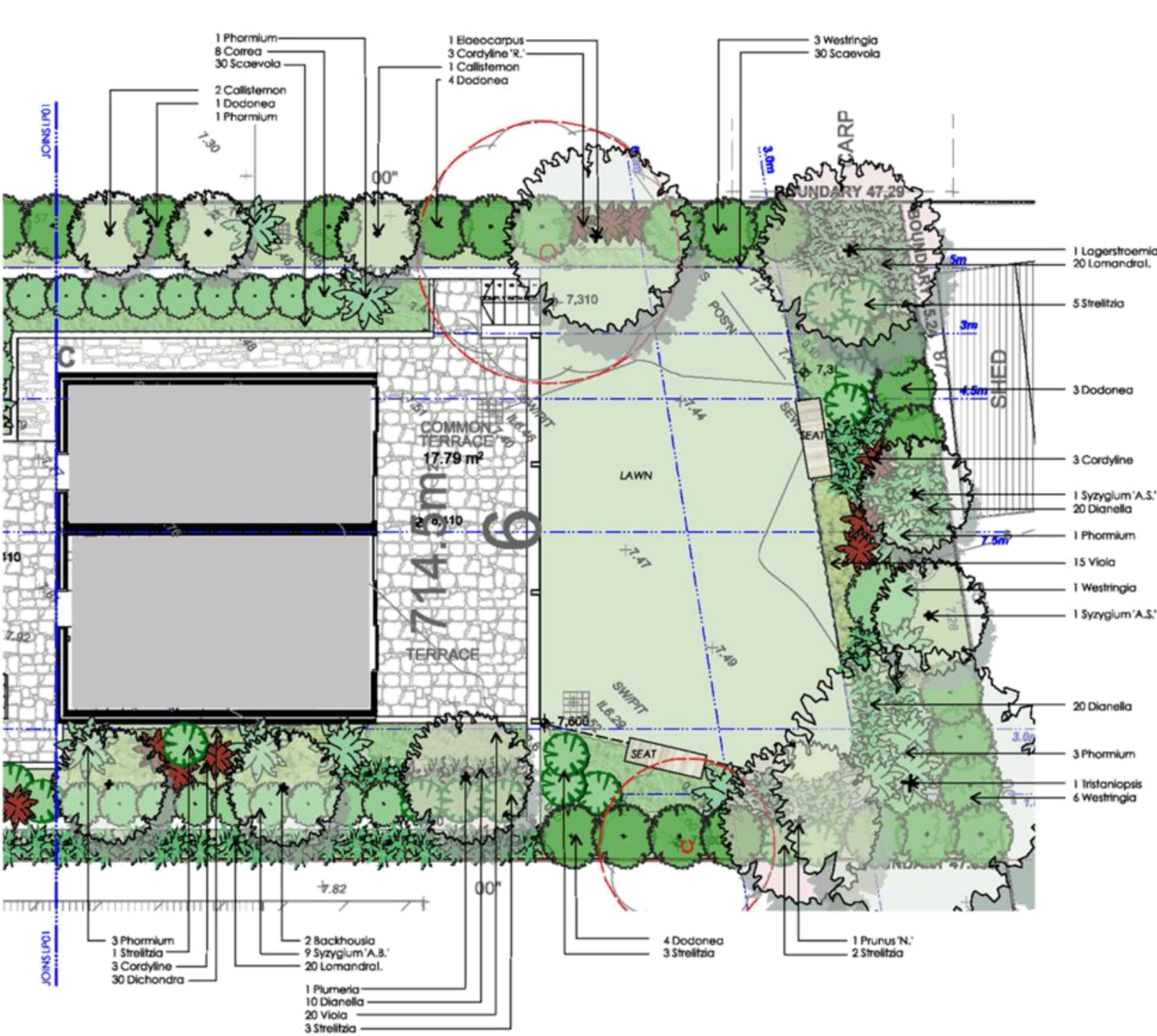
PROJECT DETAILS
53 H

ISSUE
53 H

REV/DAT
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NOTES
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PLANT SCHEDULE

Botanic Name	Common Name	Supply Size (mm/L)	Mature Height	Qty
Trees				
Callistemon viminalis	Weeping Bottlebrush	75L	4m	8
Cupaniopsis anacardioides	Tuckeroo	150L	8m	1
Elaeocarpus reticulatus	Blueberry Ash	150L	8m	1
Lagerstroemia 'Natchez'	White Crepe Myrtle	150L	5m	1
Plumeria obtusa	Frangipani	150L	4m	1
Prunus cerasifera 'Nigra'	Crimson Cherry	150L	5m	1
Syzygium 'Aussie Southern'	Aussie Southern Lily Pilly	75L	6m	3
Tristaniopsis 'Luscious'	Luscious Water Gum	150L	7m	1
Shrubs				
Backhousia citrifolia	Lemon Myrtle	45L	6m	2
Cordyline fruticosa 'Rubra'	Red TI plant	200mm	1m	14
Correa alba	White Correa	300mm	1m	31
Dodonea viscosa	Hop Bush	45L	2m	18
Phormium tenax	NZ Flax	300mm	1.5m	12
Strelitzia reginae	Bird of Paradise	300mm	1m	20
Syzygium 'Aussie Boomer'	Aussie Boomer Dwarf Lily Pilly	300mm	1.5m	42
Westringia fruticosa	Coast Rosemary	300mm	1.5m	10
Groundcovers / Climbers / Aquatics				
Dianella caerulea	Flax Lily	150mm	0.7m	70
Dichondra repens	Kidney Weed	150mm	0.1m	30
Lomandra longifolia	Mat Rush	150mm	0.9m	45
Lomandra 'Shara'	Shara Mat Rush	150mm	0.7m	20
Scaevola aemula	Fan Flower	200mm	0.1m	60
Viola hederacea	Native Violet	150mm	0.1m	35



Matthew Higginson Landscape Architecture Pty Ltd po box 353 five dock nsw 2046 t 0414 725 944 e mhla@mhla.com.au

DEVELOPMENT APPLICATION

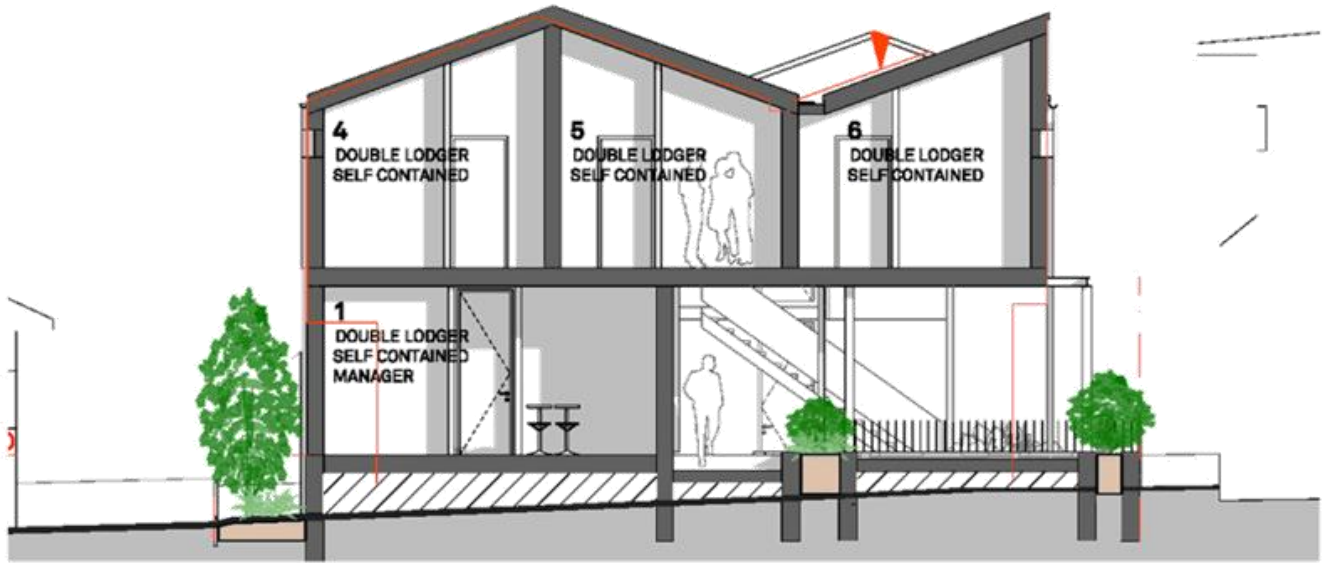
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issue	date	description
01	14.12.17	Preliminary issue.
A	20.12.17	DA issue.
B	29.11.18	Update to arch, DA issue.
C	23.05.19	Update note, DA issue.

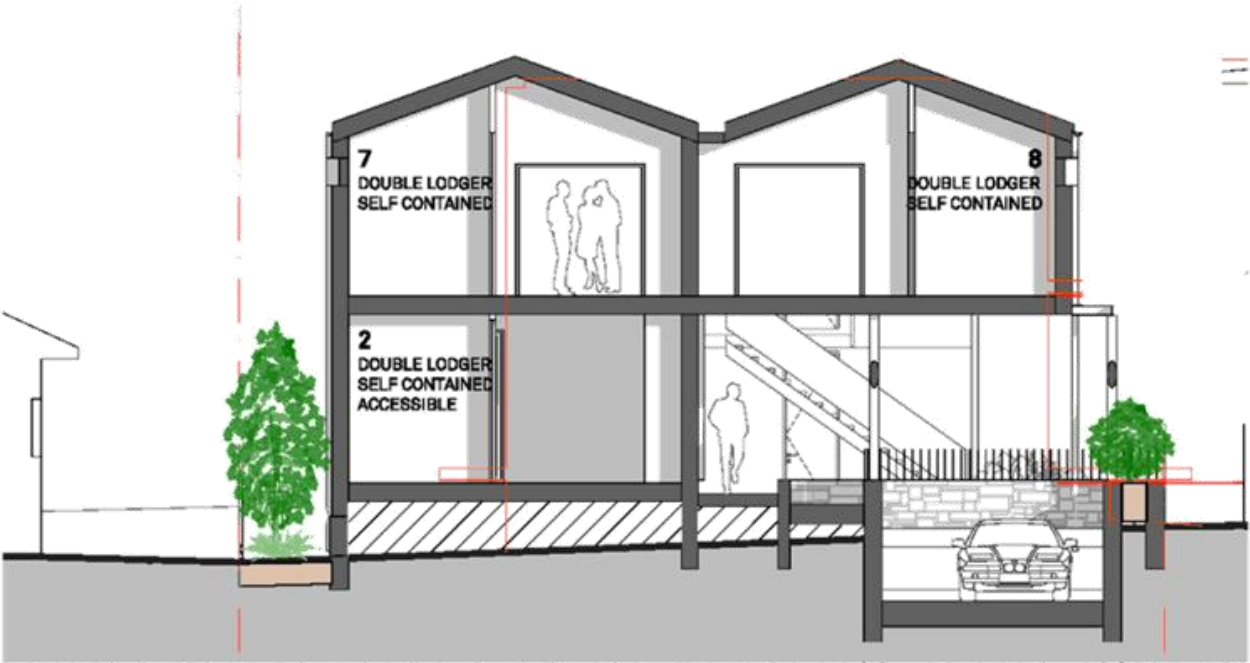
project
53 Hannam Street Bardwell Valley NSW
client
Topaz Group Pty Ltd

drawing title
Landscape Plan 02

scale
1:100 @ A3
project no.
17754
drawing no.
LP02
issue
C



01 Section A
Scale: 1:100



02 Section B
Scale: 1:100

Matthew Higginson Landscape Architecture Pty Ltd po box 353 five dock nsw 2046 t 0414 725 944 e mhla@mhla.com.au

DEVELOPMENT APPLICATION

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client
Topaz Group Pty Ltd

drawing title	scale	project no.	drawing no.	issue
Sections	1:100 @ A3	17754	LP03	C



OPERATIONAL PLAN OF MANAGEMENT

This Plan of Management supersedes that originally submitted with Development Application No 2018/29 relating to a proposed boarding house development at 53 Hannam Street, Bardwell Valley. This development providing ten (10) self-contained rooms, communal facilities and on-site parking for six (6) cars, two (2) motorcycles and four (4) bicycles.

The Operator 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.

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.

This Plan of Management is divided into three sections. These are as follows:

- Section I: Operational Matters.
- Section II: Monitoring / Complaints.
- Section III: House Rules.

Attachments:

- Attachment A: Standard Occupancy Agreement
- Attachment B: Accommodation Register
- Attachment C: Complaints Register

Section I: OPERATIONAL MATTERS

PART 1 - 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.

PART 2 – Boarding House Operator:

1. The owner/operator of the premises is to achieve the objectives set out in the Introduction of this Operational Plan of Management.

2. The particular responsibilities of the Boarding House Operator will include:

a. Accepting and assessing applications for residence.

b. Enforcing House Rules:

- The Boarding House Operator 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 Boarding House Operator 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 consults 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 owner/operator 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 owner/operator and is to be cleaned to a professional standard at least once a week.

- The owner/operator is to ensure that wastes are properly contained within the bins within the waste area. Bins are to be taken to the street for collection as required.

- The owner/operator is to ensure that any rubbish left around the site is properly disposed of. Appropriate signage will be installed around the premises to this effect.

d. Attending to any resident complaints

- If residents, either within the development or from surrounding residents, have complaints of enquiries, the owner/operator will listen to and address those. If required, the owner/operator will liaise between residents and surrounding residents.

e. Preparation of rooms for new residents

- When a room becomes vacant, the owner/operator 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 owner/operator 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 owner/operator or listing managing agent 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 owner/operator must not discriminate against residents on grounds of their race, religious beliefs, ethnicity, gender, sexual orientation or age. The Boarding House Manager must treat residents in a respectful manner and must not under any circumstances, use physical violence.

5. The owner/operator must not use illegal drugs or engage in any illegal activity.

PART 3 – 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 Boarding House operator, 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 Boarding Operator, 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 Boarding House Operator 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, prospective residents are to be advised that they may potentially be evicted if they breach the resident 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 Boarding House Operator 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 Boarding House Operator with next of kin details for emergency purposes. Next of kin details are to be kept by the Boarding House Operator for the entire duration of the lodgers stay.

7. Prior to entering into an Occupancy Agreement, the Boarding House Operator is to confirm with a prospective resident that they are obligated to reside within the boarding room for a period of no less than three months.

8. Prior to entering into an Occupancy Agreement, the Boarding House Operator 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 Boarding House Operator 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 Boarding House Operator 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.

PART 4 – Signage:

The following signage must be conspicuously installed and maintained at the premises:

1. The name and 24 hour contact number of the Boarding House Operator must be displayed externally at the front of the premises, as well as in the in the ground floor lobby area.
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.

PART 5 - Noise Management Measures:

1. The use of the outdoor communal area should be limited to a maximum of 18 people at any one time or as otherwise stipulated by Bayside Council as a condition of consent.
2. Access to the outdoor communal area should be restricted to no later than 10pm.
3. Amplified and/or canned music is not to be played in the outdoor communal areas.
4. When noisy activities are occurring in the indoor communal living areas, doors and windows must be closed. The volume of the television or any noise generating device must be kept within reasonable levels.

PART 6 - 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.

PART 7 - General Cleanliness, Hygiene and Waste Management:

1. The Boarding House Operator or allocated person is to regularly inspect the premises and organise for daily cleaning of the common areas. All garbage receptacles in common areas are to be emptied daily.
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 by the Boarding House Operator or allocated person on a weekly basis.
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.

PART 8 - Security:

1. Residents must make sure their guests are aware of, and abide by the House rules.
2. The owner/operator 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.

PART 9 - 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 Boarding House Operator.

PART 10 - Room Capacities:

1. The capacity of each boarding room shall not exceed the maximum number of residents as imposed by any conditions of consent by Bayside Council.
2. There is to be no more than 2 residents residing in any one double room and there is to be no more than 1 resident residing in any one single room residing within the premises at any one time.

PART 11 - Building Services and Fire Safety Procedures:

1. In the instance of an emergency evacuation, residents shall be directed to emergency exits and the 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. An 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 the 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.

PART 12 - 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.

Section II: 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 Boarding House Operator 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 Boarding House Operator by one of the following means:

- Telephone
- Mobile Phone
- Email
- Facsimile
- Mail

The Boarding House Operator 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 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 Boarding House Operator 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 Boarding House Operator.

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.

Section III: 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 boarding house Management 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. After 10pm every night, 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 to be confined so it does not exceed 3dB above the background level between the hours of 10pm to 7am.
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 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. 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 6am and 10pm Monday to Saturday and between 8am and 10pm Sundays and Public Holidays.
4. Access to the indoor communal areas 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 Boarding House Operator.

PART 4 - Animals:

1. No animals or pets are allowed anywhere within the premises.

Attachment A – Standard Occupancy Agreement

STANDARD OCCUPANCY AGREEMENT
For general boarding houses under the *Boarding Houses Act 2012*

Between	
Proprietor	
Resident	
For	
Room	Address
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 _____	
Term of Contract	
Commencement Date	Term of agreement (if any)
Occupancy Fee	To be paid
\$ _____ per week/month/year	
Proprietor's Contact Details	

AGREEMENT TERMS**1. Condition of the Premises (refer to occupancy principle 1 – see Annexure 1)**

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.

2. House Rules (refer to occupancy principle 2)

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.

3. No Penalties (refer to occupancy principle 3)

The resident is not required to pay a penalty for a breach of this Occupancy Agreement or the House Rules.

4. Quiet Enjoyment (refer to occupancy principle 4)

The proprietor agrees to take all reasonable steps to enable the resident's quiet enjoyment of the premises.

5. Inspections and Access (refer to occupancy principle 5)

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 (if different)
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 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.

Annexure 2

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

Complaints Register		
Date:	Time:	Register Form No.:
Nature of Complaint:		
Name, Address and contact number of person / Police / Council reporting complaint:		
Name of staff on Duty:		
Action Taken:		
Outcome / Further Actions:		

Bayside Local Planning Panel

10/12/2019

Item No	6.4
Application Type	Section 4.55(1A) Application
Application No	DA-2018/11013/F
Lodgement Date	30/07/2019
Property	3 Haran Street, Mascot (formerly 141 O'Riordan Street, Mascot)
Ward	Ward 3
Owner	Karimbla Properties (No. 47) Pty Ltd
Applicant	Karimbla Constructions Services (NSW) Pty Ltd
Proposal	Modification Application to amend conditions No. 36 and 95 relating to damage deposit and undergrounding of power.
No. of Submissions	N/A – Not notified
Cost of Development	Nil
Report by	Michael McCabe, Director City Futures

Officer Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i. is of minimal environmental impact;
 - ii. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii. has not required notification; and
 - iv. has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
 2. That modification application DA-2018/11013/F seeking to modify Development Consent No. 2018/1013 to amend Condition No. 36 relating to the damage deposit and Condition No. 95 relating to undergrounding of power at 3 Haran Street Mascot be APPROVED. The proposal is modified as follows:
 - i. By retaining Condition No. 36;
 - ii. By amending Condition No. 95 to state the following:
 95.
 - a) Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of the underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
-

- b) ***Notwithstanding the above, if the abovementioned undergrounding works required by Condition 95(a) cannot be satisfied prior to the Occupation Certificate, the applicant may submit a bond payment of \$50,000.00 plus GST to Bayside Council to be paid in full (this payment shall be indexed at the time of payment in accordance with the Consumer Price Index (All Groups Index – Sydney)) prior to the issue of the occupation certificate***;
- c) ***The bond payment required by Condition 95(b) above will not be refunded until any unfinished works required by Council have been completed. The completion of works is to ensure that all relevant works required by this consent are completed and an inspection of the Public Domain has been carried out by Council's Public Domain Engineer. This inspection is required prior to the release of the bond;***
- d) ***If the works required are unable to be completed within twelve (12) months of the date of determination of this modification (10 December 2020), the bond payment will be forfeited to Council. This bond payment will be used for the sole purposes of completing the unfinished works within the public domain.***

Location Plan



Attachments

- 1 Section 4.55 (1A) Planning Assessment Report [↓](#)
- 2 Statement of Environmental Effects [↓](#)
- 3 Email Request for modification of Condition No. 36 in addition to Condition No. 95 [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/11013/F
Date of Receipt:	30 July 2019
Property:	3 Haran Street, Mascot (formerly 141 O'Riordan Street, Mascot) SP 100140
Owners:	Karimbla Properties (No. 47) Pty Ltd
Applicant:	Karimbla Constructions Services (NSW) Pty Ltd
Proposal:	Section 4.55(1A) Application to modify Development Consent No. 2018/1013 to amend Condition No. 36 relating to the damage deposit and Condition No. 95 relating to undergrounding of power.
Recommendation:	Approval, subject to recommended conditions of consent.
Value:	N/A
No. of submissions:	N/A – Not notified
Author:	Ana Trifunovska, Development Assessment Planner
Date of Report:	1 November 2019

Key Issues

The subject Section 4.55(1A) modification application seeks to modify Development Consent No. DA-2018/1013 which approved the integrated development for the construction of a thirteen storey residential flat building with a total of 105 apartments and two levels of basement car parking, to amend Condition No. 36 relating to the damage deposit and Condition No. 95 relating to undergrounding of power.

In accordance with the requirements of BBDP2013, the proposed modification was not required to be placed on public notification.

The modification was referred to Council's development engineer and Council's public domain officer for comment. Both have provided comments which have been included in this report.

A site inspection of the property was conducted on 21 August 2019. Additional information including a cost estimate for the undergrounding works was requested on 30 August 2019 and was provided by the applicant on the 3 September 2019.

The Section 4.55(1A) Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to the modifications to the conditions of consent.

Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.55(1A) of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i. is of minimal environmental impact;
 - ii. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - iii. has not required notification; and
 - iv. has been assessed having regard to the relevant matters in s4.15 of the Environmental Planning and Assessment Act 1979.
2. That modification application DA-2018/11013/F seeking to modify Development Consent No. 2018/1013 to amend Condition No. 36 relating to the damage deposit and Condition No. 95 relating to undergrounding of power at 3 Haran Street Mascot be APPROVED. The proposal is modified as follows:
 - i. By retaining Condition No. 36;
 - ii. By amending Condition No. 95 to state the following:
 95.
 - a) Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of the underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
 - b) ***Notwithstanding the above, if the abovementioned undergrounding works required by Condition 95(a) cannot be satisfied prior to the Occupation Certificate, the applicant may submit a bond payment of \$50,000.00 plus GST to Bayside Council to be paid in full (this payment shall be indexed at the time of payment in accordance with the Consumer Price Index (All Groups Index – Sydney)) prior to the issue of the occupation certificate;***
 - c) ***The bond payment required by Condition 95(b) above will not be refunded until any unfinished works required by Council have been completed. The completion of works is to ensure that all relevant works required by this consent are completed and an inspection of the Public Domain has been carried out by Council's Public Domain Engineer. This inspection is required prior to the release of the bond;***
 - d) ***If the works required are unable to be completed within twelve (12) months of the date of determination of this modification (10 December 2020), the bond payment will be forfeited to Council. This bond payment will be used for the sole purposes of completing the unfinished works within the public domain.***

Background

Site Description

The site at 3 Haran Street, Mascot is legally described as SP 100140 and is formally known at 141 O'Riordan Street, Mascot. The site is located on the south western corner of the intersection of O'Riordan Street and Haran Street. The intersection of O'Riordan Street, Carinya Avenue sits to the north east of the subject site.

The site is irregular in shape with the side boundaries provided with a northeast-southwest orientation. The site has an area of 2324 sqm. The northern boundary of the site, adjoining Haran Street, has a length of 53.95 metres, the eastern boundary adjoining O'Riordan Street has a length of approximately 42.965 metres, the western boundary a length of 44.635 metres and the southern boundary has a length of 54.155 metres. The site has a minor fall of approximately 1 metre from the north-western corner to both the east and the south.

The site is currently constructed with a 13 storey residential flat building on site within the B4 Mixed Use Zone.

The adjoining site to the south (143-145 O'Riordan Street Mascot) consists of a two (2) one storey semi-detached brick dwellings.

The adjoining site to the north (127 O'Riordan Street Mascot) consists of petrol station with a one storey commercial building and detached awning.

A variety of development is located in the vicinity of the site including medium and high rise residential flat buildings, single storey dwellings, and low to medium density commercial and retail developments.



Figure 1 Subject site highlighted in red



Figure 2 Subject development at 3 Haran Street in the final stages

History of Development

Council records show that the following applications were previously lodged:

Application No. & Description	Date of Determination	Determination
<u>BDA-2018/1013/C-E</u> Note there are no applications associated with these reference numbers.	N/A	N/A
<u>BDA-2018/1013/B</u> Delete Condition No. 33 relating to changes in apartment layout.	28 June 2019	Withdrawn
<u>BDA-2018/1013/A</u> Amend Condition No. 92 to reallocate 5 visitor parking spaces to residents	20 June 2019	Withdrawn
<u>DA-2018/1013/4</u> Modification application to amend various conditions relating to landscaping, public domain, fire boosters and undergrounding of services.	18 March 2019	Withdrawn

DA-2018/1013/3 Modification to approved unit mix, resulting in an additional seven (7) apartments to create a total of 111 apartments and associated changes to window locations.	21 March 2019	Approved by Sydney Eastern City Planning Panel
DA-2018/1013/1 & DA-2018/1013/2 Note that no applications associated with these reference numbers.	N/A	N/A
DA-2018/1013 Integrated development for the construction of a thirteen storey Residential Flat Building with a total of 105 apartments and two levels of basement car parking.	23 August 2018	Approved by Sydney Eastern City Planning Panel

Description and Assessment of the Proposed S.4.55 (1A) Modifications

The modification seeks to amend Condition No. 36 relating to the damage deposit, and Condition No. 95 relating to the undergrounding of power. The amendments specifically consist of the following:

- **Condition No. 95**

Condition No. 95 currently reads as follows:

95. Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high 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. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.

The applicant seeks to modify the condition as Ausgrid is currently not allowing work on live connections due to safety concerns. As a result the work relating to the underground placement of electrical mains cannot be carried out until the pause on live works is lifted.

Therefore, the applicant proposes to lodge a bank guarantee for the remainder of the overhead mains work required under Condition No. 95 to enable the issue of the Occupation Certificate and to ensure that the works are completed once the ban on live wire works ends.

- **Condition No. 36**

Condition No. 36 currently reads as follows:

36. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of \$295,200.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

For the same reasons as discussed above, as the undergrounding of the street electrical mains cannot be completed until the Ausgrid ban is lifted, this also delays the refund of the Builder's Damage Deposit and Performance Bond as the works are required to be complete for the Occupation Certificate to be issued.

The applicant seeks to amend this to allow for the return of the damage deposit 12 months after the completion of all works and following the issue of the Final Occupational Certificate, excluding the undergrounding of electrical mains works required by Condition 95 as follows:

36. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of \$295,200.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during of the course of building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of public domain works (excluding the undergrounding of the street electrical mains) and an interim occupation has been issued.

Planner's Assessment

The modification was referred to Council's Public Domain Officer who has provided the following comments:

"I support the wording put by Meriton for DA Condition 95. The undergrounding works required under the DA is approximately 60% complete with all conduits and cables underground. The remaining works by Ausgrid is the removal of 2 x power poles and dismantling of the aerial cables. I recommend a bank guarantee of \$50,000 to be submitted to Council for the value of the remaining works."

The modification was also referred to Council's Development Engineer who supports the amendments subject to modification of the conditions as below, to ensure that Council assets are accounted for when the ban on Ausgrid works is eventually lifted.

Taking into consideration the above, Condition No. 95 is to be modified as follows:

- 95.
- a) Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of the underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
 - b) Notwithstanding the above, if the abovementioned undergrounding works required by Condition 95(a) cannot be satisfied prior to the Occupation Certificate, the applicant may submit a bond payment of \$50,000.00 plus GST to Bayside Council to be paid in full (this payment shall be indexed at the time of payment in accordance with the Consumer Price Index (All Groups Index – Sydney)) prior to the issue of the occupation certificate;

- c) *The bond payment required by Condition 95(b) above will not be refunded until any unfinished works required by Council have been completed. The completion of works is to ensure that all relevant works required by this consent are completed and an inspection of the Public Domain has been carried out by Council's Public Domain Engineer. This inspection is required prior to the release of the bond;*
- d) *If the works required are unable to be completed within twelve (12) months of the date of determination of this modification (10 December 2020), the bond payment will be forfeited to Council. This bond payment will be used for the sole purposes of completing the unfinished works within the public domain.*

As Condition 95 is to be amended as detailed above, and as the Occupation Certificate has the potential to be issued despite the non-completion of undergrounding works (which are protected by the bond payment), Condition No. 36 will not be required to be modified as suggested by the applicant. Therefore, Condition No. 36 is to remain as existing within the consent.

Statutory Considerations

SECTION 4.55(1A) CONSIDERATIONS

Section 4.55(1A) of the *Environmental Planning & Assessment Act 1979* states that "a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:"

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

The Section 4.55(1A) modification application relates to amendments to Conditions No. 95 relating to the undergrounding of the electrical mains. As such, the modification will result in minimal environmental impact as the amendments will ensure that a bank guarantee is lodged to safeguard the completion of the works.

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

The Section 4.55(1A) modification application relates to amendments to Conditions No. 95 which will not alter the residential flat building development that was originally approved. The modification application is substantially the same development to which the consent was originally granted.

- c) *It has notified the application in accordance with (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

In accordance with Part 2 – Advertising & Notification of the Botany Bay Development Control Plan (BBDCP) 2013, the modification application was not required to be notified.

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

The modification was not notified and there were no submissions received.

Section 4.55(3) of the Environmental Planning and Assessment Act 1979 states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development of the subject application.

The consent authority must also take into consideration the reasons given by the consent authority for the granting of the consent that is sought to be modified.

S.4.15(1) – MATTERS FOR CONSIDERATION – GENERAL

S.4.15(1)(a)(i)-(iii) – Provisions of Environmental Planning Instruments and DCP and any other matters prescribed by the Regulations

The following Environmental Planning Instruments are relevant to the subject development:

- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy No. 55 – Contaminated Land;
- State Environmental Planning Policy 2004 (BASIX);
- Botany Bay Local Environmental Plan 2013;
- Botany Bay Development Control Plan 2013

The proposal seeks to amend Conditions No. 36 and 95 regarding the release of the builder's damage deposit and the timing for the undergrounding of the electrical mains. Therefore, the proposal does not require a detailed consideration of any of the abovementioned Planning Instruments, and the granting of approval to the proposed modifications will not be inconsistent with the objectives and controls of these instruments.

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

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

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

The modification does not impact upon the site and the suitability for development.

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

In accordance with Part 2 – Notification & Advertising of the Botany Bay Development Control Plan 2013, this Section 4.55(1A) Application was not required to be notified to surrounding

property owners as the changes are only to conditions relating to the release of the builder's damage deposit and the undergrounding of the electrical mains.

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

The proposed amendments will have no significant adverse impact upon the public interest.

Conclusion

The Section 4.55(1A) application seeking to modify Development Consent No. 2018/1013, to amend Condition No. 36 relating to the damage deposit and Condition No. 95 relating to undergrounding of power at 3 Haran Street, Mascot (formerly 133-141 O'Riordan Street, Mascot) has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval. Any potential issues associated with the amendments are appropriately covered through conditions of consent.

Attachment**Schedule 1 – Conditions of Consent**

Premises: 3 Haran Street Mascot
(formerly 133-141 O’Riordan Street)

DA No: 2018/11013/F

SCHEDULE OF CONSENT CONDITIONS**GENERAL CONDITIONS**

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

Plans	Author	Dated / Received by Council
DA001 – Cover Page Rev F	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA102 – Site Plan Rev F	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 201 – Ground Floor Rev M REV MA	DKO Architecture	Dated 13 July 2018; Received 23 July 2018 Dated 11/10/2018
DA 202 – Level 1 Rev J REV M	DKO Architecture	Dated 21 August 2018; Received 21 August 2018 Dated 7 September 2018
DA 203 Level 2 Rev M REV P	DKO Architecture	Dated 21 August 2018; Received 21 August 2018 Dated 7 September 2018
DA 204 Level 3 Rev H REV K	DKO Architecture	Dated 21 August 2018; Received 21 August 2018 Dated 7 September 2018
DA 205 Level 4 Rev M REV P	DKO Architecture	Dated 21 August 2018; Received 21 August 2018 Dated 7 September 2018
DA 206 Level 12 Rev M	DKO Architecture	Dated 21 August 2018; Received 21 August 2018 Dated 7 September 2018
DA 206 Level 5-7 Rev H	DKO Architecture	Dated 7 September 2018
DA 207 Roof terraces Rev K	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 207 Levels 8-11 Rev C	DKO Architecture	Dated 7 September 2018
DA 208 Roof Rev J	DKO Architecture	Dated 13 July 2018; Received 23 July 2018 Dated 7 September 2018
DA 208 Levels 8-11 Rev P	DKO Architecture	Dated 7 September 2018
DA 209 Basement 1 Rev K	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 209 Roof Terraces	DKO Architecture	Dated 7 September 2018

<i>Rev O</i>		
DA 210 Basement 2 Rev K	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 211 Level 5-11 Rev E	DKO Architecture	Dated 21 August 2018; Received 21 August 2018
DA 301 North Elevation Rev I REV J	DKO Architecture	Dated 13 July 2018; Received 23 July 2018 Dated 7 September 2018
DA 302 South Elevation Rev I	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 303 East Elevation Rev I	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 304 West Elevation Rev J	DKO Architecture	Dated 2 August 2018; Received 23 July 2018
DA 305 Section A, Rev G	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 306 Section B Rev G	DKO Architecture	Dated 13 July 2018; Received 23 July 2018

Reference Document(s)	Author	Dated / Received by Council
DA Access Report Ref: MTN-040	Wall to Wall	Dated 1 February 2018; Received 9 February 2018
Development Application Acoustic Report Ref: 20180028.1/1601A/R0/TA	Acoustic Logic	Dated 16 January 2018; Received 9 February 2018
Arboricultural Impact Assessment Report	Jacksons Nature Works	Dated 30 January 2018; Received 9 February 2018
Thermal Comfort and BASIX Assessment Ref: 18/0410 Rev B Rev E including <i>Amended Basix – certificate number 895976M_05</i>	Efficient Living	Dated 31 January 2018; Received 9 February 2018 <i>Dated 7 March 2019</i>
Construction Management Plan- Rev 1	Meriton Property Services Pty Ltd	Dated January 2018; Received 9 February 2018
Crime Risk and Security Report	Meriton Property Services Pty Ltd	Dated 23 January 2018; Received 9 February 2018
SEPP 65 Design report	DKO Architecture	Dated 5 February 2018; Received 9 February 2018
SEPP 65 Design Verification Statement	DKO Architecture	Dated 25 January 2018 Received 9 February 2018
<i>Amended SEPP 65 Design Verification</i>	<i>DKO Architecture</i>	<i>Dated 13 September 2018</i>
Geotechnical Investigation Report	Douglas Partners	Dated October 2014 Received 9 February 2018
Quantity Surveying Cost Report	Steven Wehbe	Dated 15 January 2018; Received 9 February 2018
Site Surveys Drawing 22308 Rev B	B and P Surveys	Dated 15 November 2017; Received 9 February 2018
Apartment Design Guide Report	DKO Architecture	Dated 25 January 2018 Received 9 February 2018
Statement of Environmental	Meriton Property	Dated 31 January 2018;

Effects	Services Pty Ltd	Received 9 February 2018
Waste Management Plan Rev A	Elephants Foot Waste Compactors Pty Ltd	Dated 29/01/2018; Received 9 February 2018
Qualitative Wind Assessment Report Number 610.17846-R01	SLR	Dated 24 January 2018; Received 9 February 2018
Clause 4.6 variation to vary FSR development standard	Meriton Property Services Pty Ltd	Dated 18 July 2018; Received 23 July 2018
Stormwater Plans Drawings DAc015 and DAC020, Rev B	At&I	Dated 2 February 2018; Received 9 February 2018
Traffic and Transport Report Job No 258-00	ARUP	Dated 30 January 2018 Received 9 February 2018
DA 402 – Eye of the Sun Diagrams Rev F	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA 403 – Overshadowing June 22 of -143-147 O’Riordan, Rev B	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA405 Eye of the sun diagram June 22, -143-147 O’Riordan, Rev B	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA501 – SEPP 65 Solar Access Rev G REV H	DKO Architecture	Dated 13 July 2018; Received 23 July 2018 Dated 7 September 2018
DA502 – SEPP 65 Compliance Rev F REV G	DKO Architecture	Dated 13 July 2018; Received 23 July 2018 Dated 7 September 2018
DA503 – SEPP 65 GFA Rev G	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA504 – SEPP 65 Adaptable apartments Rev F	DKO Architecture	Dated 13 July 2018; Received 23 July 2018
DA506 – SEPP 65 Unit Mix Rev A	DKO Architecture	Dated 13 July 2018; Received 23 July 2018

- 2 This Consent relates to land in Lot 1 in DP 739565 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 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 persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 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 each relevant BASIX Certificate for each building in the development are fulfilled.
 - a) 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 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
- 6
 - a) Deleted by Panel
 - b) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.
 - c) All telecommunication and utility services are to be placed underground along the Street frontages. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of telecommunication and utility services works.
 - d) Street trees are to be provided in accordance with the Botany Street Tree Master Plan 2014.
 - e) In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.

- f) An experienced Landscape Contractor shall be engaged to undertake all landscaping public domain work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- g) All telecommunication and utility services are to be placed underground along the flowing streets: The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

- 7 The following conditions are imposed by **Ausgrid**:
 - a) It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
 - i) The existing network can support the expected electrical load of the development
 - ii) A substation may be required on-site, either a pad mount kiosk or chamber style and;
 - iii) site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

- b) The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.
- c) All proposed vegetation underneath overhead power lines and above underground cables must comply with the requirements of ISSC 3 Guideline For Managing Vegetation Near Power Lines.
- d) There are existing overhead electricity network assets in Banks Ave. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory

requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

Based on the design of the development provided, it is expected that the “as constructed” minimum clearances will not be encroached by the building development. However it remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.

- e) There are existing underground electricity network assets in Banks Ave. Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

8 The following conditions are imposed by **Civil Aviation Safety Authority (CASA)**:

- a) The building must not exceed a maximum height of 52.9 metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- b) The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observation every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
- c) Separate approval must be sought under the Regulations for any cranes required to construct the buildings. 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. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
- d) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.

9 The following conditions are imposed by **Water NSW**:

- a) A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.
 - b) An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.
 - c) If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.
 - d) Water NSW prefers “tanking” (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. A drainage blanket behind the water-proof membrane).
 - e) If the basement is not “tanked”, the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL is required, please complete an Application for a new water access licence with a zero share component.
- 10 The following conditions are imposed by the **NSW Roads and Maritime Services (RMS)**:
- a) A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.
 - b) All demolition and construction vehicles are to be contained wholly within the site. All vehicles must enter the site before stopping as a construction zone will not be permitted on O’Riordan Street.
 - c) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on O’Riordan Street during construction activities.
 - d) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124.

- e) A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

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 of Roads and Maritime. Details should be submitted to Project Engineer, External Works, Sydney Asset Management, Roads and Maritime Services, PO Box 973, Parramatta CBD 2124 Telephone 8849 2114.

If it necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- f) All works and regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
- g) All buildings and structures, 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 O'Riordan Street boundary.

11 The following conditions are imposed by **Sydney Water**:

a) Sydney Water Servicing

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water. The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs. Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

b) 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 Waters Tap In online service is available at:

<http://sydneywater.com.au/SW/plumbing-building-developing/building/sydney-watertap in/index.htm>

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 12 A dilapidation report, including a photographic survey prepared by a Practising Structural Engineer, 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.
- 13 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - (It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,

- d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / readjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
- 14 Erosion and sediment control devices shall be installed and in function prior to the commencement of any construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 15 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - to a public sewer; or
 - if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 16 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.

- 17 Prior to the commencement of any works, 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.
- 18 A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
- 19 For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 20 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 stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 21 A Traffic Management Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with the requirements of current Australian Standard 1742.3 (Traffic Control Devices for Works on Roads) and current RMS Traffic Control at Work Sites manual. Any persons preparing such traffic control layout plans shall be RMS accredited.
- 22 If an excavation associated with the proposal extends below the level of the base of the footings of a building and/or structure and/or road on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so

to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;

- d) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- e) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building (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.

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

- 23 ~~Prior to the issue of the Construction Certificate, amended plans be submitted to Council that indicate that the widening of the vehicular carriageway identified as carriageway widening (condition 40 of consent DA-15/88 on Plan No. Da 201 revision M, shall be deleted. (Inserted by Panel) (Deleted –DA-2018/1013/2)~~
- 24 Prior to the issue of the relevant Construction Certificate, construction plans are to show that all study rooms are to have a window in accordance with the requirements under SEPP 65 and the ADG.
- 25 The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction* and consideration of Road Noise from O'Riordan Street, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required in the acoustical assessment report prepared by Acoustic Logic, dated 16/01/2018, Report reference number 20180028.1/1601A/R0/TA shall be undertaken in accordance with the provisions of AS 2021 - 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 - 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:
 - Appropriate acoustic glazing to stated windows and doors,
 - Detailed roof and ceiling construction,
 - Wall and ceiling corner details and,
 - External door specification,
 - Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

- 26 Prior to the issue of the relevant construction certificate, a reflectivity report shall be submitted to and approved by the Principal Certifying Authority demonstrating the reflectivity from the building does not exceed 20%.
- 27 Prior to the issue of the relevant Construction Certificate, construction plans to show that compliance with the Apartment Design Guide minimum storage rates has been achieved as follows:
- a) 1 Bedroom apartments 6m³
 - b) 2 Bedroom apartments 8m³
 - c) 3 Bedroom apartments 10m³

At least 50% of the required storage is to be located within the apartment.

- 28 Prior to the issue of any Construction Certificate, the following fees are to be paid:-

a) Development Control	\$13,583.00
b) Footpath Crossing Deposit	\$295,200.00 (See below)
c) Section 7.11 Contributions	\$647,152.47 (See below)
d) Long Service Levy	See below

- 29 Prior to the issue of any Construction Certificate related to DA 2018/1013, the payment of a monetary contribution of an additional **\$647,152.47** in accordance with Council's amended Section 94 Contributions Plan 2016. This consent generates a total contribution of \$2,080,000.00, however a credit has been applied of \$1,432,847.53.

The Section 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.

- 29A. Prior to the issue of any Construction Certificate or amended Construction Certificate related to DA 2018/1013/2 the payment of a monetary contribution of an additional **\$140,000.00** in accordance with Council's amended Section 94 Contributions Plan 2016. This consent generates a total contribution of \$2,180,000.00, however a credit has been applied of \$1,432,847.53.

The Section 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which the consent is granted. If the contribution is paid in a later financial year the fee applicable at the time will be required to be paid.
(Inserted DA-2018/1013/2)

- 30 Prior to the issue of any construction certificate, provide evidence that the following has been completed. Sampling and analysis of soil at the site for asbestos shall be undertaken and any exceedances managed and remediated in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 2013 and all relevant NSW EPA Guidelines. This assessment and management shall be completed prior to any disturbance of soil or excavation on the site. Details of sampling and analysis and the proposed management of any exceedances shall be provided to Council.
- 31 Prior to the issue of any construction certificate Due to the time elapsed since the Phase 2 investigation, undertake additional site investigations for impacts from groundwater from the adjoining petrol station and asbestos in soils on the site. This shall be completed by a suitably qualified and experienced environmental consultant 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;
- and shall be provided to the Principal Certifying Authority and Bayside Council for written concurrence prior to the issue of any Construction Certificate.
- 32 If required, following completion of the additional assessment, a Remedial Action Plan shall be prepared and remediation of the site shall be carried out. Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to Bayside Council in accordance with the Environmental Planning and Assessment Act 1979 prior to any Construction Certificate being issued for the proposed development.
- 33 Prior to the issue of any construction certificate, the plans shall be amended to reflect the change in apartment layouts of apartment 103, 203, 304, 404, 504-1104, 1203 these changes are reflected in the plans approved which are dated 21 August 2018. A copy of the plans shall be submitted to the Council and Principal Certifying Authority.
- 34 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.

- 35 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
- Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 36 Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of **\$295,200.00 (GST Exempt)** by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 37 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
- 38 Prior to the issue of any Construction Certificate, a Construction Management Program shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any

part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,

- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) Proposed protection for Council and adjoining properties, and
 - i) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - j) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - k) The methodology to control dust on site.
 - l) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - m) Obtain Permits required under this consent.
- 39 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services). The plan shall:
- a) be prepared by a RMS accredited consultant,
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

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

- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 41 Prior to the issue of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - b) A suitably qualified engineer shall design and certify the driveway access from Haran Street to the development to ensure that stormwater from the road reserve is not directed into the basement structure, a suitable crest shall be provided to ensure flows are not directed into the basement structure, and
 - c) The applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 42 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - b) All service vehicles shall enter the property front in front out,
 - c) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck, Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - d) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
- 43 Prior to the release of the relevant Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- a) At least eleven (11) accessible car parking spaces shall be provided and clearly marked as specified in Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements;
 - b) All off street accessible parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements, and
 - c) All Accessible parking spaces shall be located within close proximity and easy access to the lift systems proposed for the building as per AS2890.6 and AS4299.
- 44 Prior to the issue of the relevant Construction Certificate, 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.
 - c) As part of this development, all above ground utilities on O'Riordan Street and Haran Street, adjacent to development, shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider. This undergrounding includes the removal of at least the two Ausgrid poles numbered K001750 and K001751, and
 - d) At least two (2) new Ausgrid lighting poles shall be erected on the O'Riordan Street frontage, or as otherwise directly specified by Council/Ausgrid/RMS. All new lighting poles and associated underground infrastructure shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other affected service provider,
 - e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate,
- Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
- 45 Prior to the issue of the relevant Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval. The detail drawings and specifications shall be prepared by a suitably qualified and

experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines' (SMTG), AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans. The detailed design plans shall incorporate but not be limited to the following:

- a) An On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including **1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,**
- b) The OSD systems storage area shall be fully enclosed with at least two (2) 900x900mm sealed access grates provided for maintenance and emergency overflow shall be provided with a capacity to handle events greater than the 100 year ARI storm that does not endanger the lives of the residents or the public, and
- c) The OSD system is to discharge to a new grated surface inlet pit in the O'Riordan Street frontage adjacent to the development, with a new piped stormwater connection provided to existing RMS stormwater infrastructure. Hydraulic grade line analysis of the new stormwater infrastructure will be required. All new stormwater infrastructure (pit & pipe sizing, location(s), cover etc.) shall be designed as specified by RMS, and
- d) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- e) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- f) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- g) Basement drainage shall be provided for the collection and removal of stormwater from all basement levels. The design is to comply with Botany DCP Part 10 Section 7 and AS/NZS 3500.3:2015, details of the pump out system shall be shown on the stormwater management plans, and
- h) The pump out system from the basement carpark shall discharge to the onsite stormwater detention (OSD) system, and
- i) A minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site. Overflow from the rainwater tank shall be directed to the site drainage system. The rainwater tank(s) shall service the landscaped areas on site.
- j) Detailed calculations including computer modelling 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.

- 46 Prior to the issue of the relevant Construction Certificate, at least one (1) car wash bays are to be provided. The visitor space adjacent to the service bays can be utilised for this purpose. A tap shall be provided along with a sign fixed to the wall saying 'Visitor Car Space and Car Wash Bay'. The car wash bay must be bunded in accordance with AS1940 – 1993 and AS/NZS 4452 – 1997 with direct connection to the sewer in accordance with a Sydney Water trade waste agreement.

- 47 Prior to the issue of the relevant Construction Certificate, a civil design plan must be prepared by a suitably qualified engineer and be approved by Bayside Council's Public Domain department for all frontage works that are required to be constructed within the public domain. A Public Domain Frontage Works application shall be submitted to Council for the works to be assessed, approved and a design brief provided, the form details can be found on the Bayside Council website. The frontage works shall be in accordance with any Council town centre plans, standard design drawings and specifications. Preliminary consultation with Council public domain department is highly recommended.

- 48 Prior to the issue of the relevant construction certificate, A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans. Street trees are to be provided in accordance with the Botany Street Tree Master Plan 2014.
 - a) O'Riordan Street verge strip shall be planted with three (3) *Angophora Costata*
 - b) Haran Street verge strip shall be planted with two (2) *Lophostemon confertus* (Box Brush)
 - c) Trees provided shall conform to NATSPEC guide. Tree planting specifications as follow:
 - i) Pot size supplied shall be not less than 200 Litre.
 - ii) Planting distance approximately 8 meters, along strip between footpath and kerb. Three (3) meters away from driveways.
 - iii) Height above container 3.5meters, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 meters.
 - iv) Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries.
 - v) Root barriers shall be specified to be installed in all street trees along kerb. Root barriers shall be installed as far as possible of trees. Ensure 50mm of root barrier is left above finished ground height. Root barrier shall be minimum 2 meters long to each side. Root barriers shall be installed alongside the landscape element to be protected in accordance with manufacturer's recommendations.

- vi) Mulching- Mulched shall conform to AS4454 and free of deleterious extraneous matter such as soil, weeds, wood slivers, stones. Mulch shall be along all strip between kerb and footpath to a depth of 75mm, when plants are installed, clear of all plant stems, and rake to an even surface flush with the surrounding finished levels.
 - vii) Stakes and Ties- Three stakes (3) of 50 x 50 x 2500mm of durable hardwood, straight, free from knots or twists, pointed at one end. Provide ties fixed securely to the stakes, 50mm hessian webbing installed around the stakes and stem in a figure of eight pattern and stapled to the stakes.
 - viii) Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post planting.
- 49 If required, the subsurface structure shall be designed with a water proof retention system (i.e. tanking and waterproofing) to a level that provides adequate provision for the future fluctuation of the water table. This subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. All subsoil drainage around this subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
- 50 The construction methodology, parameters, and recommendations prepared by Douglas partners, project 84531, dated October 2014, shall be implemented and relied upon during the preparation of the construction certificate documentation and the construction of the proposed development.
- 51 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, the Principal Certifying Authority and Principal Certifying Authority must:
- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.
- 52 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:
- a) identify each item of plant and equipment;

b) the following additional criteria adopted by Bayside Council:

- i) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
- ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
- iv) 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.

Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

- 53 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 54 Prior to the issue of the relevant Construction Certificate, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by the Principal Certifying Authority prior to their installation. Fire booster assemblies should be housed within the external face of the building structure and screened from view from the public domain area.
- 55 Design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.

- 56 Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
- 57 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.
- 58 Prior to the issue of the relevant construction certificate, Landscape documentation shall be submitted to council for approval including, but not be limited to the following information:
- 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) 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.
 - c) Trees shall be used extensively throughout the site. Trees must be an appropriate species to ameliorate buildings and enhance open spaces.
 - d) Increase the quantity of medium-large canopy tree planting within the setbacks to ameliorate the development and add amenity and screening to the site and adjoining southern boundary. Street setback trees are to be evergreen and supplied at a minimum 200 litres pot size.
 - e) All deep areas to include canopy trees where feasible to mitigate the loss of existing mature trees on site and to provide a level of amelioration to the buildings.
 - f) Indicate the location of all basement structures relative to the landscape areas.
 - g) 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, tree pit treatments, in accordance with council's Public Domain specifications.
 - h) Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details.
 - i) Details of all fencing, privacy screening, arbors and the like- elevations and materials, impacting or visible to public domain areas.
 - j) Details of all other hardscape landscape elements such as street furniture, pedestrian amenity lighting, bins, bollards. Location to be clearly identified on plan. Provide sectional construction details and elevations.
 - k) To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a

qualified landscape contractor. 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.

- 59 Trees shall be used extensively throughout the site – particularly in the setbacks. Trees must be of an appropriate scale to complement and scale with the building form and to pedestrianize landscaped open spaces. Trees to be predominantly native, evergreen species using open canopy evergreens or selected deciduous for solar penetration. Additional medium to small trees shall be provided along the setback at the corner of Haran St & O’Riordan Street.

Common area shall include canopy trees on slab, depth of soil shall allow growth of canopy trees in some areas.

- 60 Prior to the issue of the relevant construction certificate, amended plans shall be provided to the principal Certifying Authority indicating the OSD Basin being relocated to the communal open space and fire booster assembly and gas mains shall be relocated to be out of the dripline of the trees and located in a more discrete location to maintain a suitable streetscape.

- 61 Prior to the issue of the relevant Construction Certificate, an application for Property Address Allocation and associated fee is required to be submitted to Council. Determination of address numbers are 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/0007/199411/2018_NSW_Addressing_User_Manual.pdf

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 Council for addressing approval prior to registration of the subdivision plan.

- 62 Prior to the issue of the relevant construction certificate, the architectural plans shall be amended to include gas (where available) *to the top floor and ground floor apartments* and water tap connections to each main balcony *accessed from a living room/ kitchen/dining room*. (Amended DA-2018/1013/2)

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 63 Construction operations shall comply with the following:
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
 - b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Concrete trucks and trucks 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 be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - f) The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
 - g) All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 64 Vibration levels induced by the demolition activities shall not exceed levels listed in Standard DIN 4150-3 (1999-02), *Structural vibration Part 3 – Effects of vibration on structures Table 12-7*. The operation of plant and equipment must not give rise to the transmission of vibration nuisance or damage to other premises. Prior to commencement a specific vibration monitor shall be set up to monitor and record the vibration levels affecting surrounding buildings.
- 65 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. A copy of any written direction required by this condition must be provided to the Principal Certifier 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.

- 66 Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
 - b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
 - c) Formwork inspection of Council's footpath prior to laying of concrete,
 - d) Inspections of the ~~Banks Avenue~~ *Haran Street* road reserve prior and during the construction of the new road pavement,
 - e) Final inspection of driveway layback and adjacent kerb and gutter,
 - f) Final inspection of Council's kerb and gutter,
 - g) Final inspection of Council's footpath,
 - h) Final Inspection of new road pavement on Haran Street.

(Amended DA-2018/1013/2)

- 67 During demolition, excavation and construction, care must be taken to protect Council's infrastructure and surrounding buildings, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also

be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure and surrounding buildings (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.

- 68 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.
- 69 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 70 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
- 71 The development is to be constructed to meet the following construction noise requirements:
- 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).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

2. The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- c) Time Restrictions
 - i) Monday to Friday 07:00am to 06.00pm;
 - ii) Saturday 07:00am to 03:00pm
 - 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.
- 72 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Soil and Water Management Plan if required under this consent;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
- 73 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. 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.
- 74 All remediation work must be carried out in accordance with:
 - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) the Remedial Action Plan 'Updated Remediation Action Plan – Proposed Mixed Use / Medium Density Residential Zone, Part Lot 1 in D.P. 776089, Westfield Drive, Eastgardens, NSW' prepared by Douglas Partners, Project 71631.12, dated September 2013.
- 75 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed

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

- 76 All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
- 77 To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) 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.

- 78 Results of the monitoring of any field parameters such as soil, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.
- 79 Landscape construction should be carried out by a qualified landscape contractor to ensure that adequate standards of workmanship are achieved. Landscape contractors who are members of the Landscape Contractors Association of NSW should be engaged.
- 80 Landscaping shall be installed in accordance with the approved Sturt-Noble *Site Image* landscape plans only stamped by Council's Landscape Architect and dated prior to the issue of a Construction Certificate. (This amended plan supercedes the original landscape plan). (*Amended DA-2018/1013*)
- 81 In accordance with council's DCP, the following activities are prohibited beneath the canopy drip line of any tree required to be retained and protected unless otherwise approved under the development consent/plans:
- a) Excavations and trenching (with exception of the approved foundations and underground services);
 - b) Ripping or cultivation of soil;
 - c) Mechanical removal of vegetation;
 - d) Soil disturbance or movement of natural rock;

- e) Soil level changes including the placement of fill material (excluding and suspended floor slab);
- f) Movement and storage of plant, equipment & vehicles;
- g) Erection of site sheds;
- h) Affixing of signage or hoardings to trees;
- i) Storage of building materials, waste and waste receptacles;
- j) Disposal of waste materials and chemicals including paint, solvents,

In accordance with AS 4970 – 2009, inspections shall be conducted by the Project Arborist in accordance with the following key milestones:

Prior to any work commencing on-site (including demolition, earthworks or site clearing) and following installation of tree protection fences, tags and trunk protection; During any excavations, building works and any other structure within the TPZ of the tree to be retained & protected, including any landscape works; A minimum of every month during the construction phase from Commencement to issue of the Occupation Certificate; and Following completion of the building works.

The Project Manager shall be responsible to notify the Project Arborist prior to any works within the Tree Protection Zones of protected tree within a minimum of 24 hours' notice.

- 82 If adjustment or connection to existing subsurface services or utilities within the road verge or the road carriageway is required, **all work** must be undertaken under the supervision and direction of Council's Tree Management Officer so as not to impact or harm the existing street tree. NOTE: Services may require re-routing at the Applicant's expense to ensure tree root protection. New overhead electrical property service wires shall located so that it is outside the tree canopy. No canopy pruning will be permitted for service wires.
- 83 The Council nature strip shall be repaired and/or replaced in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
- 84
 - a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
 - b) The contractor shall be engaged weekly for a minimum period of 13 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 85 All new street trees shall be installed prior to completion of the staged development. All tree planting work is to be completed and protective fencing, being 1.8 metre chainlink fence, erected around the trees for protection prior to the commencement of construction.
- 86 A raised ~~concrete~~ edge shall be installed around the landscape areas to contain soil and mulch finishes from spilling out onto adjoining pavements. The edge shall be

raised a minimum of 150mm above the adjoining pavement. Timber retaining edges are unsuitable. (*Amended DA-2018/1013/2*).

- 87 Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. 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.

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

- 88 All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 89 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resistant for all two and three bedroom apartments.
- 90 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*.

- 91 The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
- 92 Prior to the issue of the relevant Occupation Certificate, car parking is to be allocated as follows:
- a) Minimum 97 residential spaces
 - b) 21 residential visitor spaces
 - c) 1 car wash bay (shared with 1 visitor or service bay)
 - d) 2 service bay and /or visitor
- 93 Prior to the issue of the relevant Occupation Certificate, at least 11 bicycle spaces are to be provided in the car park. Consideration on having bike racks close to the lobby entries is encouraged.
- 94 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 95
- a) Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in that section of the street/s adjacent to the development, and associated services and the installation of the underground supplied street lighting columns, shall be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
 - b) ***Notwithstanding the above, if the abovementioned undergrounding works required by Condition 95(a) cannot be satisfied prior to the Occupation Certificate, the applicant may submit a bond payment of \$50,000.00 plus GST to Bayside Council to be paid in full (this payment shall be indexed at the time of payment in accordance with the Consumer Price Index (All Groups Index – Sydney)) prior to the issue of the occupation certificate;***
 - c) ***The bond payment required by Condition 95(b) above will not be refunded until any unfinished works required by Council have been completed. The completion of works is to ensure that all relevant works required by this consent are completed and an inspection of the Public Domain has been carried out by Council's Public Domain Engineer. This inspection is required prior to the release of the bond;***
 - d) ***If the works required are unable to be completed within twelve (12) months of the date of determination of this modification (10 December 2020), the bond payment will be forfeited to Council. This bond payment will be used***

for the sole purposes of completing the unfinished works within the public domain.

[Amendment F – Section 4.55(1A) amended on 10 December 2019]

- 96 Prior to the issue of the relevant Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
- 97 Prior to the issue of the Occupation Certificate, all *relevant* 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. (*Amended DA-2018/1013/2*)
- 98 Prior to the issue of the relevant ~~any~~ Occupation Certificate, the applicant shall carry out the following works, at no cost or expense to Council:
- a) On Haran Street and O'Riordan Street, adjacent to development, remove redundant driveway crossovers and replace with any required tree planting and public domain improvements as specified by Council in accordance with Council's Infrastructure Specifications, and
 - b) On Haran Street and O'Riordan Street, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications. New paving shall be installed by the applicant and at the applicant's expense, and
 - c) On Haran Street and O'Riordan Street, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's and RMS Infrastructure Specifications, and
 - d) On O'Riordan Street, adjacent to development, construct new kerb inlet pit(s) and stormwater pipe(s), connecting to existing RMS stormwater infrastructure, to RMS and Council infrastructure specifications, and
 - e) Deleted by Panel
 - f) Deleted by Panel
- (*Amended DA-2018/1013/2*)
- 99 The work to Haran Street/ O'Riordan Street public footpath shall be constructed in accordance with approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with this specification only. Pavers shall be ordered accounting for adequate lead time for manufacture.

Construction hold points and Council inspections are required at the following points:

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

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

- 100 All vehicular crossings are to be constructed prior to the issuing of an Occupation Certificate (or the completion of work or the use of the building), the applicant shall make a separate application to Council's Customer Service Counter to construct a new eleven (11) metre wide concrete layback to serve as the new driveway crossing facilitating the development. 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 vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted. The footway area must be restored by turfing.
- 101 Prior to the issue of *the relevant any* Occupation Certificate(s), the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied:-
- a) Inspection reports (formwork and final) for the works on the public domain and the road reserve shall be obtained from RMS representative and Council's engineer; and
 - b) A copy of the approved engineering construction plans showing Work-as-Executed details (together with an electronic copy (DWG format)) for all the civil works on public domain and road reserve area. The plan shall be prepared by a registered surveyor.
(Amended DA-2018/1013/2)
- 102 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 approved construction plans, AS/NZS 2890.1, AS2890.2 and AS/NZS 2890.6, line marked and all signage relating to car parking erected. Certification must be provided by a suitably qualified engineer, certifying the design of the completed works. The car parking area is to be clearly and appropriately marked/signposted indicating all the vehicular movements on the site. The internal road network, pedestrian facilities and parking facilities (including visitor parking and parking for persons with disabilities) shall be clearly designated, sign posted and line marked prior to the issuing of an Occupation Certificate. Signage and line marking shall comply with Australian Standards, AS1742, Manual of Uniform Traffic Control Devices and NSW Road Transport (Safety and Traffic Management) Regulations 1999.
- 103 The applicant is responsible for the installation and protection of all regulatory/parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works shall be replaced at full cost to the applicant prior to the issue of an Occupation Certificate.
- 104 All vehicles shall enter and exit the site in a forward direction at all times. A plaque with minimum dimensions 500mm x 400mm shall be permanently fixed to a prominent place near the primary vehicular entrance to the site, approved by the principal certifier, stating the following: "All vehicles shall enter and exit the site in a forward direction at all times. All waste collection for the site shall be wholly undertaken on the site and not within the Haran Street road reserve".

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

- a) Positive Covenant and Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording, and
- b) Positive Covenant and Restriction on Use of Land for Pump-out System. Refer to Appendix B of the SMTG for suggested wording, and
- c) Positive Covenant and Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix C of the SMTG for suggested wording.

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

106 Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.

107 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval in accordance with the NSW Addressing Policy prior to the issue of the Occupation Certificate. Application fees apply.

108 A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.

109 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to the issue of the interim Occupation Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

110 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.

- 111 Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the approved acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 112 The public domain and Council footpath area shall be upgraded with new paving, street furniture and street tree planting, to be installed by the applicant at the applicant's expense. All improvements shall be in accordance with the approved Public Domain plan and Council Landscaping and Engineering specifications and requirements, and shall be constructed and complete prior to the issue of an Occupation Certificate.
- 113 Prior to the issue of the Occupation Certificate, a site works review is required demonstrating:
- a) Extent and minimum dimensions of the site dedicated to landscaping comply with the Detailed landscaping plans
 - b) All detailed works comply with detailed schedules and specifications included in the detailed landscape plans
 - c) Any modifications to the design were an equivalent or better solutions to the requirements of the detailed landscape plans and do not affect the ability of the landscape treatment to achieve the design intent.
 - d) Site cultivation, quality and depth of soil and mulches as a minimum complies with Council specifications and standards.
 - e) Drainage of all open space and soft landscaping complies with detailed landscape plans and to Council standards
- 114 Prior to the issue of the Occupation Certificate, the following applies for landscape works specification for construction documents:
- a) The Specification is to be read in conjunction with the Landscape Drawing Set, all other Consultant's documentation and revisions. Discrepancies are to be noted and clarified through a 'Request For Information' prior to construction. Allowance is to be made for all specified products. Equivalent alternatives to be documented when required and updated on As-Builts. All Australian Standards nominated in this Specification are to be the current issue.
- 115 Prior to the Issue of Occupation Certificate is to read:
- i) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.

- ii) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
- iii) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.

- 116 Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the Environmental Planning and Assessment Act 1979.

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

- 117 The rooftop terraces are not to be enclosed as habitable space.
- 118 The operation of the development and movements of vehicles shall comply with the following requirements:
- a) All vehicles (including deliveries and garbage collection) shall enter and exit the site in a forward direction;
 - b) Loading and unloading activities associated with the delivery shall take place wholly within the dedicated loading areas;
 - c) All garbage collection activities shall take place and be wholly undertaken within the site in the dedicated garbage collection area;
 - d) All manoeuvring movements of vehicles shall be carried out wholly within the site and vehicle manoeuvring area shall be kept clear at all times;
 - e) The maximum size of vehicle accessing the service bay shall be limited to 8.8m long Medium Rigid Vehicle (MRV) (as denoted in AS2890.2).
- 119 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed:
- a) Solids shall be disposed to the waste disposal, and
 - b) De-sludged liquid shall be disposed to the sewer.

- 120 ~~Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.~~
(Deleted DA-2018/1013/2)
- 121 Any BBQ area shall be managed in a manner so as to not adversely impact the amenity of the surrounding residents.
- 122 The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of development approval and Council's Landscape DCP at all times. The Landscape Contractor shall be engaged weekly for a minimum period of 26 weeks from completion of the landscape installation to maintain the landscaping. After that time regular maintenance is required.
- 123 The automatic drip irrigation system shall be repaired and maintained in working order and in accordance with the approved landscape plan at all times.
- 124 The landscaped areas on the property shall be maintained in a clean and tidy state and with a dense, even coverage of plants to Council's satisfaction, and in accordance with conditions of consent and Council's Landscape DCP, at all times.
- 125 New street trees shall be maintained by the Applicant for the duration of the landscape bond period after planting. Maintenance includes periodic watering at a frequency to sustain adequate growth, annual feeding and weed removal but does not include trimming or pruning of the trees under any circumstances.
- 126 The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
- 127 The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
- 128 All intruder alarms shall be fitted with a timing device in accordance with the requirements of Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.
- 129 A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):

- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
- b) Before 7 am or after 10 pm on any other day.

- 130 The use of the premises shall not give rise to any of the following when measured or assessed at “sensitive” positions within any other property. These “sensitive” positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

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

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

Statement Environmental Effects

Section 4.55 (1A) Application

**3 Haran Street (133-141 O’Riordan Street),
Mascot**

Modify Condition 95

29 July 2019

PREPARED BY

Meriton Property Services Pty Ltd
ABN 69 115 511 281

Karimbla Construction Services (NSW) Pty Ltd
ABN 67 152 212 809

Level 11 Meriton Tower
528 Kent Street, Sydney NSW 2000
Tel (02) 9287 2888



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Statement of Environmental Effects
3 Haran Street (133-141 O'Riordan Street), Mascot
Modify Condition 95

1 Introduction

This application has been prepared by Karimbla Constructions Services (NSW) Pty Ltd to support a Section 4.55(1A) modification application to Bayside Council. The proposal seeks to amend Condition 95 to allow for bank guarantee to be lodged for remainder of undergrounding of overhead mains to be completed after the occupation of the building as Ausgrid is delaying works due to industrial disputes.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in Section 4.55(1A) of the EP&A Act.

2 Detailed Description of the Proposed Modifications

This Section 4.55(1A) modification application is to amend the Development Consent (DA/2018/1013) granted on the 23 August 2018 for Integrated Development for the Construction of a thirteen-storey residential flat building with a total of 105 apartments and two levels of basement car parking.

This Section 4.55(1A) application seeks approval for modifications to the conditions of consent:

CONDITION	DESCRIPTION
Condition 95	Modify Condition 95 – allow bank guaranteed to be lodged.

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **strike-through** and words to be inserted are shown in **bold italics**.

The conditions to be modified with associated justification is provided below.

Modify Condition 95

36. ~~Prior to the issue of an Occupation Certificate, the~~ underground placement of all low and/or high 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 applicants expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.

Should any delays be caused by the asset owner, the applicant must lodge a bank guarantee for the value of the remaining works to Council. Those works must be completed within twelve months of the maintenance period of the Public Domain.

This condition requires modification to allow for a bank guarantee to be lodged to Council for remainder of the undergrounding of overhead mains to be completed after the occupation.

There is no certainty on when Ausgrid will allow us to finish the undergrounding of the cables as Ausgrid does not let anyone to work on live connections. Therefore, modifying this condition to include a bank guarantee will enable the timely occupation of the development and will cover the remainder of the works that require completion after occupation.

3 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if:

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

The development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- The proposed development retains the same use as the approved development and in this respect, there is no material change in the essence of the development;
- The proposed modifications will result in substantially the same development as originally approved under DA/2018/1013.
- The environmental impacts of the modified development are substantially the same as the approved development.

It is considered that the development is substantially the same as the original approval.

The proposal results in only minor changes to the approved consent conditions. Modifying this condition to include a bank guarantee will enable the timely occupation of the development and will cover the remainder of undergrounding of overhead mains that require completion after occupation.

4 Environmental Planning Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if:

"it is satisfied that the proposed modification is of minimal environmental impact".

Under Section 4.55(4) the consent Authority must also take into consideration the relevant matters to the application referred to in Section 4.15C (1) of the EP&A Act.

The following assessment considers the relevant matters under Section 4.15C(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Section 4.15(1)(a)(i): Environmental Planning Instruments

4.1.1 Botany Local Environmental Plan 2013

Part 2 of the Botany Local Environmental Plan 2013 (LEP) identifies that the subject site is zoned B4 Mixed Use. The proposal is permitted in the zone subject to consent from the Council.

There are no other clauses of the LEP that are particularly relevant in the assessment of the proposal.

4.2 Section 4.15(1)(a)(ii): Draft Environmental Planning Instruments

There are no draft environmental planning instruments that apply to the subject site.

4.3 Section 4.15(1)(a)(iii): Development Control Plans

4.3.1 Botany Development Control Plan 2013

Botany Development Control Plan 2013 (DCP) applies to the subject site. No provisions are relevant to the amendment application.

4.4 Section 4.15(1)(a)(iiia): Planning Agreements

Not applicable.

4.5 Section 4.15(1)(a)(iv): Regulations

The Section 4.55(1A) Application has been made in accordance with the requirements contained in Clause 117 of the *Environmental Planning and Assessment Regulation 2000*.

4.6 Section 4.15(1)(b): Likely Impacts

There are no impacts that will result from the proposed amendments to conditions. The changes are generally minor and will not have any amenity impacts on the existing surrounding buildings or other parts of the existing approved development.

4.7 Section 4.15(1)(c): Suitability of the Site

There are no environmental constraints on the site that would impede the proposal or render it unsuitable for the site.

4.8 Section 4.15(1)(d): Submissions

Should notification be required for the proposal, Council will consider submissions at the close of the notification period.

4.9 Section 4.15(1)(e): The Public Interest

For the reasons set out in this Statement, there are no matters of public interest that would be detrimental to the proposed conditions to be amended.

Statement of Environmental Effects
3 Haran Street (133-141 O'Riordan Street), Mascot
Delete Condition 95

5 Conclusion

This application has been prepared by Karimbla Constructions Services (NSW) Pty Ltd to support a Section 4.55(1A) modification application to Bayside Council. The proposal seeks to amend Condition 95 to allow for bank guarantee to be lodged for remainder of undergrounding of overhead mains to be completed after the occupation of the building as Ausgrid is delaying works due to industrial disputes.

In accordance with Section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the proposed modifications will not result in any significant additional environmental impacts in relation to adjoining and surrounding properties;
- the proposed modifications do not result in a development that contravenes the Botany Local Environmental Plan 2013 (LEP) development standards.

In light of the above, we therefore recommend that the proposed modification is supported by Council and we trust that this information is sufficient to enable a prompt assessment of the proposed modification.

Ana Trifunovska

From: Hannah Gilvear <HannahG@meriton.com.au>
Sent: Friday, 16 August 2019 4:46 PM
To: Ana Trifunovska
Subject: RE: DA2018/1013/B - 3 Haran Street

Hi Ana,

We were originally advised by Luis and Angela to lodge this application as they have been having a number of issues with other applications. In this instance we haven't been able to finish the undergrounding of the cables as Ausgrid is not allowing us to work on live connections. As a result there is no certainty on when will Ausgrid allow the work on live cables.

In summary

- The proposal seeks to amend Condition 95 to allow for bank guarantee to be lodged for remainder of undergrounding of overhead mains (Should any delays be caused by the asset owner) to be completed after the occupation of the building as Ausgrid is delaying works due to industrial disputes.
- Similarly to Condition 95, we wish to amend Condition 36 also to allow for the Damage Deposit to be refunded subject to inspection by Council 12 months after the completion of public domain works excluding the undergrounding of the street electrical mains and an interim occupation is issued. Ultimately the issue is, if there is delays caused by Ausgrid or the asset owner (that are out of our control) this will delay final occupation certificate and will prevent us from obtain a refund for our deposit.

Given we are already proposing to lodge an additional bank guarantee for the remainder of undergrounding of overhead mains under Condition 95. It would be senseless to not request that Condition 36 be modified, in addition to ensure there is consistency with Condition 95, we should be entitled to apply for a damage deposit refund for the competition of all public domain works (excluding delayed works by the asset owner).

The proposal to lodge a bank guarantee for the remainder of works in the event there is delays, guarantees that the work will be completed once approval is given by Ausgrid.

We propose to modify the second half of Condition 36 as follows:

36 Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of \$295,200.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

Condition 36. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of \$295,200.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during of the course of building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of public domain works (excluding the undergrounding of the street electrical mains) and an interim occupation has been issued."

I can confirm proposed modification to the Conditions 36 and 95 will result in the same development as originally approved.

This email might be a bit confusing, Please give me a call if I have confused you.

If you have any other questions or need further justification please do not hesitate to contact me.

Hannah Gilvear

Senior Development Planner



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From: Ana Trifunovska <Ana.Trifunovska@bayside.nsw.gov.au>

Sent: Friday, 16 August 2019 3:30 PM

To: Hannah Gilvear <HannahG@meriton.com.au>

Subject: RE: DA2018/1013/B - 3 Haran Street

Hi Hannah,
I was just about to start having a look at this one, you beat me to it.
That depends on the modification to the condition. Will the development be substantially the same? Which condition does it relate to? I need a little more information before I can give you a concrete answer.
Kind regards,



Ana Trifunovska Development Assessment Planner
444-446 Princes Highway, Rockdale NSW 2216
T 02 9562 1698
E ana.trifunovska@bayside.nsw.gov.au W www.bayside.nsw.gov.au

From: Hannah Gilvear [<mailto:HannahG@meriton.com.au>]
Sent: Friday, 16 August 2019 3:18 PM
To: Ana Trifunovska <Ana.Trifunovska@bayside.nsw.gov.au>
Subject: DA2018/1013/B - 3 Haran Street

Good afternoon Ana,
I lodged a DA to Council on the 30 July, DA2018/1013/B
I had a look at the tracker and it shows that you will be looking after it.
I was just emailing enquiring about the status?
I have just been advised by my colleague that we might need to amend the wording of another condition. If that is the case, would it be possible to add this as part of this modification or would I need to submit a new DA?
I look forward to hearing from you.
Hannah Gilvear
Senior Development Planner



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Bayside Local Planning Panel

10/12/2019

Item No	6.5
Application Type	Development Application
Application No	DA-2014/10068/B
Lodgement Date	18/10/2019
Property	20 Pemberton Street, Botany
Ward	Ward 1
Owner	JKN Australia Pty Ltd
Applicant	Krikis Tayler Architects
Proposal	Modification to accommodate various electrical and communications cupboards and other minor amendments resulting in a minor increase to gross floor area.
No. of Submissions	2
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.56 of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - ii. has been notified; and
 - iii. has been assessed having regard to the relevant matters in S4.15 of the Environmental Planning and Assessment Act 1979.
2. That the Bayside Local Planning Panel consider the submissions concerning the proposed modification and take into consideration the reasons of the consent authority that granted the consent that is sought to be modified.
3. That modification application DA-2014/10068/B seeking to modify Development Consent DA-2014/10068 to allow various electrical and communications cupboards and other minor amendments resulting in minor increase in gross floor area at 20 Pemberton Street, Botany be APPROVED. The proposal is modified in the following manner:
 - (a) *Amend Condition 1 to now read:*

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

Drawing No.	Rev	Author	Dated
A03 – Basement Level 2 Plan (DA-2014/68/2)	14	Krikis Tayler Architects	22 August 2017 (DA-2014/68/2)
A04- Basement Level 1 Plan	17 19 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
A05- Level 1 (Ground) Plan	22 24 (DA-2014/68/2) (DA-2014/10068/B)		17 October 2017 28 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A06- Level 2 Plan	18-21 22 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A07- Level 3 Plan	14-17 18 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A08- Level 4 Plan	13-16 17 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A09- Level 5 Plan	13-16 17 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A10- Level 6 Plan	12-15 16 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A11- Level 7 Plan	12-15 16 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A13- Roof Plan	12 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A20- Elevations 1	16 20 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A21- Elevations 2	16A 20 (DA-2014/68/2)		17 October 2017 25 August 2017 (DA-2014/68/2)
A22- Elevations 3	13 17 (DA-2014/68/2)		19 May 2017 25 August 2017 (DA-2014/68/2)

A23- Elevations 4	11 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A30- Sections	9 12 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
Apartment Schedule	P S (DA-2014/68/2)		6 February 2017 30 August 2017 (DA-2014/68/2)
SK170522-02- Page 1 to 11- GFA Diagrams (DA-2014/68/2)	-		22 May 2017 (DA-2014/68/2)
SK170522-01- Page 1 to 3- Car park entry details	-	-	22 May 2017
000- Cover Sheet	G I (DA-2014/68/2)	Site Image Landscape Architects	2 August 2017 25 August 2017 (DA-2014/68/2)
001- Landscape Masterplan	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
101- Landscape Plan- South West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
102- Landscape Plan- North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
103- Landscape Plan- South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
104- Landscape Plan- North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
105- Landscape Plan- Level 2 and 3	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
106- Landscape Plan- Nature Playground	G		2 August 2017
401- Landscape Planting Plan South West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
402- Landscape Planting Plan North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
403- Landscape Planting Plan South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
404- Landscape Planting Plan North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
405- Planting Plan Level 2 and 3	G I		2 August 2017 25 August 2017

	(DA-2014/68/2)		(DA-2014/68/2)
501- Landscape Details	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
502- Landscape Details, Specification and Plant Schedule	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
D20- Landscape Stormwater Drainage Plan	B	Australian Consulting Engineers	July 2017
000 - Cover sheet, legend & drawing schedule	A	Australian Consulting Engineers	August 2015
001 - Basement 2 storm water drainage plan and details	B		
002 - Basement 1 storm water drainage plan	B		
003 - Level 1 storm water drainage plan	C		
004 - Level 2 storm water drainage plan	A		
005 - Level 3 storm water drainage plan	A		
006 - Level 4 storm water drainage plan	A		
007 - Level 5 storm water drainage plan	A		
008 - Level 6 storm water drainage plan	B		
009 - Level 7 storm water drainage plan	B		
010 - Level 8 storm water drainage plan	B		
011 - Roof level storm water drainage plan	A		
015 - Storm water drainage sections and details	B		

Reference Document(s)

Author

Dated

Letter re: Proposed Modifications to Parkgrove Buildings A, B and C, Botany Ref: JH/8501/jj JH/10642/jj (DA-2014/68/2)	Colston Budd Hunt and Kafes Pty Ltd	19 August 2015 31 August 2017 (DA-2014/68/2)
Internal Traffic Assessment	Thompson Stanbury Associates	November 2016
NaTHERS- Class 2 Summary	SLR Consulting Pty Ltd	3 November 2016 31 August 2017 (DA-2014/68/2)
BASIX Certificate No. 540244m_04 540244m_06	SLR Consulting Pty Ltd	3 November 2016 31 August 2017 (DA-2014/68/2)
Noise Intrusion Assessment Report No. 5367-3.1R Rev A	Day Design Pty Ltd	8 November 2016
Environmental Noise Assessment Report 5367-3.2R Rev A	Day Design Pty Ltd	8 November 2016
Geotechnical Assessment 2373- B	Asset Geotechnical	27 March 2014
Geotechnical Assessment Addendum 2373-2-L1 Rev 1 Report No. E22374 GA	Asset Geotechnical	11 November 2016
Dewatering Assessment 2373-1-L1 Rev 1	Asset Geotechnical	17 June 2016
Access Report Job No. IAC-594	Iaccess Consultants	3 November 2016
Letter Re Flood Storage and OSD Storage, Parkgrove, KF111540-L03	KF Williams and Associated Pty Ltd	9 September 2015
Waste Management Plan	Elephants Foot Recycling Solutions	September 2015
Pedestrian Wind Environment Statement WB999-03F01	Windtech Consultants Pty Ltd	4 November 2016
Remediation Action Plan Part of Former Brambles Site Report ID: CES021209- AUS-11-F	Consulting Earth Scientists	15 June 2005
Remediation Action Plan Former Aerosols Australia Site and Proposed Commercial Redevelopment Report ID: CES021209-AUS-12-F2	Consulting Earth Scientists	13 February 2006
Report on Additional Groundwater Investigation	Consulting Earth Scientists	6 February 2006
Sampling Analysis and Quality Plan: Groundwater Monitoring, Austcorp Botany Site, Botany Report JD: CESD21209-AUS-02-F (SAQP)	Consulting Earth Scientists	16 February 2004
Letter Re: Proposed Modifications to Parkgrove Buildings A, B and C, Botany	Zoic Environmental Pty Ltd	21 September 2015
BCA Capability Report Ref: J160528	Vic Lilli and Partners Consulting	4 November 2016

(b) *Condition 1B to be added to read:*

A Building Information Certificate shall be lodged with Council no later than six months after the date of the final Occupation Certificate being issued for external / internal works that are inconsistent with the approved DA plans.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Modification Statement by applicant [↓](#)
- 3 Floor Plan Details [↓](#)
- 4 Advice from Planning Panel Secretariat [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2014/10068/B
Date of Receipt:	18 October 2019
Property:	20 Pemberton Street, Botany Lot 1 DP 1251823
Owner:	JKN Australia Pty Ltd
Applicant:	Krikis Tayler Architects
Proposal:	Modification to accommodate various electrical and communications cupboards and other minor amendments resulting in a minor increase to gross floor area
Recommendation:	Approval subject to amended conditions
Value:	Nil
Zoning:	B4 Mixed Use and R3 Medium Density Residential under Botany Bay Local Environmental Plan 2013
No. of submissions:	Two (2)
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	10 December 2019

Key Issues

The key issues relate to the following:

- Increase in the approved Gross Floor Area (GFA) of the development by 31.9m² through unapproved works during the construction process. However, there is no change to the number of approved apartments with the increase in GFA occurring primarily due to internal changes to accommodate structural columns, electrical cupboards and resulting in a very insignificant increase to the building footprint to several facades.

Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to S4.56 of the Environmental Planning and Assessment Act 1979 be satisfied that the proposed modification:
 - i. is substantially the same development as the development for which consent was originally granted and before that consent was modified;
 - ii. has been notified; and
 - iii. has been assessed having regard to the relevant matters in S4.15 of the Environmental Planning and Assessment Act 1979.
2. That the Bayside Local Planning Panel consider the submissions concerning the proposed modification and take into consideration the reasons of the consent authority that granted the consent that is sought to be modified.
3. That modification application DA-2014/10068/B seeking to modify Development Consent DA-2014/10068 to accommodate various electrical and communications cupboards and other minor amendments resulting in a minor increase to gross floor area at 20 Pemberton Street, Botany be APPROVED. The proposal is modified in the following manner;

(a) Amend Condition 1 to now read:

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

Drawing No.	Rev	Author	Dated
A03 – Basement Level 2 Plan (DA-2014/68/2)	14	Krikis Tayler Architects	22 August 2017 (DA-2014/68/2)
A04- Basement Level 1 Plan	17 19 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
A05- Level 1 (Ground) Plan	22A-24 (DA-2014/68/2) (DA-2014/10068/B)		17 October 2017 28 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A06- Level 2 Plan	18-21 22 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A07- Level 3 Plan	14-17 18 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
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A10- Level 6 Plan	12-15 16 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A11- Level 7 Plan	12-15 16 (DA-2014/68/2) (DA-2014/10068/B)		3 February 2017 25 August 2017 8 October 2019 (DA-2014/68/2) (DA-2014/10068/B)
A13- Roof Plan	12 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A20- Elevations 1	16 20 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A21- Elevations 2	16A 20 (DA-2014/68/2)		17 October 2017 25 August 2017 (DA-2014/68/2)
A22- Elevations 3	13 17 (DA-2014/68/2)		19 May 2017 25 August 2017 (DA-2014/68/2)
A23- Elevations 4	11 15 (DA-2014/68/2)		3 February 2017 25 August 2017 (DA-2014/68/2)
A30- Sections	9 12 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
Apartment Schedule	P S (DA-2014/68/2)		6 February 2017 30 August 2017 (DA-2014/68/2)
SK170522-02- Page 1 to 11- GFA Diagrams (DA-2014/68/2)	-		22 May 2017 (DA-2014/68/2)
SK170522-01- Page 1 to 3- Car park entry details	-	-	22 May 2017
000- Cover Sheet	G I (DA-2014/68/2)	Site Image Landscape Architects	2 August 2017 25 August 2017 (DA-2014/68/2)
001- Landscape Masterplan	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
101- Landscape Plan- South West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)

102- Landscape Plan- North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
103- Landscape Plan- South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
104- Landscape Plan- North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
105- Landscape Plan- Level 2 and 3	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
106- Landscape Plan- Nature Playground	G		2 August 2017
401- Landscape Planting Plan South West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
402- Landscape Planting Plan North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
403- Landscape Planting Plan South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
404- Landscape Planting Plan North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
405- Planting Plan Level 2 and 3	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
501- Landscape Details	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
502- Landscape Details, Specification and Plant Schedule	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
D20- Landscape Stormwater Drainage Plan	B	Australian Consulting Engineers	July 2017
000 - Cover sheet, legend & drawing schedule	A	Australian Consulting Engineers	August 2015
001 - Basement 2 storm water drainage plan and details	B		
002 - Basement 1 storm water drainage plan	B		
003 - Level 1 storm water drainage plan	C		
004 - Level 2 storm water drainage plan	A		
005 - Level 3 storm water drainage plan	A		

006 - Level 4 storm water drainage plan	A		
007 - Level 5 storm water drainage plan	A		
008 - Level 6 storm water drainage plan	B		
009 - Level 7 storm water drainage plan	B		
010 - Level 8 storm water drainage plan	B		
011 - Roof level storm water drainage plan	A		
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BCA Capability Report Ref: J160528	Vic Lilli and Partners Consulting	4 November 2016

(b) Condition 1B to be added to read:

A Building Information Certificate shall be lodged with Council no later than six months after the date of the final Occupation Certificate being issued for external / internal works that are inconsistent with the approved DA plans.

Site Description

The subject sites are commonly known as 20 (Lot 1 in DP 1251823) Pemberton Street, Botany. The site is irregular in shape and has an area of 18,454m². At the time of the writing of this report it is a cleared site, with construction of the DA approved building having commenced. The surrounding area is characterised by a range of land uses, with high density residential to the north and east, industrial to the west and commercial / industrial to the south. The subject site is located to the south east of the Botany town centre, to the north of Botany Road and to the south of the Botany Goods Line.



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



Figure 2: Photo of site, looking south down Pemberton Street at the Maharoot Street intersection (taken 1 November 2019)

Description of approved development and proposed modifications

Approved Development DA-2014/68

On 16 December 2015, the former Sydney East Joint Regional Planning Panel refused an application seeking approval for the redevelopment of the site for residential purposes; comprising the erection of a mixed use development comprising of 3 residential flat buildings ranging in height between 3 to 8 storeys, containing 313 residential apartments, 2 commercial tenancies, and basement car park for 552 spaces.

The Panel did not support the application on the grounds for the following reasons:

- Overall, it does not comply with the height of the Height of Building and Floor Space Ratio development standards of the Botany Bay Local Environmental Plan 2013;
- In particular, there is non-compliance in the B4 zone along Pemberton Street;
- The buildings fronting Rancom Street have excessive height, bulk and scale, inadequate setbacks and therefore overshadowing impacts; and
- The eight storey Building B has excessive height and length and therefore adverse bulk, scale and overshadowing impacts.

On 12 December 2016, the subject development was approved by the Land and Environment Court by way of a Section 34 Agreement.

The approved was for development of the existing industrial site for a mixed use development comprising 2 residential flat buildings ranging in height between 4 to 7 storeys, containing in total 268 residential apartments (5 x studio, 110 x 1 bed, 123 x 2 bed and 30 x 3 bed) and 2 retail tenancies (323m²), above 2 levels of basement car parking for 479 spaces.

The approval was the subject of deferred commencement conditions that resulted in changes to the approved units. The deferred commencement conditions was deemed satisfied by Council on 12 December 2017.

- A Voluntary Planning Agreement was executed in December 2017 for the large public park along the eastern boundary of the site.

Approved Modification DA-2014/68/02

On 29 January 2019, the Sydney Eastern City Planning Panel approved a Section 4.56 modification application for a series of amendments, including the reconfiguration of the approved building footprint and internal layout, and an additional 25 units through the reconfiguration of the existing layout and also additional storeys on a number of the approved buildings fronting Pemberton Street, Maharoot Street and Rancom Street.

Proposed Modifications DA-2014/10068/B (subject to this report)

The approved development is currently under construction and the Principal Certifying Authority (PCA) has observed a number of variations to the approved plans, with the applicant seeking retrospective approval for these works. These works are detailed further below:

- Building A, Tenancy R01: The entry to this tenancy has been set back by the depth of the structural columns on either side so as to facilitate better external circulation. This has resulted in a reduction by 7.8m²

- Building A, Apartments A1204, A1306, A1404 and A1604: Electrical and communications cupboards have been relocated resulting in a setback to the façade of the fire stair. A small kink in the façade of the adjacent corridor has been squared up. The western façade of the apartments has been moved out by 190mm and adjacent balcony expanded from 6m² to 7m². Separation distances remain compliant with the Apartment Design Guide (ADG) requirements. This has resulted in a net increase by 8.2m²
- Building A, Apartments A2206, A2306, A2406 and A2505: Electrical and communications cupboard have been relocated resulting in an increased apartment area within the approved envelope. The eastern façade of the lift lobby has been relocated. This has resulted in a net increase by 13.2m²
- Building A, Apartments A3101, A3206, A3306 and A3406: Electrical and communications cupboard has been relocated resulting in the relocation of the lift and garbage room. The eastern façade of the lift lobby has been relocated. This has resulted in a net reduction by 5.6m²
- Building B, Apartments B1104, B1204, B1304, B1404, B1504 and B1604: Electrical and communications cupboard has been relocated resulting in the fire stair being shifted and additional area within apartments. No change to the external envelope of the building. The layout of apartments have been reconfigured to take advantage of the additional area. This has resulted in a net increase by 18.6m²
- Building B, Apartment 1703: Electrical and communications cupboards have been relocated resulting in the fire stair being shifted and additional area with the apartment. There has been no change to the external envelope of the building. The layout of the apartment has been reconfigured to take advantage of the additional area. This has resulted in a net increase by 1.8m²
- Building C, Eastern Corridor: Window to the north of the fire stair has been relocated outward to conceal the beam introduced as part of the structural design. There is no changes to the size of any apartments in this area. This has resulted in a net increase by 3.5m² across Levels 1 to 7.
- Building C, Apartment C3612: Roof access chamber has been introduced for maintenance. The area of the balcony to the apartment has been reduced from 27m² to 20.5m² however continues to exceed the minimum as per the ADG. There has been no change to the apartment internal layout. There is no change to the gross floor area.

The gross floor area (GFA) of the approved development is to increase by 31.9m² with a total GFA of 26,605m².

There is no change to the number of approved apartments with the increase in GFA occurring primarily due to internal changes to accommodate structural columns, electrical cupboards and resulting in a very insignificant increase to the building footprint to several facades.

Whilst the Development Application and first Section 4.56 application were determined by the Sydney Eastern City Planning Panel, this application is being reported to the Bayside Local Planning Panel based on written advice received from the Planning Panels Secretariat. This correspondence is provided as an attachment to this report.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

Section 4.56(1) – Modification by consent authorities of consents granted by the Court

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

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

The modifications result in a series of amendments to the internal layout and minor changes to the setback of Building A fronting Pemberton Street. There is no significant increase in the approved footprint of the building.

With all of the above considered, it can be concluded that Council is satisfied that the proposed modifications will result in substantially the same development.

- (b) it has notified the application in accordance with:***

- (i) the regulations, if the regulations so require, and***

The regulations are not relevant in this instance.

- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period.

- (c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and***

Council has notified all of the affected properties for this application as per the Development Application.

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

The submissions are to be discussed as per Section 4.55(1)(d) of the report.

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

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

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

State Environmental Planning Policy (Infrastructure) 2007

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

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

Consideration of this SEPP was undertaken as part of the original assessment.

The modifications of the units in Buildings A1, A2, A3, B1 and C3 will still comply with the minimum requirements as prescribed under Part 4D (Apartment Size and Layout) and Part 4E (Private Open Space and Balconies) of the Apartment Design Guide (ADG).

Botany Bay Local Environmental Plan 2013 (LEP)

Consideration of the LEP was undertaken as part of the original assessment as well as the first modification application. With relation to Part 4 there are changes to the Floor Space Ratio which is assessed further below. However there are no changes to the approved height of the buildings. There are no relevant Part 5 or Part 6 provisions that relate to this application, with assessment having been undertaken as part of the previous assessment.

Clause 4.4 – Floor Space Ratio

The currently approved Gross Floor Area (GFA) of the development (as amended) is 26,573m².

As specified further below the subject site is split into two zones, with B4 Mixed Use along the western edge facing Pemberton Street and R3 Medium Density Residential further to the east.

The FSR development standard is 1:1 across the entire site, however, Clause 4.4B of the LEP allows a maximum of 1.6:1m in the R3 zone if the site is greater than 2,000m² in area, and the consent authority (i.e. Council) is satisfied that:

1. the development will be compatible with the desired future character in terms of building bulk and scale,
2. the development will contribute to the amenity of the surrounding locality, and
3. any consolidation of lots for the purposes of this clause is not likely to result in adjoining lots that cannot be developed in accordance with this Plan.

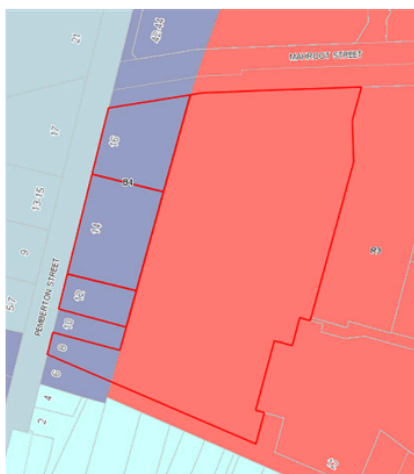


Figure 3: Site plan showing the zone boundary between B4 Mixed Use and R3 Medium Density Residential (Source: Bayside IntraMaps)

Further detail to the approved and current gross floor areas are shown in the table below:

Zone	FSR Standard	Approved FSR	Current FSR
B4 Mixed Use	1:1	1.84:1 (7,758m ²)	1.84:1 (7,766m ²)
R3 Medium Density	1.6:1	1.32:1 (18,847m ²)	1.32:1 (18,870.9m ²)

Given that this is a Section 4.56 application, there is no requirement to provide a Clause 4.6 variation statement with the application.

Notwithstanding, the applicant has submitted a written justification for the proposed amendments, as follows:

- There is no change to the overall number or mix of dwellings approved;
- The previous SEPP 65 and ADG assessment remains unchanged; and

- The proposed changes will have no adverse environmental impact.

Based on the above it is recommended that these minor increases are supported by the Bayside Local Planning Panel for the following reasons:

Whilst there is additional floor area proposed, the footprint of the building does not significantly alter. The levels of amenity will not be reduced in relation to communal open space areas and the public park along the eastern boundary and also no further impacts on solar access and visual privacy to neighbouring properties.

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

There are no current Draft EPIs applicable to this development.

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

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

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

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

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

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

As discussed previously in this report, the proposed amendments will have no significant adverse environmental, social or economic impacts on the locality, as there is no change to the approved number/mix of apartments or any significant increase in building footprint.

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

Site suitability was assessed as part of the original Development Application, and the modifications now sought by the applicant do not change the deemed acceptable suitability of the site for the approved development.

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

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners and to those persons who made a submission to the original DA and subsequent modification, for 14 days. A total of 2 submissions were received and are further addressed below.

What is being built is inconsistent with what has been approved, with the developer already breaching the building beyond the authorised limits

Comment: This modification has been lodged as a result of inspections already undertaken by the Principal Certifying Authority (PCA) during construction and the Certifier identifying works outside of the approved development consent. Furthermore, Condition 113 of the development consent prescribes a certificate of survey to confirm that the approved plans have been strictly adhered to.

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

Granting approval to the proposed modifications will have no adverse impact on the public interest.

Section 7.11 Contributions

The proposed modification does not change the approved contributions that are payable given that no changes are proposed to the approved unit mix.

SCHEDULE OF CONSENT CONDITIONS

Premises: 20 Pemberton Street, Botany

DA No: 2014/10068/B

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: **[Amended 10 December 2019 DA-2014/10068/B]**

Drawing No.	Rev	Author	Dated
A03 – Basement Level 2 Plan (DA-2014/68/2)	14	Krikis Tayler Architects	22 August 2017 (DA-2014/68/2)
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A30- Sections	9 12 (DA-2014/68/2)		3 February 2017 22 August 2017 (DA-2014/68/2)
Apartment Schedule	P S (DA-2014/68/2)		6 February 2017 30 August 2017 (DA-2014/68/2)
SK170522-02- Page 1 to 11- GFA Diagrams (DA-2014/68/2)	-		22 May 2017 (DA-2014/68/2)
SK170522-01- Page 1 to 3- Car park entry details	-	-	22 May 2017
000- Cover Sheet	G I (DA-2014/68/2)	Site Image Landscape Architects	2 August 2017 25 August 2017 (DA-2014/68/2)
001- Landscape Masterplan	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
101- Landscape Plan- South West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
102- Landscape Plan- North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
103- Landscape Plan- South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
104- Landscape Plan- North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
105- Landscape Plan- Level 2 and 3	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
106- Landscape Plan- Nature Playground	G		2 August 2017
401- Landscape Planting Plan South West	G I		2 August 2017 25 August 2017

	(DA-2014/68/2)		(DA-2014/68/2)
402- Landscape Planting Plan North West	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
403- Landscape Planting Plan South East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
404- Landscape Planting Plan North East	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
405- Planting Plan Level 2 and 3	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
501- Landscape Details	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
502- Landscape Details, Specification and Plant Schedule	G I (DA-2014/68/2)		2 August 2017 25 August 2017 (DA-2014/68/2)
D20- Landscape Stormwater Drainage Plan	B	Australian Consulting Engineers	July 2017
000 - Cover sheet, legend & drawing schedule	A	Australian Consulting Engineers	August 2015
001 - Basement 2 storm water drainage plan and details	B		
002 - Basement 1 storm water drainage plan	B		
003 - Level 1 storm water drainage plan	C		
004 - Level 2 storm water drainage plan	A		
005 - Level 3 storm water drainage plan	A		
006 - Level 4 storm water drainage plan	A		
007 - Level 5 storm water drainage plan	A		
008 - Level 6 storm water drainage plan	B		
009 - Level 7 storm water drainage plan	B		
010 - Level 8 storm water drainage plan	B		
011 - Roof level storm water drainage plan	A		
015 - Storm water drainage sections and details	B		

Reference Document(s)	Author	Dated
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Letter re: Proposed Modifications to Parkgrove Buildings A, B and C, Botany Ref: JH/8501/jj JH/10642/jj (DA-2014/68/2)	Colston Budd Hunt and Kafes Pty Ltd	19 August 2015 31 August 2017 (DA-2014/68/2)
Internal Traffic Assessment	Thompson Stanbury Associates	November 2016
NaTHERS- Class 2 Summary	SLR Consulting Pty Ltd	3 November 2016 31 August 2017 (DA-2014/68/2)
BASIX Certificate No. 540244m_04 540244m_06	SLR Consulting Pty Ltd	3 November 2016 31 August 2017 (DA-2014/68/2)
Noise Intrusion Assessment Report No. 5367-3.1R Rev A	Day Design Pty Ltd	8 November 2016
Environmental Noise Assessment Report 5367-3.2R Rev A	Day Design Pty Ltd	8 November 2016
Geotechnical Assessment 2373- B	Asset Geotechnical	27 March 2014
Geotechnical Assessment Addendum 2373-2-L1 Rev 1 Report No. E22374 GA	Asset Geotechnical	11 November 2016
Dewatering Assessment 2373-1-L1 Rev 1	Asset Geotechnical	17 June 2016
Access Report Job No. IAC-594	Iaccess Consultants	3 November 2016
Letter Re Flood Storage and OSD Storage, Parkgrove, KF111540-L03	KF Williams and Associated Pty Ltd	9 September 2015
Waste Management Plan	Elephants Foot Recycling Solutions	September 2015
Pedestrian Wind Environment Statement WB999-03F01	Windtech Consultants Pty Ltd	4 November 2016
Remediation Action Plan Part of Former Brambles Site Report ID: CES021209- AUS-11-F	Consulting Earth Scientists	15 June 2005
Remediation Action Plan Former Aerosols Australia Site and Proposed Commercial Redevelopment Report ID: CES021209-AUS-12-F2	Consulting Earth Scientists	13 February 2006
Report on Additional Groundwater Investigation	Consulting Earth Scientists	6 February 2006
Sampling Analysis and Quality Plan: Groundwater Monitoring, Austcorp Botany Site, Botany Report JD: CESD21209-AUS-02-F (SAQP)	Consulting Earth Scientists	16 February 2004

Letter Re: Proposed Modifications to Parkgrove Buildings A, B and C, Botany	Zoic Environmental Pty Ltd	21 September 2015
BCA Capability Report Ref: J160528	Vic Lilli and Partners Consulting	4 November 2016

Where there is any inconsistency between the drawings listed in (a) and (b), the architectural plans shall prevail.

- 1A. Notwithstanding the above, the following amendments are to be noted on the approved plans:
 - a) The communal room in Building C2 is to be retained, as per the Level 1 (Ground Plan), Drawing A05 Issue 22A as determined by Bayside Council on 12 December 2017
 - b) The roof plan for Building B upper roof is to be retained, as per Roof Plan, Drawing A13, Issue 12 as determined by Bayside Council on 12 December 2017.
 - c) The elevations for Building B is to be retained, as per Elevations 1 (Drawing A20, Issue 16), Elevations 3 (Drawing A22, Issue 13) and Elevations 4 (Drawing A23, Issue 11) as determined by Bayside Council on 12 December 2017.
 - d) The sections for Building B is to be retained, as per Sections, Drawing A30, Issue 9 as determined by Bayside Council on 12 December 2017. (DA-2014/68/2) (DA-2014/68/2)
- 1B. A Building Information Certificate shall be lodged with Council no later than six months after the date of the final Occupation Certificate being issued for external / internal works that are inconsistent with the approved DA plans. [Added 10 December 2019 DA-2014/10068/B]**
2. No construction works shall be undertaken prior to the issue of the Construction Certificate.
3. Building works must not encroach on to adjoining lands or other public places, unless authorised by this consent.
4.
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) All plumbing stacks, vent pipes and downpipes, including balcony drainage and the like shall be kept within the building and suitably concealed from view. This Condition does not apply to the venting to atmosphere of the stack above roof level; and,
 - c) All air conditioning units shall be appropriately treated to ensure that they are concealed from view.

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 approved BASIX Certificate are fulfilled.
 - a) 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;
 - iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.
6. The finishes, materials and colour scheme and facade details approved by this consent shall not be altered or amended at the Construction Certificate stage without a separate Section 96 approval.
7. The consent given does not imply that works can commence until such time that detailed plans and specifications of the building have been endorsed:
 - a) 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 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 persons intention to commence the erection of the building.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

Where relevant, the following external authority conditions apply:

8. The proposed development is to comply with the conditions dated 27 April 2015 issued by Sydney Airport Corporation Limited (SACL). However, the approved building heights are limited to that shown on the approved architectural plans. Details of the requirements of SACL are provided below:
 - a) Should the height of any temporary structure and/or equipment be greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval

must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

- b) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.
 - c) Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by Sydney Airport prior to any approval is to include:
 - i) The location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - ii) The swing circle of any temporary structure/equipment used during construction;
 - iii) The maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - iv) The period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
 - d) An Application for approval must be given to the Airport at least 35 days before commencement of the operation.
 - e) 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.
9. The proposed development is to comply with the following conditions provided by Sydney Water on 19 March 2015:
- a) The proposed development will be able to connect to the newly constructed 200mm main.
 - b) An extension of the wastewater system will be required from the 225mm in Pemberton Street. The extension will require a point of connection at least 1 m inside all the proposed lot boundaries.

This extension should form part of the overall wastewater scheme plan for the ultimate development. This can be in the format of a catchment plan indicating proposed extensions, connection points and flows (EP) to the existing system.

An accredited Hydraulic Designer will be engaged by the developer to ensure that the proposed wastewater infrastructure for this development will be sized & configured according to the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002). Evidence of Code compliance should be attached with the design.

- c) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing> Developing> Land development or telephone 13 20 92.

- d) You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or next to assets).

- e) If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must wait for approval of this permit before any business activities can commence.

The permit application should be emailed to Sydney Water's Business Customer Services at businesscustomers@sydneywater.com.au.

It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

- f) Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

- i) Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
- ii) Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:<http://www.sydneywater.com.au/Piumbing/BackflowPrevention/>

10. The proposed development is to comply with the following advice provided by Ausgrid:
 - a) Prior to the commencement of works, the developer is required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/ or Connection Application form, to allow Ausgrid to determine the method of electrical supply for the development.
 - b) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.
11. The proposed development is to comply with the following advice provided by Roads and Maritime Services, dated 25 March 2015:
 - a) Any redundant driveways on Botany Road shall be removed and replaced with kerb and gutter to Roads and Maritime requirements.
 - b) The swept path of the longest vehicle (to service the site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
 - c) The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004.
 - d) All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.
12. The proposed development is to comply with the following advice provided by NSW Ports, dated 23 March 2015:
 - a) The proposed development is located approximately 750m to the north of the Port Botany precinct. The design of the proposed development will provide a direct line-of-sight to the Port from the upper stories of the southern elevation of Block C and therefore has the potential to result in lighting impacts on future

occupants to this development. NSW Ports requests that the design of this building take into account the potential for lighting impacts by providing appropriate mitigation through such measures as external louvres.

- b) NSW Ports notes the proposed development incorporates noise mitigation measures (e.g. double glazing on windows and doors) in order to achieve specific internal noise levels within habitable rooms. Notwithstanding this, the internal noise levels are only achievable if windows and doors remain closed. On this basis, NSW Ports is of the view that future residents and / or purchasers of apartments within this development are notified of port operational activities and potential noise impacts if mitigation measures are negated (i.e. through leaving double glazed doors or windows open).

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

- 13. Prior to issue of a Construction Certificate, permission must be obtained from the Owner's Corporation of SP 91307 in relation to the carrying out of the proposed landscaping/ public domain works over the westernmost portion of that allotment.

Evidence of the permission must be provided to the Council prior to issue of any Construction Certificate. If the Council is not the PCA, the PCA must be provided with written notice from the Council demonstrating compliance with this condition prior to the issue of any Construction Certificate.

- 14. Prior to the issue of a Construction Certificate, written documentation/certification shall be provided to Council demonstrating that the approved works do not interfere with the operation of the infiltration trench associated with SP89302. If the Council is not the PCA, the PCA must be provided with written notice from the Council demonstrating compliance with this condition prior to the issue of any Construction Certificate
- 15. Prior to the issue of any Construction Certificate, the applicant must pay the following fees and bonds. Details are provided elsewhere within these conditions. A summary of the payments is as follows:
 - a) Builders Damage Deposit: \$362,745.00 (outlined elsewhere)
 - b) Development Control: \$12,900.00
 - c) Section 7.11 Contributions: (outlined elsewhere)
 - d) Street Tree and Landscape Performance Bond: \$100,000.00 (outlined elsewhere)
- 16. Bayside Council being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plan 2016, Section 94 Contribution are to be paid to Council prior to the issue of the first Construction Certificate and are to be paid in accordance with the following calculation:

(a)	Studios:	\$8,334.68		
(b)	One bedroom dwelling s apartments: dwelling	\$8,029.65	\$8,902.91	per
(c)	Two bedrooms dwelling s apartments: dwelling	\$13,211.47	\$14,648.27	per
(d)	Three or more bedroom dwelling s apartments: dwelling	\$17,265.80	\$19,143.52	per

Note: The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the quarter in which your consent is granted. If you pay the contribution in a later quarter you will be required to pay the fee applicable at the time (DA-2014/68/2)

17. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit and Performance Bond of \$362,745.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
18. The dedication of the following land to Council (at no cost to Council) is required to occur, as required by previous conditions of development consent:
 - a) The dedication of Rancom Street (Lot 3 DP 1207144) as required by DA-12/210,
 - b) The dedication of New Street 1 (Lot4 DP 1203451), which is currently the subject of Land and Environment Court proceedings No. 324448 of 2016
 - c) The dedication of Mahroot Park (Lot 3 DP 1203451 and Lot 4 DP 1192005)

NOTE: this condition should not in any way be interpreted as any acquiescence or acceptance by Council of previous/ ongoing breaches of development consent, including in particular the failure to dedicate New Street 1 which is currently the subject of Land and Environment Court proceedings No. 324448 of 2016. It is in the interests of the orderly, economic and safe development of the land that the previous conditions of consent, in particular the conditions requiring creation of public roads, be complied with as soon as possible, particularly in the event of the approval of the Park Grove West development.

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

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the

development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

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

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

21. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

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

22. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - b) For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
 - c) All service vehicles shall enter the property front in front out,
 - d) Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - e) Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - f) A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
23. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- a) Disabled car parking spaces shall be provided and clearly marked as per the Internal Traffic Assessment, by Thompson Stanbury, dated September 2015, Australian Standards AS 2890.6, SEPP 65 Design Code and Council

requirements, and

- b) All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
24. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
25. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.

26. In the event that the existing stormwater drainage infrastructure on Pemberton Street is retained in situ, a qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Pemberton Street adjacent to the development. The camera and its operation shall comply with the following:
- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - c) Distance from the manholes shall be accurately measured, and
 - d) The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.

27. 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.
- c) All above ground utilities shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
- d) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

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

28. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to On-site Flood Mitigation Temporary Storage Tanks system for the development shall be submitted to Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', ASINSZ 3500- Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- a) Provision of an On-site Flood Mitigation Temporary Storage Tanks. The tanks shall be sized accordingly to compensate for the loss of flood storage as a consequence of the development. Calculations and storage tank design shall be submitted to Council for approval.
29. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', ASINSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- a) The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
 - b) No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
 - c) The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
 - d) The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
 - e) If an OSD system is proposed, incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
 - f) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
 - g) A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - h) The submission of detailed calculations including computer modelling where required supporting the proposal.
30. A Building Certificate (or alternatively a s96 application seeking retrospective approval) must be approved by Council for the unauthorised retaining walls, infiltration trench, and associated earthworks that have been undertaken at the site.
31. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.

This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.

32. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate.

This plan shall incorporate and reference the construction environmental management plan and address site limitations.

33. A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials with a pH of less than 5.5. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate.
34. 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.

35. The Remedial Action Plan (RAP) shall avoid the use containment and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.
36. An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.

This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.

37. Detailed mechanical ventilation system plans and specification prepared by a *professional practising engineer*, as defined by the Building Code of Australia, must be submitted to Principal certifying authority prior to the release of the relevant Construction Certificate certifying compliance with AS/NZS 1668 *The Use of Mechanical Ventilation and Air Conditioning in Buildings*, Part 1-2002: *Fire and smoke control in multi-compartment buildings* and Part 2-2002: *Ventilation design for indoor air contamination control*. (Note: BCA has not yet adopted the 2002 Standards and still utilises the previous 1991 AS1668).
38. Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings, and in accordance with the provisions of AS1668.1 and AS1668.2. Details to be submitted to the Principal Certifying Authority prior to release of the relevant Construction Certificate.
39. A final Waste Management Plan prepared in accordance with Council's Waste Management and Minimisation Guidelines Development Control Plan shall be submitted to the Council for approval prior to the release of the Construction relevant 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.
40. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
41. Prior to the issue of a Construction Certificate for the basement structure, details are to be provided to the Principal Certifying Authority demonstrating that the each land use within the development is provided with a minimum parking allocation in accordance with the following table:

a)

Use	Required Spaces
Residential	416
Visitor	54, including 2 disabled
Retail	9, including 1 disabled
Bicycle Parking	47
Motorcycle	3 (may be used in place of visitor parking)
Service vehicle	As indicated on approved plans
Car share	1

- b) A minimum of four (4) visitor spaces shall be provided as car wash bays and shall be connected to water and sewer.
- c) The car share parking space shall be allocated for the use of a car share service provider. This shall be provided in place of a visitor parking space.

- d) The proposed car parking facility (space size, aisle widths, headroom clearance gradients and safe sight distance etc) shall be designed to ensure all vehicles visiting the site can safely enter and leave in a forward direction in accordance with relevant sections of AS2890. The architectural plans shall be amended where required and Traffic Engineering certification confirming compliance shall be submitted for approval with the relevant Construction Certificate application.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR ABOVE GROUND WORKS

- 42. An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 43. A public domain improvements plan shall be submitted for approval by Council's Landscape Architect. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath paving, street tree pit treatments and tree guards (where required), street furniture, landscaping, irrigation, lighting, in-road landscaping, WSUD treatments and so on. The Pemberton Street treatment is to be contiguous with the adjoining development site to the north. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Landscape plans shall be accompanied by civil drawings detailing levels and construction sections in accordance with Council's Engineering Services requirements.
- 44. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be provided in a report prepared by a practicing professional acoustical consultant. The report shall be submitted to Certifying Authority prior to the release of the Construction Certificate for above ground works and the building plans endorsed with the required acoustical measures.
- 45. The building shall be designed in accordance with the *Office of Environment and Heritage (Department of Environment, Climate Change and Water) 'NSW Road Noise Policy'*, and shall also meet the criteria recommended in Table 1 of Australian Standard AS 2107-2000. Details shall be submitted to the certifying authority prior to the release of the Construction Certificate for above ground works.
- 46. Details on the mechanical plant and equipment to be submitted to the Principal Authority prior to the release of the Construction Certificate for above grounds works. The report must identify the compliance of each item of plant and equipment in relation to the following criteria
 - a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential

property greater than 5dB(A) above the existing background LA₉₀ level (in the absence of the noise under consideration).

- b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LA_{eq} 50dB(A) day time and LA_{eq} 40 dB(A) night time.
- c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LA_{eq} 65dB(A) day time/night time.
- d) For assessment purposes, the above LA_{eq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the facade at night time), unless other positions can be shown to be more relevant.

- 47. The measures required in the approved acoustic report/s shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors, b)
Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

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

- 48. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Certifying Authority prior to the issue of the first Construction Certificate. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 49. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development.
- 50. Prior to the issue of the construction certificate, the architectural plans shall be amended to include gas and water tap connections to each private open space area.

51. Circulation spaces shall be well lit at night, with any lighting on the site designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*; and the installation of solar power to external space lighting. Details are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.
52. Appropriate noise insulation shall be provided between common walls within residential apartments. Details shall be provided to the Principal Certifying Authority.

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

53. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993:
(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve;
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips;
 - c) Permit to install temporary ground anchors in public land;
 - d) Permit to discharge ground water to Council's stormwater drainage system;
 - e) Permit for roads and footways occupancy (long term/ short term);
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve;
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services;
 - h) Permit to place skip/waste bin on footpath and/or nature strip; and
 - i) Permit to use any part of Council's road reserve or other Council lands.
54. A Stage 1 Preliminary and a Stage 2 Detailed Site Investigation shall be completed for any land either not covered by the current assessments or that has been used in a commercial or industrial nature since any Preliminary or Detailed Site Assessment or Remediation Action Plan was completed. Any required assessments shall be undertaken by a suitably qualified and experienced environmental consultant 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.

Following completion of any additional Preliminary or Detailed Site Assessments in accordance with the above guidelines, a Stage 3 Remedial Action Plan (RAP) shall be prepared and remediation of the site shall be carried out. Any RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

Approvals from appropriate government departments where required shall be obtained and full details of the investigation and site remediation are to be submitted to Bayside Council prior to the commencement of any excavation or building works onsite.

- 55. A separate site audit statement for the public parks is required and Council will require that there is no ongoing management of any land that may be dedicated to Council.
- 56. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the Protection of the Environment Operations Act 1997.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- 57. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
- 58. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

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

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

59. 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 stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
60. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principal Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
61. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate.

This plan shall incorporate and reference the construction environmental management plan and address site limitations.

62. A sufficient area shall be provided onsite to enable separate stockpiling and treatment of excavated materials with a pH of less than 5.5. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate.
63. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
64. 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.
65. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
66. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
67. Existing structures and or services on this and adjoining properties are not to be endangered during any excavation or construction work associated with the above project. The application is to provide details of any shoring, piercing or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilize any adjacent structures.
68. The Principal Certifying Authority must be satisfied that: -

- a) In the case of work to be done by a licensee under the Home Building Act:
 - i) Has been informed in writing of the licensee name and contractor licence number, and
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
 - b) In the case of work to be done by any other person:
 - i) Has been informed in writing of the persons name and owner-builder permit number, or
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
69. At least forty-eight (48) hours prior to the commencement of, the applicant must inform Council, in writing, of:
- a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance.
70. Building plans must be lodged through Sydney Water Tap in Service for approval prior to commencement of works.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

71.

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 72. 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 demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 73. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 74. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately. 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.
- 75. All remediation work must be carried out in accordance with:
 - a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
- 76. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
 - a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines

2014.

77. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to any construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
78. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.
- If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
79. To ensure that relevant engineering and water quality provisions are met during the period of dewatering for construction, prior to any water from site dewatering to be permitted to go to stormwater a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
80. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
81. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:
- a) 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.
82. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
83. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
84. 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.
85. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after Hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
86. If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
- a) Must preserve and protect the building/ fence from damage; and,
 - b) If necessary, underpin and support such building in an approved manner;
 - c) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
 - d) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, 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 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.
- 87. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
 - a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 88. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA *Environmental Noise Control Manual*.
- 89. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.
- 90. Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
- 91. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
- 91A. 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 Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
- (b) Level Restrictions
 - (i) Construction period of 4 weeks and under:
 - (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 exceed the background level by more than 20dB(A).
 - (ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - (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 exceed the background level by more than 10 dB(A).
- (c) Time Restrictions
 - (i) Monday to Friday 07:00am to 06:00pm
 - (ii) Saturday 08:00am to 03:00pm
 - (iii) No demolition or construction to take place on Sundays or Public Holidays.
- (d) Silencing

All possible steps should be taken to silence construction site equipment.
(DA-2014/68/2)

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

- 92. Prior to the issue of any Occupation Certificate, so as to address adverse site isolation issues caused by the development, the following easements shall be created in favour of Lot 1 DP 656307 so as to facilitate that site's redevelopment in the future:
 - a) An easement for light, ventilation and construction access 3.0m wide extending vertically from RL 8.0 AHD to RL21.0 AHD, adjacent to the northern boundary of Lot 1;
 - b) An easement for light and ventilation 3.0 metres wide extending vertically from RL 12.0AHD to RL21.0 AHD, adjacent to the southern boundary of lot 1 for a length of 5m from its eastern boundary of Lot 1;
 - c) A right of carriageway through the carpark to allow ingress into a future basement at approximate RL1.80 to the north of Lot 1.
- 93. Prior to issue of any Occupation Certificate (and prior to dedication of the 'Council Dedicated Park' to Council, an easement over the infiltration trench located on Lot 2 DP 1207144 associated with SP 89302 shall be created so as to provide lawful rights to SP 89302 for drainage and maintenance with respect to this infrastructure, that forms part of it overall building/ development. Evidence of the creation of the easement must be provided to Council.

94. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
95. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Pemberton Street and the new stormwater pipe servicing Rancom Street.

The camera and its operation shall comply with the following:

- a) The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - c) Distance from the manholes shall be accurately measured, and
 - d) The inspection survey shall be conducted from manhole to manhole.
 - e) The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council for review. Any defect/damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
96. Prior to the issue of the Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
97. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works:
- a) On Pemberton St, carry out all civil works as per the Road Widening Works by KFW, dated April 2014,
 - b) On Pemberton St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - c) On Pemberton St, adjacent to development, construct new footpath as per Council's Infrastructure and Landscape Architect specifications,

- d) On Rancom St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - e) On Rancom St, adjacent to development, construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
 - f) On Saxby Close, construct new road as per Council's Infrastructure and Landscape Architect specifications,
 - g) On Lenth Lane, construct new thru site link to Botany Road as per Council's Infrastructure and Landscape Architect specifications.
98. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
99. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording,
 - b) Restriction on use of land for Compensatory Flood Storage. Refer to Appendix D of the SMTG for suggested wording, and
 - c) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
- The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.*
100. Prior to the dedication of the public park to Council, the infiltration trench located on Lot 2 DP 1207144 associated with SP89032 must be regularised. Regularisation may be achieved by way of either:
- (a) modification of DA 12/71 so as to retrospectively approve the infiltration trench; or
 - (b) by way of the approval of a building certificate in relation to the infiltration trench pursuant to s 1490 of the Environmental Planning and Assessment Act 1979.
- Satisfactory evidence demonstrating that the trench has been regularised must be provided to Council.
101. 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.

102. To ensure that the portion of the site designated for residential use 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 of residential with limited access to soil. 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, a Section 96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

103. To ensure that the portion of the site designated for a public parkland 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 public recreational parkland. 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, a Section 96 application pursuant to the Environmental Planning & Assessment Act 1979 shall be submitted to ensure that they form part of the consent conditions.

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

105. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the issue of an Occupation Certificate.
106. The Applicant is to submit payment of a Street Tree and Landscape Performance Bond of \$100,000.00. The duration of the Bond shall be for a period of 12 months after Council approved completion of landscaping in all public domain areas and open space areas (north-south link, public park, Rancom Street link and park) and a satisfactory inspection of the works from Council. At the completion of the Bond period the Bond shall be refunded pending an inspection of the landscaping by Council. If any component of the landscaping requires replacement Council will forfeit all or part of the bond unless the Applicant undertakes landscape rectification work under instruction from Council.
107. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
108. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. 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.

109. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668- Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
110. Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
111. Prior to commencing trading the occupier of the premises must register any food premises with Council (application form attached), and register with the New South Wales Food Authority (contact details for registration for the Food Authority NSW are <http://www.foodnotify.nsw.gov.au/nafsis> or by telephone 1300 650 124.
112. Prior to release of the Occupation Certificate the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the approved acoustic report/s have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
113. Prior to the issue of the Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority and the Council to the effect that:
 - a) All reduced levels shown upon the approved plans, with relation to the required building heights, drainage, boundary and road reserve levels, have been strictly adhered to; and
 - b) The development as built stands within the subject land.
114. A copy of any Building Management Statement and By-Laws shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Occupation Certificate. The Building Management Statement and By-Laws shall address all conditions associated with the ongoing use of the development of Development Consent No. 14/68 and include:
 - a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No. 14/68;
 - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No. 14/68;
 - c) Responsibilities for ensuring owners and/or tenants have adequate and hygienic waste sterile, disposal and collection arrangements and for ensuring

the waste storage area is appropriately maintained and kept in a clean and safe state at all times;

- d) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are available for collection adjacent to the MRV bay depicted on the approved plans, between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises before 12.00 noon;
- e) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
- f) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
- g) The linen plan must include details of any easements, encroachments, rights of way, including right of footway, restriction as to user or positive covenants and include a Section 888 Instrument under the *Conveyancing Act, 1919*. Council is to be nominated as the only authority permitted to release, vary or modify any easements, encroachments, rights of way, restriction as to user or positive covenants;
- h) A graffiti management plan for the removal of graffiti and similar vandalism within seven (7) days of its occurrence and surface re-instatement;
- i) 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;
- j) CCTV surveillance of all public areas within the development site.

115.

- a) Residents of this development are not eligible to participate in Council's on- street resident parking scheme. Before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised of this by the owner of the building.
- b) Prior to the issue of the Occupation Certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building;

- c) Where a building is to be Strata subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
116. A suitable intercom system linked to all units within the development shall be provided at pedestrian and vehicle entrances to ensure that any legitimate visitors to the site can gain access to the development, including the visitor parking located in the car parking area. The details of the intercom system shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.
117. Each apartment and non-residential unit shall be provided with individual water meters.
118. Written evidence is required to be provided to Council prior to the issue of the any Occupation Certificate from all service providers such as Sydney Water, Energy Australia and their telecommunication provider, confirming that adequate infrastructure can and/or has been provided to the development.
119. The car parking spaces shall be made available to occupants and visitors at all times, with such spaces being clearly marked and signposted prior to issue of the Occupation Certificate. The Allocation of the car parking shall be as indicated on the approved plans, except where modified by these conditions. A minimum of half of the approved adaptable dwellings shall be provided with accessible parking spaces.
120. The floor surface of the entry area, kitchen and internal storage, of each two- bedroom and three-bedroom apartment, are to be water-resistant and easy to be cleaned and maintained, i.e. not carpet.
121. Street numbers shall be clearly displayed with such numbers being of contrasting colour, of adequate size and location for viewing from the footway and roadway, and in accordance with the NSW Addressing Policy.
- All letter boxes must be constructed and located in accordance with the relevant provisions of Australian Standard AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction. Letter boxes shall be located in lobbies or perpendicular to the street alignment, with no interference with proposed landscaping.
- Details of street numbering, letter boxes, and apartment numbers, shall be submitted to Council for approval prior to the issue of the Occupation Certificate.
122. Legible signage should be provided throughout the development containing information on common areas.
123. Parking shall be provided as indicated elsewhere within these consent conditions.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

124. 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.

125. The public park (including all roadways, pathways, play structures, etc) shall be regularly cleaned, maintained and repaired to ensure safe access to the general public at all times. The public park shall inspected and cleaned on a regular basis. All waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
126. Landscaping within the north-south link, public park areas and public link between Rancom Street and Botany Road shall be maintained by the Applicant for 12 months after final Council inspection of planting.
127. Any landscaping that requires replacing during or at the end of the 12 month period shall be undertaken by the Applicant.
128. Ongoing maintenance of grassed nature strips in Pemberton and Rancom Streets shall be undertaken by the strata. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance does not include pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.
129. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
130. The use of the premises shall not give rise to all impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
131. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.*
132. The operation of the required car share space must be undertaken in conjunction with a car share service provider.
133. The permitted hours of the retail/commercial premises as follows:
 - a) Monday- Friday: 7:00am to 6:00pm;
 - b) Saturday – Sunday: 8:00am to 5:00pmAny additional hours of operation to the premises shall be subject to a further application to Council.
134.
 - a) The operation of all plant and equipment shall not give rise to an equivalent

continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

- b) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- c) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
- d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

135.

- a) All waste and recycling containers shall be stored in the designated waste storage areas within the building. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers
- b) No waste or waste containers shall be placed on the public way (including: footpaths, roadways and reserved) at any time.

136.

- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council
- b) The adaptable apartments approved under this development consent are to remain as adaptable apartments at all times;
- c) Any storage areas located within the basement shall be allocated to the relevant residential dwelling in any future subdivision of the site. In addition, any isolated storage areas and other spaces (including bicycle storage) shall be monitored by CCTV cameras at all times;
- d) The approved Waste Management Plan shall be complied with at all times during the on-going use of the site / premises.

137. Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or like 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.

138. Any air conditioning units shall comply with the following requirements:

- a) Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling.
- b) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.

ADVISORY NOTES

139. The following recommendations are provided by NSW Police Botany Bay Local Area Command. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

- a) Surveillance
 - i) Digital technology should be used to receive, store and process data recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis. It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
 - ii) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
 - iii) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external lighting.
- b) Territorial Reinforcement
 - i) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - 1 Warning, trespasser will be prosecuted
 - 2 Warning, these premises are under electronic surveillance
 - ii) Directional signage should be posted at decision making points (e.g. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.

- iii) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
 - iv) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
- c) Access Control
 - i) The main access to the underground car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exit doors from the car park should have striker plates installed to minimise chance of tampering.



retail | commercial | residential | infrastructure | industrial | interiors | masterplanning

krikis taylor architects

15 October 2019

Bayside Council
444-446 Princes Highway
ROCKDALE NSW 2216

Attention: Mr Andrew Ison

Dear Andrew,

**ParkGrove West – DA 14/068
16 Pemberton Street, Botany
Section 4.56 Modification**

We attach for Council's consideration an application under Section 4.56 of the Environmental Planning and Assessment Act for some minor modifications to Development Consent DA 14/068.

The modifications proposed are quite minor in nature and are the result of design development of the scheme to accommodate structural and services input. The changes to the approved design have been highlighted on the attached drawings as follows:

0312	A05	Level 1 (Ground Floor) Plan	Revision 24	Dated 09/10/2019
0312	A06	Level 2 Plan	Revision 22	Dated 09/10/2019
0312	A07	Level 3 Plan	Revision 18	Dated 09/10/2019
0312	A08	Level 4 Plan	Revision 17	Dated 09/10/2019
0312	A09	Level 5 Plan	Revision 17	Dated 09/10/2019
0312	A10	Level 6 Plan	Revision 16	Dated 09/10/2019
0312	A11	Level 7 Plan	Revision 16	Dated 09/10/2019

The proposed revisions to the approved design are outlined below.

1. Building A

- a. Tenancy R01. The entry to this tenancy has been set back by the depth of the structural columns on either side so as to facilitate better external circulation. Net reduction in GFA –7.8 sqm.



krikis taylor architects Pty limited abn 87 074 121 609

0072-0312-4.01-NK-Is

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- b. Apartments A1204, A1306, A1404, A1504 and A1604. Electrical and communications cupboard relocated resulting in a setback to the façade of the fire stair. Small kink in the façade of the adjacent corridor squared up. Western façade of apartments moved out by 190mm and adjacent balcony expanded from 6 to 7 sqm. Separation distances remain compliant with ADG recommendations. Net increase in GFA 8.2 sqm.
 - c. Apartments A2206, A2306, A2406 and A2505. Electrical and communications cupboard relocated resulting in an increased apartment area within the approved envelope. Eastern façade of lift lobby relocated. Net increase in GFA 13.2 sqm.
 - d. Apartments A3101, 3206, 3306 and 3406. Electrical and communications cupboard relocated resulting in relocation of lift and garbage room. Eastern façade of lift lobby relocated. Net reduction in GFA -5.6 sqm.
2. Building B
- a. Apartments B1104, B1204, B1304, B1404, B1504 and B1604. Electrical and communications cupboard relocated resulting fire stair being shifted and additional area within apartments. No change to external envelope of building. Layout of apartments reconfigured to take advantage of additional area. Net increase in GFA 18.6 sqm.
 - b. Apartment 1703. Electrical and communications cupboard relocated resulting fire stair being shifted and additional area within apartment. No change to external envelope of building. Layout of apartment reconfigured to take advantage of additional area. Net increase in GFA 1.8 sqm.
3. Building C
- a. Eastern Corridor. Window to north of fire stair relocated outward to conceal beam introduced as part of the structural design. No revision to any apartments. Levels 1-7 net increase in GFA 3.5 sqm.
 - b. Apartment C3612. Roof access chamber introduced for maintenance. Area of balcony to apartment reduced from 27 sqm to 20.5 sqm. Balcony continues to exceed minimum area recommended by ADG. No change to the apartment internal layout. No change proposed to GFA.

The proposed changes will have no material or noticeable impact on the build, scale and appearance of the approved development. It is proposed to increase the GFA by 31.9 sqm (8 sqm in the B4 zone and 23.9 sqm in the R3 zone). The current approved GFA is 26,573 sqm. The proposal will increase the approved GFA by 0.12% to 26,605 sqm which would remain less than the 27,713 sqm total GFA allowed by the LEP for the overall site.

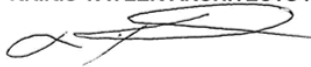
There is no change proposed to the overall number or mix of dwellings approved and the previous SEPP 65 and ADG assessment remains unchanged.

0072-0312-4.01-NK-Is
15 October 2019

It is considered that the proposed changes will have no adverse environmental impact. Accordingly, we would seek Council's favourable consideration of this proposal.

Thank you for your assistance with this matter and please do not hesitate to contact the undersigned should you have any queries with the attached application or require any further information to finalise your assessment.

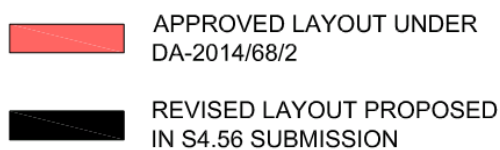
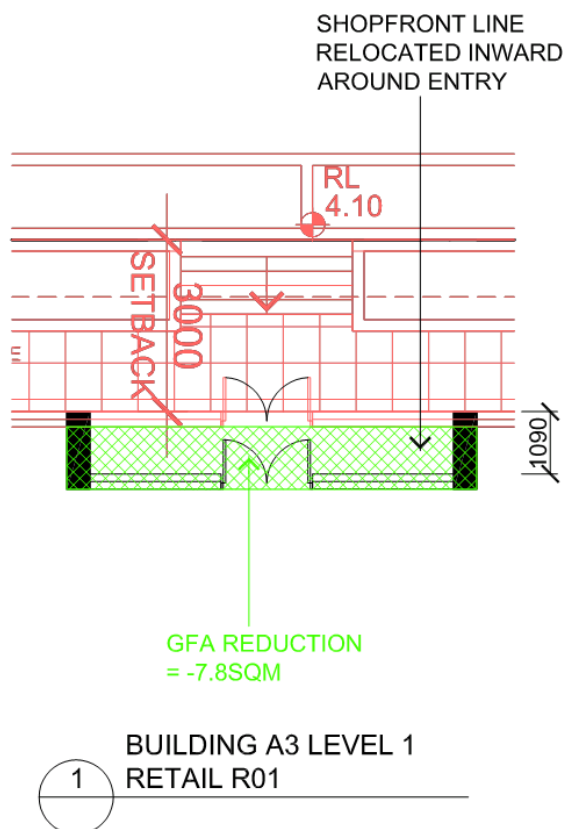
Yours sincerely,
KRIKIS TAYLER ARCHITECTS PTY LIMITED



Nick Krikis

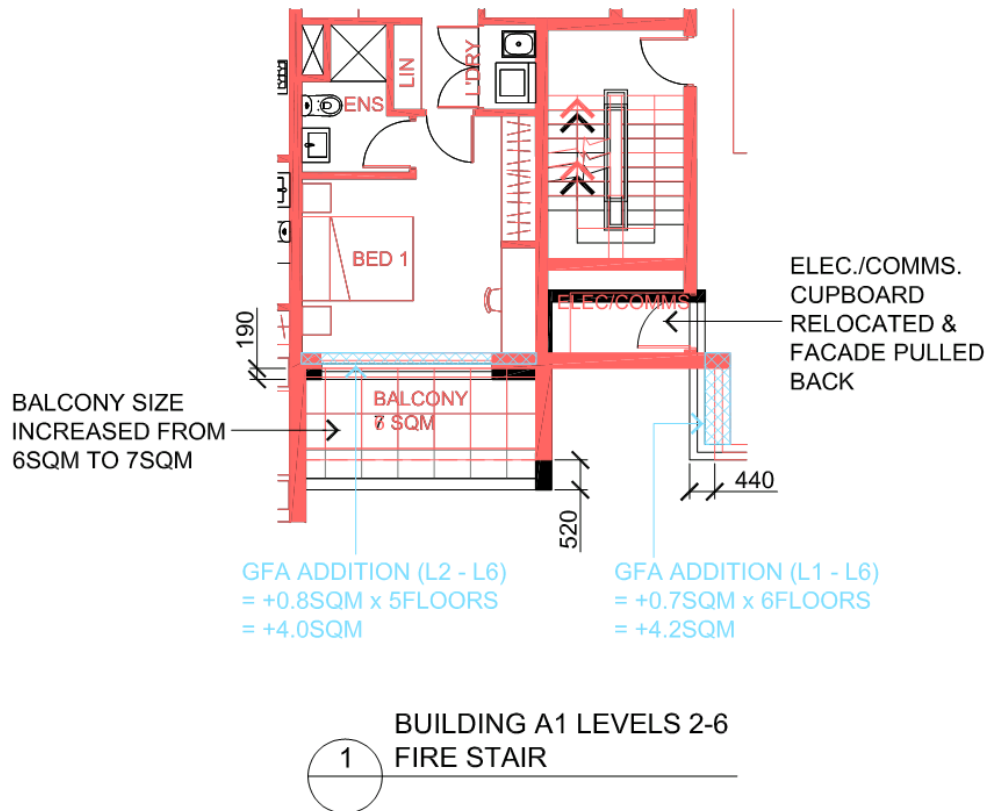
encl


cc: Michael Esber.




SK191009-00
PART PLAN - BUILDING A3 LEVEL 1
SCALE: 1:100 @ A4

MIXED USE DEVELOPMENT AT PEMBERTON & WILSON ST PRECINCT (PARKGROVE WEST) BOTANY, NSW 2019

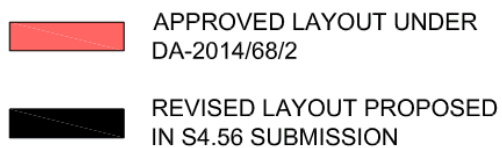
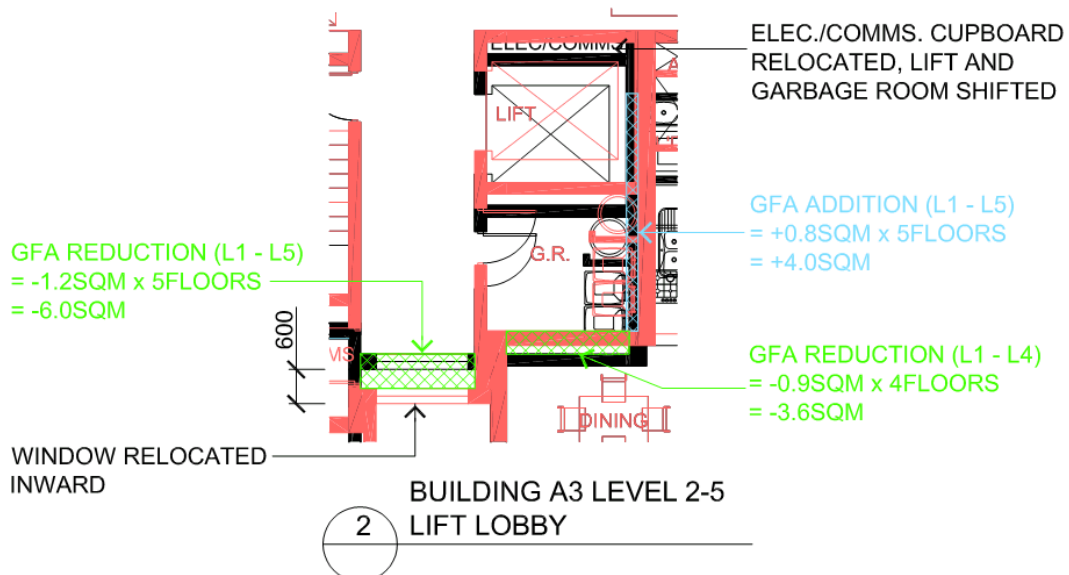
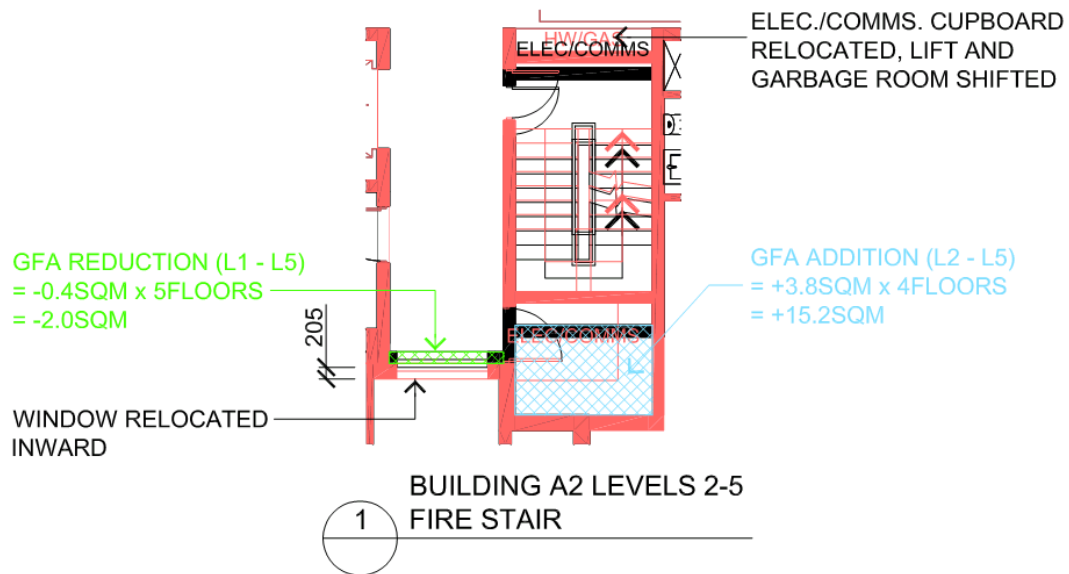


 APPROVED LAYOUT UNDER DA-2014/68/2

 REVISED LAYOUT PROPOSED IN S4.56 SUBMISSION

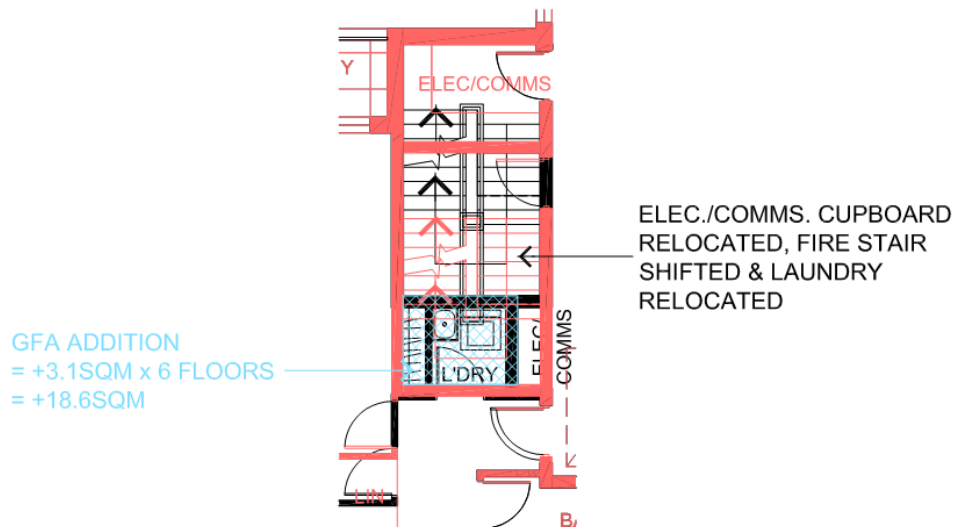
SK191009-01
PART PLAN - BUILDING A1 LEVEL 2-6
SCALE: 1:100 @ A4

MIXED USE DEVELOPMENT AT PEMBERTON & WILSON ST PRECINCT (PARKGROVE WEST) BOTANY, NSW 2019

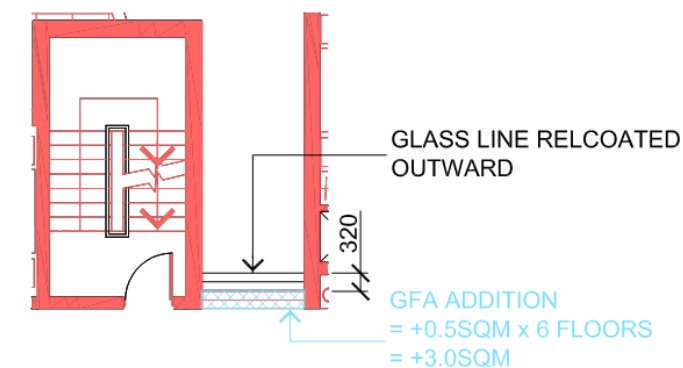


SK191009-02
PART PLANS - BUILDING A2 & A3 LEVEL 2-5
SCALE: 1:100 @ A4

MIXED USE DEVELOPMENT AT PEMBERTON & WILSON ST PRECINCT (PARKGROVE WEST) BOTANY, NSW 2019



1
BUILDING B1 LEVELS 1-6
FIRE STAIR

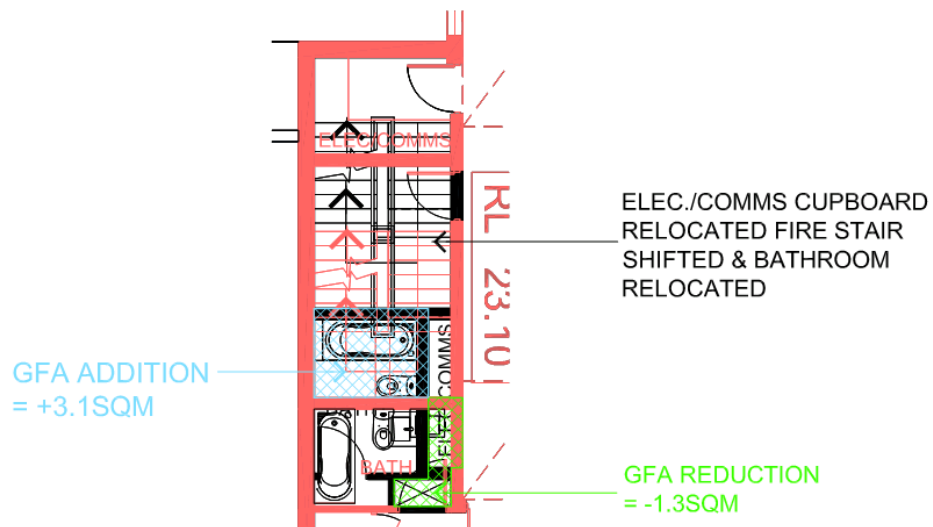


2
BUILDING C3 LEVEL 1-6
FIRE STAIR

- APPROVED LAYOUT UNDER DA-2014/68/2
- REVISED LAYOUT PROPOSED IN S4.56 SUBMISSION

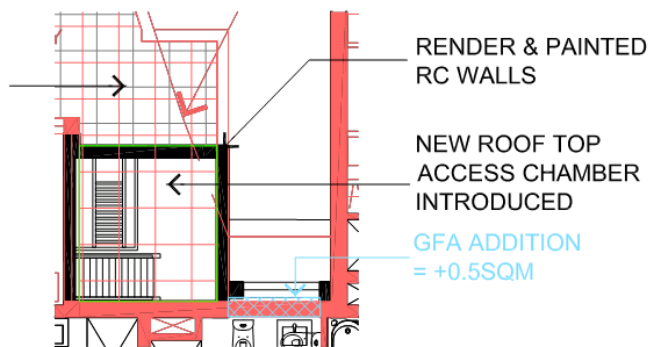
SK191009-03
PART PLANS - BUILDING B1 & C LEVEL 1- 6
SCALE: 1:100 @ A4

MIXED USE DEVELOPMENT AT PEMBERTON & WILSON ST PRECINCT (PARKGROVE WEST) BOTANY, NSW 2019



1 BUILDING B1 LEVEL 7
FIRE STAIR

UNIT C3612 BALCONY
WILL REDUCE IN AREA
BY 6.5SQM TO 20.5SQM
(REMAIN IN EXCESS OF
10SQM REQUIRED FOR
A 2 BEDROOM UNIT
UNDER THE ADG)



2 BUILDING C3 LEVEL 7
UNITS C3612 & C3606

- APPROVED LAYOUT UNDER DA-2014/68/2
- REVISED LAYOUT PROPOSED IN S4.56 SUBMISSION

SK191009-04
PART PLANS - BUILDING B1 & C LEVEL 7
SCALE: 1:100 @ A4

MIXED USE DEVELOPMENT AT PEMBERTON & WILSON ST PRECINCT (PARKGROVE WEST) BOTANY, NSW 2019

Andrew Ison

From: Alexandra Hafner <[REDACTED]>
Sent: Friday, 11 October 2019 12:42 PM
To: Andrew Ison
Cc: Christopher Mackey; Kim Holt
Subject: FW: Determination - 2018SCL011 - DA2014/68/02

Hi Andrew

There are no provisions under Schedule 7 of the SRD SEPP which specify s4.55(1A) applications with a VPA are to be determined by the Panels.

This is a matter for council.

FYI – please refer to clause 123BA of the Regs for which modification applications are to be determined by the Panels. Happy to discuss if the above is unclear for you or consider advice you may have received.

Alexandra Hafner
Acting Technical Governance Officer
Planning and Assessment
T [REDACTED]



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Industry &
Environment**



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I wish to acknowledge the Traditional Custodians of the land and pay respect to all Elders past and present.

From: Kim Holt <[REDACTED]>
Sent: Friday, 11 October 2019 12:13 PM
To: Alexandra Hafner <[REDACTED]>
Subject: FW: Determination - 2018SCL011 - DA2014/68/02

Hi Alex,

Can you please respond to Andrew's query regarding relevant matter for the Panel.

Cheers

Kim

From: Andrew Ison <Andrew.Ison@bayside.nsw.gov.au>
Sent: Thursday, 10 October 2019 4:32 PM
To: Kim Holt <kim.holt@planning.nsw.gov.au>
Cc: Christopher Mackey <Christopher.Mackey@bayside.nsw.gov.au>
Subject: RE: Determination - 2018SCL011 - DA2014/68/02

Hi Kim,

Reference is made to this application at 8 Pemberton Street Botany which has previously had the DA and one mod determined by the Panel.

The applicant has advised that there will be a new modification application lodged within the next week or so for minor changes that have come about from the construction.

Whilst it is minor, there is a VPA related to the application. As per Schedule 7 of the State and Regional Development SEPP, it appears that the Sydney Eastern City Planning Panel would still be the consent authority for this application. Can you please confirm this? If so, we would target one of two later November meetings as it would not require notification.

Thanks in advance.

Regards



Andrew Ison Senior Development Assessment Planner
444-446 Princes Highway, Rockdale NSW 2216
P [REDACTED] E [REDACTED]

Bayside Local Planning Panel

10/12/2019

Item No	6.6
Application Type	Review Application
Application No	S82-2019/12
Lodgement Date	02/09/2019
Property	11 Richmond Street, Banksia
Ward	Ward 3
Owner	Mr K Kuskovski
Applicant	Van Janevski
Proposal	Section 8.2 Review of DA-2019/133 for demolition of existing dwelling and structures and construction of a new two storey dwelling, basement, pool, cabana and front fence.
No. of Submissions	One (1)
Cost of Development	\$480000.00
Report by	Michael McCabe, Director City Futures

Officer Recommendation

1. That the Bayside Local Planning Panel, exercising the functions of the Council as the consent authority, pursuant to Division 8.2 relating to development application S82-2019/12 for a review of determination, resolve to change the previous decision for refusal of the development application DA-2019/133, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
 2. That development application DA-2019/133 for demolition of existing dwelling and structures and construction of a new two storey dwelling, basement, pool, cabana and front fence at 11 Richmond Street, Banksia, be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 3. That the submitter be notified of the Bayside Local Planning Panel's decision.
-

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Site Plan [↓](#)
- 3 Basement Floor Plan [↓](#)
- 4 Elevations-west & south [↓](#)
- 5 Elevations-east & north [↓](#)
- 6 Shadows-June 9am [↓](#)
- 7 Shadows-June 12pm [↓](#)
- 8 Shadows-June 3pm [↓](#)
- 9 Shadows-Mar & Sep [↓](#)
- 10 Materials and Colours Schedule [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	S82-2019/12
Date of Receipt:	2 September 2019
Property:	11 Richmond Street, BANKSIA (Lot 49 DP 13580)
Owner:	Mr Koco Kuskovski
Applicant:	DA House
Proposal:	Review of Determination of DA-2019/133 - Demolition of existing dwelling and structures and construction of a two (2) storey dwelling including basement store, pool, cabana and front fence
Recommendation:	Approved
No. of submissions:	1
Author:	Julia Hunt
Date of Report:	6 November 2019

Key Issues

This application seeks a review of the refusal determination of DA-2019/133 on 2 July 2019.

The plans originally proposed under DA-2019/133 have been amended and have adequately addressed the reasons for refusal which included solar access, FSR and streetscape.

- Overshadowing has been reduced through reducing the size of the first floor and complies with the RDCP solar access controls.
- The design and colour palette of the dwelling has been amended and a pitched roof replaces the original flat roof to make the proposed dwelling more sympathetic to the streetscape.
- The void on the first floor has been reduced in size to reduce the depth of the first floor reducing bulk and floor area and improving solar access for the site to the south.
- The FSR has been calculated in accordance with the RLEP definition of gross floor area as 0.49:1 which complies with the 0.5:1 maximum FSR control.

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 S82-2019/12 for a review of determination, resolve to change the previous decision for refusal of the development application DA-2019/133, pursuant to Section 8.4 of the Environmental Planning and Assessment Act 1979.
2. That development application DA-2019/133 for demolition of existing dwelling and structures and

construction of a new two storey dwelling, basement, pool, cabana and front fence at 11 Richmond Street, Banksia, be APPROVED pursuant to s4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

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

Background

History

- On 2 July 2019 the original DA-2019/133 was Refused by Council.
- On 2 September 2019 the current Review Application was lodged to Council.

Note: The 6 month period under Section 8.2 of the Act ,within which a Review must be determined, lapses on 2 January 2020. At which time if the review has not been determined by a Planning Panel , the original determination of a refusal is confirmed.

- On 31 October 2019 amended plans were received which further reduced the size of the first floor inorder to further reduce bulk and overshadowing, reduced the height of the alfresco roof, updated the proposed colours and materials schedule.
- On 4 November 2019 a Geo-technical report was submitted as requested by Council's engineers and referred for assessment.
- On 21 November amended plans were received further reducing the first floor void.

Proposal

The proposal seeks consent for:

- demolition of existing structures;
- construction of a new two storey dwelling with partial basement;
- construction of a pool;
- construction of a cabana; and
- new front fencing.

Site location and context

The subject site is known as Lot 49 DP 13580, 11 Richmond Street, Banksia. The site is a rectangular shape with front and rear boundary widths of 12.8 metres. The side boundaries are 39.625m deep. The total site area is 507.2sq.m. The topography of the site slopes to the rear.

The subject site contains a single storey dwelling with tiled roof and detached garage. The site is located on the western side of Richmond Street between Bestic Street and Tabrett Street. Surrounding development to the sides includes single storey brick and tile roof dwellings. There are two storey and single storey dwellings within the broader streetscape.

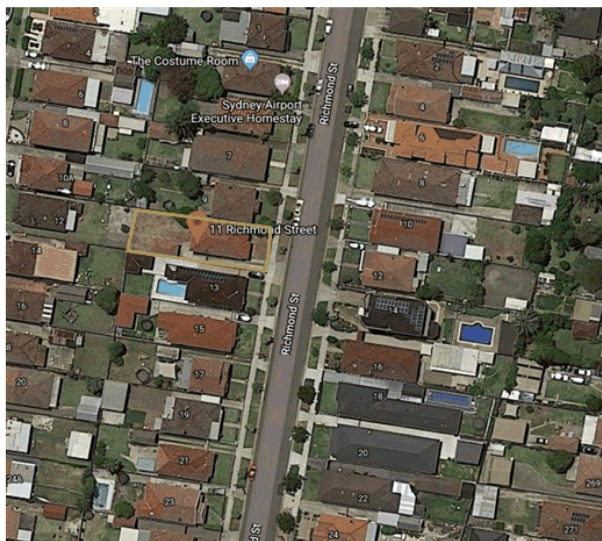


Figure 1. Aerial view of subject site and surrounds

Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 1005803S_02 . A condition has been imposed on the consent to ensure that these requirements are adhered to.

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

State Environmental Planning Policy (Vegetation in NonRural Areas) 2017 (Vegetation SEPP) applies to the proposal. The site contains trees that are subject to approval by Council under part 4 of the Rockdale Development Control Plan 2011.

Council's Tree Management Officer has assessed the proposal and has provided support subject to conditions of consent which are included in the draft notice of determination. Their assessment comments are as follows:

- Existing site trees may be removed, subject to at least two replacement trees being planted.
- The Evergreen Ash tree in front of the property should be retained and protected.
- There are no other trees on or adjoining the site that are affected by the proposal.

State Environmental Planning Policy No 55—Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. A review of historical aerial photography reveals the site has continuously been used for residential purposes since 1943.
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.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes - see discussion	Yes - see discussion
2.7 Demolition requires consent	Yes - see discussion	Yes - see discussion
4.3 Height of buildings	Yes - see discussion	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes - see discussion	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes - see discussion	Yes - see discussion
6.2 Earthworks	Yes - see discussion	Yes - see discussion
6.4 Airspace operations	Yes - see discussion	Yes - see discussion
6.7 Stormwater	Yes - see discussion	Yes - see discussion

2.3 Zone R2 Low Density Residential

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a Dwelling house 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.

2.7 Demolition requires consent

The proposed development seeks consent for the demolition of the existing dwelling house and outbuilding and hence satisfies the provisions of this Clause.

4.3 Height of buildings

The height of the proposed building is 7.9 metres at its highest point and therefore does not exceed the maximum 8.5 metre height shown for the land on the Height of Buildings Map. Accordingly, the proposed height of the building satisfies the objectives of this clause.

4.4 Floor space ratio - Residential zones

For the purposes of calculating the floor space ratio, the definition of gross floor area under Rockdale Local Environmental Plan is as follows:

Gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and*
 - (b) habitable rooms in a basement or an attic, and*
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,*
- but excludes:*
- (d) any area for common vertical circulation, such as lifts and stairs, and*
 - (e) any basement:*
 - (i) storage, and*
 - (ii) vehicular access, loading areas, garbage and services, and*
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and*
 - (h) any space used for the loading or unloading of goods (including access to it), and*
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and*
 - (j) voids above a floor at the level of a storey or storey above.*

The basement is proposed for storage and protrudes a maximum 950mm above the ground and is not included in GFA under the LEP GFA definition. Two car spaces are required for the proposed dwelling under Rockdale DCP, therefore the double garage is not included in GFA under the definition. The originally proposed large void at the first floor level were reduced in size on amended plans received on 21 November, reducing the void area to a satisfactory size to still allow natural light into the ground floor but reduce the perceivable bulk and envelope of the dwelling and the potential for creating additional non-compliant floor area in the future. Calculable gross floor area for the proposed dwelling including ground floor (including stairs area) and first floor (excluding stairs and voids) is 250.8sqm over a site area of 507.2sqm. Accordingly the floor space ratio (FSR) for the proposed dwelling is 0.49:1 which does not exceed the maximum FSR for the land which is 0.5:1 as shown on the Floor Space Ratio Map.

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 including excavation are required on site for the basement storage, swimming pool and piers. A Geotechnical report was also submitted with the application prepared by Greywacke Geotechnics which was assessed by Council's Engineer. 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 proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 34 metres to Australian Height Datum (AHD). The proposed building height is at 16.52 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal included a concept stormwater plan to manage stormwater. The proposed stormwater system has been approved by Council's development engineers and is consistent with this clause. Council's Engineer has recommended suitable conditions of consent which are included in the draft notice of determination.

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

No relevant proposed instruments are applicable to this proposal.

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

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

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

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.6 Development on Sloping Sites	Yes - see discussion	Yes - see discussion
4.1.7 Tree Preservation	Yes - see discussion	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes - see discussion	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes - see discussion	Yes - see discussion
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes - see discussion	Yes - see discussion
4.3.2 Private Open Space - Low density residential	Yes - see discussion	Yes - see discussion
4.4.2 Solar Access - Low and medium density residential	Yes - see discussion	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	Yes - see discussion	Yes - see discussion
4.4.5 Acoustic privacy	Yes - see discussion	Yes - see discussion
4.6 Parking Rates - Dwelling House	Yes - see discussion	Yes - see discussion
4.7 Air Conditioning and Communication Structures	Yes - see discussion	Yes - see discussion
5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings	Yes - see discussion	Yes - see discussion

4.1.6 Development on Sloping Sites

The objectives of this section are as follows:

- A. To limit site excavation and minimise cut and fill to ensure that building form relates to topography*
- B. To protect the amenity of adjoining properties*

The site slopes toward the rear. The proposed plans have been amended to reduce the height of the ground floor level from RL8.820 to RL8.640 above the natural ground and reduced the height of the alfresco roof at the rear in order to improve amenity for surrounding properties. The extent of excavation for the storage basement is not considered excessive and there is not excessive fill proposed.

4.1.7 Tree Preservation

The proposal was referred to Council's Tree Management Officer who supports the application subject to conditions as follows:

- Existing site trees may be removed, subject to at least two replacement trees being planted.
- The Evergreen Ash street tree in front of the property is to be retained and protected.
- There are no other trees on adjoining the site that are affected by the proposal.

Subject to the two replacement trees being planted, the proposal is satisfactory with regards to the SEPP (Vegetation in NonRural Areas) 2017 and Clause 4.1.7 of the Rockdale DCP2011.

4.2 Streetscape and Site Context - General

Objectives

- A. To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics and legibility of the existing urban environment.*
- B. To ensure development responds to predominant streetscape qualities*
- C. To ensure development conserves or enhances items and areas of special architectural, landscape or cultural interest, including rocky outcrops and sandstone retaining walls*
- D. To ensure a safe environment by promoting crime prevention through environmental design*
- E. To ensure fences complement and conserve the visual character of the street and neighbourhood*
- F. To encourage the integration of transport services into the streetscape and public domain*

The original DA was refused as the proposed building design and flat roof was not considered consistent with the streetscape which comprises pitched roof forms and predominantly inter war and federation single storey dwellings with a few modern two storey infill dwellings in the street.

The applicant revised the plans proposed under this review application to address the streetscape matter and have included a pitched roof and colours and materials to better integrate the proposed dwelling with the surrounding streetscape. Accordingly the proposal as revised is considered suitable in relation to the streetscape. Given there are existing examples of two storey dwellings in the street which have basement garage with two levels above, the proposed two storey dwelling is considered to have less impact and is compliant with the building height, setback, and floor area controls and is considered reasonable.



Subject existing dwelling and surrounding dwellings on western side of Richmond St



Streetscape opposite subject site



Streetscape on eastern side of Richmond St

4.2 Streetscape and Site Context - Fencing

RDCP 2011 requires Front fences are to be a maximum height of 1.2m above footpath level. The proposed front fence is a 1m high rendered wall with pedestrian and driveway openings and gates. This is suitable within the streetscape which has lowline front fencing.

4.3.1 Open Space & Landscape Design - Low & medium density residential

The DCP requires a minimum 25% deep soil landscaped area. The proposal includes 27% of deep soil landscaping which complies. The proposal provides adequate landscaping, with capability to contain storm water runoff. Private open spaces are usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping.

4.3.2 Private Open Space - Low density residential

The DCP requires the subject dwelling has 80sqm of private open space. The proposal provides 138sqm of usable private open space in the rear yard including a lawn and pool. The dwelling also has an alfresco outdoor area flowing from the living area of the house.

4.4.2 Solar Access - Low and medium density residential

The DCP requires:

Dwellings within the development site and adjoining properties should receive a minimum of 3 hours direct sunlight in habitable rooms and in at least 50% of the private open space between 9am and 3pm in mid winter.

The proposed dwelling has been amended by reducing the size and depth of the first floor, and keeping

the majority of the proposed first floor towards the northern side of the dwelling in order to reduce overshadowing impacts on the adjacent property to the south. The applicant has provided shadow diagrams and elevation shadows of the existing and proposed development for mid winter as well as March/September as required by Councils DCP. It is noted the subject site has an eastern front aspect and western rear aspect orientation, therefore any first floor addition or new two storey dwelling will cast a shadow on the allotment located to the south. However the proposed shadow complies with the RDCP controls as follows:

At 9am midwinter the proposed dwelling casts shadow across 4.5 of the 6 side elevation windows of the adjacent dwelling to the south, and the rear elevation windows and a portion of the rear yard to the south. By 12pm at midwinter the shadow moves away from the rear habitable living room windows and rear yard of the adjacent dwelling to the south. By 3pm the shadow cast moves to the front yard and 3 side elevation windows of the adjacent dwelling to the south.

Based on these diagrams the rear habitable living room windows and rear yard of the adjacent dwelling receive's greater than 3 hours direct sunlight at midwinter which complies. Each part of the northern side of the roof where solar panels are attached on the adjacent dwelling receives direct solar access for minimum 3 hours during the midwinter. Notably midwinter is the longest shadow cast of the year, at March and September the rear windows, northern roof solar panels and rear yard of the adjacent property to the south receive direct sun all day based on the shadow diagrams. This complies with the solar access controls and is reasonable.

4.4.5 Visual privacy

The proposed dwelling has been designed to minimise the overlooking of adjoining properties. The southern side elevation of the dwelling has highlight style windows and a privacy wall with highlight opening at the southern end of the alfresco area. The northern side elevation incorporates a privacy screen next to the pool and highlight windows towards the rear of the dwelling. The proposed north facing windows next to the dining room and stairs allow natural light into the dwelling adjacent to the internal voids and have incorporated opaque glass to preserve privacy between neighbours and occupants.

4.4.5 Acoustic privacy

The location of driveways, open space and recreation areas and ancillary facilities external to the dwelling are appropriately located to ensure minimal noise impact on adjoining residential properties.

4.6 Parking Rates - Dwelling House

RDCP requires 2 car spaces for dwellings with 3 or more bedrooms. The proposed dwelling has 2 car spaces in the double garage which complies.

4.7 Air Conditioning and Communication Structures

The plans do not depict air conditioning units. A condition of consent is included regarding location and noise of any future air conditioning units.

5.1 Storey Height and Setbacks - Dwelling house and Attached Dwellings

The RDCP 2011 requires a maximum two storey height for dwellings. Accordingly the proposal complies.

The proposed front setback is minimum 6m to the dwelling and 6.6m to the garage door, which is consistent with the prevailing street setback, and compliant with RDCP 2011.

RDCP 2011 requires a minimum 6m rear setback to the First floor and 3m to the Ground Floor. The proposed dwelling is setback 8.56m to the ground floor and 14.9m to the first floor from the rear boundary which complies.

RDCP 2011 requires a minimum 900mm side setback to ground floor and 1.2m from the first floor. The proposed dwelling is setback a minimum 900mm - 2m from the southern side boundary at ground level. The dwelling is setback 1200mm-2m at first floor level from the southern side boundary which comply. The dwelling is setback 1200mm to both the ground and first floor on the northern side which complies.

Accordingly, the proposed setbacks are consistent with the controls and objectives under 5.1.

Clause 92 EP&A Regulation 2000 – Additional Matters

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of AS 2601:1991 - *Demolition of Structures* when demolition of a building is involved. In this regard a condition of consent is proposed to ensure compliance with the standard. All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

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. Appropriate conditions of consent are included in the consent to further minimise impacts in terms of noise and sediment control during demolition and construction.

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 one submission has been received. The issues raised in the submission are discussed below:

Issue 1: Loss of solar access to solar panels and windows

*Comment: The adjacent single storey dwelling No.13 has solar panels on the north facing side of the pitched roof. Rockdale Development Control Plan requires *Dwellings within the development site and adjoining properties should receive a minimum of 3 hours direct sunlight in habitable rooms and in at least 50% of the private open space between 9am and 3pm in mid winter.**

The proposed dwelling has been amended from the previous DA-2019/133 design, by reducing the size and depth of the first floor, and keeping the majority of the proposed first floor towards the northern side of the dwelling in order to reduce overshadowing impacts on the adjacent property to the south.

The applicant has provided shadow diagrams and elevation shadows of the existing and proposed development for mid winter as well as March/September which demonstrate compliance with the solar access controls and therefore the proposed two storey dwelling is reasonable.

Issue 2: Brick wall on southern side boundary of front yard.

Comment: There is no longer a brick wall proposed on the southern boundary of the front yard on the current review plans. The brick wall and side boundary fencing elements were deleted from plans in accordance with Council's advice in the original DA as side boundary fencing is not a DA matter and must be jointly decided between neighbours as a civil matter.

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.

S7.12 Fixed development consent levies

Section 7.12 of the Environmental Planning and assessment Act 1979 (as amended) applies to the proposal. In this regard, a standard condition of development consent has been imposed in respect to a levy applied under this section.

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 7.9m 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.

Plan/Dwg No.	Drawn by	Dated	Received by Council
Site - roof plan , revision D	DA House	21/11/2019	21/11/2019
Ground floor plan, revision D	DA House	21/11/2019	21/11/2019
First floor plan, revision D	DA House	21/11/2019	21/11/2019
Basement floor plan, revision D	DA House	21/11/2019	21/11/2019
Landscape calculations, revision C	DA House	31/10/2019	31/10/2019
Section A:A, revision D	DA House	21/11/2019	21/11/2019
West and south elevations, revision D	DA House	21/11/2019	21/11/2019
North and east elevations, revision D	DA House	21/11/2019	21/11/2019
Schedule of colours + finishes	DA House	-	7/11/2019

Reference documents:

Geotechnical assessment report, prepared by Greywacke Geotechnics, job number KONK0413-GEO AA, dated November 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 1005803S_04 other than superseded by any further amended consent and BASIX certificate.
Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
 - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
 Note: For further information please see <http://www.basix.nsw.gov.au>.

Development specific conditions

The following conditions are specific to the Development Application proposal.

6. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the rainwater tank system. The registered proprietor will:

- (i) permit stormwater to be retained by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
7. 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.
 8. 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.
 9. Trees located within the proposed building footprint may be removed.

Prior to issue of the construction certificate

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

10. 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.
11. 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.
12. 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.

13. a. Pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979 and Rockdale Section 94A (Section 7.12) Development Contributions Plan 2008, a report is to be submitted to Council, prior to approval of the first Part 4A certificate required for the development, identifying the proposed cost of carrying out the development, as follows:
 - i. Where the proposed cost of carrying out the development is less than \$1,000,000, a cost summary report prepared and certified by a building industry professional, or
 - ii. Where the proposed cost of carrying out the development is \$1,000,000 or more, a detailed cost report prepared and certified by a quantity surveyor registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications. This report is to be prepared in the form specified in Rockdale Section 94A Development Contributions Plan 2008 and the costs must be determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

Note:

1. Council may review the costs contained in the report and may seek the services of an independent person to verify them. In such a case, all costs associated with obtaining this advice will be at the expense of the applicant and no Part 6 certificate is to be issued until such time as these costs have been paid.

2. The proposed cost of carrying out the development excludes any part of the proposed development that is exempt from the Section 7.12 levy by reason of a Ministerial direction or an exemption specified in Rockdale Section 94A (Section 7.12) Development Contributions Plan 2008. Where the applicant considers that the proposed development, or any part of it, is or should be exempt from the levy they may submit to Council, prior to approval of the required certificate, an application for exemption giving reasons and providing any necessary evidence for the exemption.

b. Where the proposed cost of carrying out the development, as specified in the cost summary report, the registered surveyor's detailed cost report or the independent review of costs obtained by Council (as the case may be), is more than \$100,000 a Section 7.12 levy is to be paid to Council for the following amount:

- i. Where the proposed cost of carrying out the development is greater than \$100,000 but not more than \$200,000 – 0.5% of that cost, or
- ii. Where the proposed cost of carrying out the development is greater than \$200,000 – 1% of that cost.

This levy is to be paid prior to the issue of the first Part 4A certificate required for the development.

If the levy is not paid within the same financial year as the date on which Council accepted the cost summary report, the registered surveyor's detailed cost report or the independent review of costs (as the case may be), the amount of the levy is to be adjusted at the time of actual payment to reflect changes in construction costs, in accordance with the provisions of Rockdale Section 94A (Section 7.12)

Development Contributions Plan 2008.

Note: This requirement to pay the Section 7.12 levy does not apply if the proposed cost of carrying out the development is \$100,000 or less or Council has confirmed in writing that the proposed development is exempt from the levy.

14. 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>

15. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
16. The subsurface structure shall be designed with a waterproof retention system (ie tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Professional Engineer(s). Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate.
17. As the basement floor is being proposed closer to existing built structures on neighbouring properties, which may be in the zone of influence of the proposed works and excavations on this site, a qualified practicing geotechnical engineer must:
 - (a) Ensure that the all recommendations contained in the Geotechnical assessment report prepared by Greywacke Geotechnics, Job No: KONK0413 - GEO AA, dated November 2019 shall be implemented.
 - (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
 - (c) Prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate for the relevant stage of works.
 - (d) Inspect the works as they progress. The Inspections are to occur at frequencies determined by the geotechnical engineer.
 - (e) Where a Private Certifier issues the Construction Certificate a copy of the above documentation must be provided to Council, once the Construction Certificate is issued for the relevant stage of works.

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

18. 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.
19. Prior to the commencement of work, a Tree Protection Zone shall be established in accordance with AS49702009
(Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected at least 1.5 metres from the trunk around the tree which is 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 Zone at any time.
20. Any part of the proposed building within 3m of the proposed underground rainwater tank 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
21. 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 generally in accordance with concept stormwater drainage plan prepared by DIH Engineering & Drafting Services, dated April 2019 with the following revisions:
 - Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.
 - The invert level of the charged downpipes connection to the rainwater tank is to be at a higher RL than the invert level of the outlet from the rainwater tank discharging to the silt arrestor pit.
 - The applicant must connect the rainwater tank to all toilets in the development & the cold water tap that supplies each clothes washer in the development & at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)
 - All gutters must have leaf gutter guards installed.

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.

22. To ensure suitable materials and construction methods are used for in-ground pools to address subsurface pressures from soil and groundwater, and to ensure pools do not leak, all in-ground swimming pools in areas of shallow groundwater must be of rigid construction and meet the following where applicable:

- a) AS2783 - 1992 - Use of reinforced concrete for small swimming pools, and
- b) AS/NZS 1838 - 1994 - Swimming pools – pre-moulded fibre-reinforced plastics - Design and fabrication, and
- c) AS/NZS 1939 - 1994 - Swimming pools – pre-moulded fibre-reinforced plastics - Installation.

Prior to the issue of the Construction Certificate, detailed drawings and documentation to address (a) to (c) above, where applicable, shall be provided to the Principal Certifier for approval.

Prior to commencement of works

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

23. 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.
24. 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.

25. 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 meaning 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.

26. For any water from site dewatering to be permitted to go to the stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.
- All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

During demolition / excavation / construction

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

27. 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.

28. 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.
29. 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.
30. 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.
31. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
32. 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.

33. 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.
34. 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.
35. 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.
36. 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.
- 37. The existing Evergeen Ash street tree located at the front of the property is not to be removed or pruned, including root pruning, without the written consent of Council.
 - 38. Trees located within the footprint of the proposed buildings may be removed.

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.

- 39. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 40. 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.
- 41. 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.
- 42. At least two (2) native or ornamental trees of at least 75 litre pot or container size and capable of growing to a minimum height of three (3) metres shall be planted in

suitable locations within the property on completion of the building works and prior to the final inspection.

43. 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.
44. 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.
45. The width of the driveway shall be a minimum of 3.0m and a maximum of 4.5m at the property boundary.
46. 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.
47. 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.
48. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater rainwater tank facility to provide for the maintenance of the rainwater tank facility.
49. The drainage system shall be constructed in accordance with the approved drainage plans and any amendments in red. All stormwater drainage plumbing work shall comply with the NSW Code of Practice: Plumbing and Drainage and Australian Standard AS3500.

Drainage grates shall be provided at the boundary. Width of the drainage grates shall be in accordance with Rockdale Technical Specification Stormwater Management.

A silt/litter arrestor pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

50. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
51. 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.
52. Prior to occupation a Professional Engineer competent in geotechnics shall certify that the construction works have been constructed in accordance with the approved geotechnical report and include an evaluation of the completed works. A copy of the certificate shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
53. Prior to the issue of an occupation certificate, certification from a licenced plumber shall be provided certifying the installation of the required rainwater tank(s) in accordance with the requirements of Sydney Water "Guidelines for rainwater tanks on residential properties" 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.

Roads Act

54. 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.

55. The following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
 - ii) construction of a new fully constructed concrete vehicular entrance/s;
 - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
 - v) construction of paving between the boundary and the kerb;
 - vi) removal of redundant paving;
 - vii) construction of kerb and gutter.
56. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration

Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.

57. 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.
58. 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.
59. 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).

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 or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. *Telstra Advice - Telecommunications Act 1997 (Commonwealth)*

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on phone number 1800810443.

- d. Section 88E Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- e. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
 - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]

- Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- f. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Protection of the Environment Operations (Waste) Regulation 2005.
- g. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- h. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.
- i. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.

BASIX SPECIFICATIONS

CERTIFICATE NUMBER - 50058085_04

WATER

The applicant must plant indigenous or low water use species of vegetation throughout 20 square metres of the site.
The applicant must install showerheads with a minimum rating of 4 star (> 4.5 but <= 6 L/min plus spray force and/or coverage tests) in all showers in the development.
The applicant must install a toilet flushing system with a minimum rating of 5 star in each toilet in the development.
The applicant must install taps with a minimum rating of 5 star in the kitchen in the development.
The applicant must install basin taps with a minimum rating of 5 star in each bathroom in the development.
The applicant must install a rainwater tank of at least 1500 litres on the site.
The applicant must configure the rainwater tank to collect rain runoff from at least 150 square metres of the roof area.
Connect tank to the cold water tap that supplies each clothes washer in the development + 1 outdoor tap.
The swimming pool must not have a volume greater than 32 kilolitres.

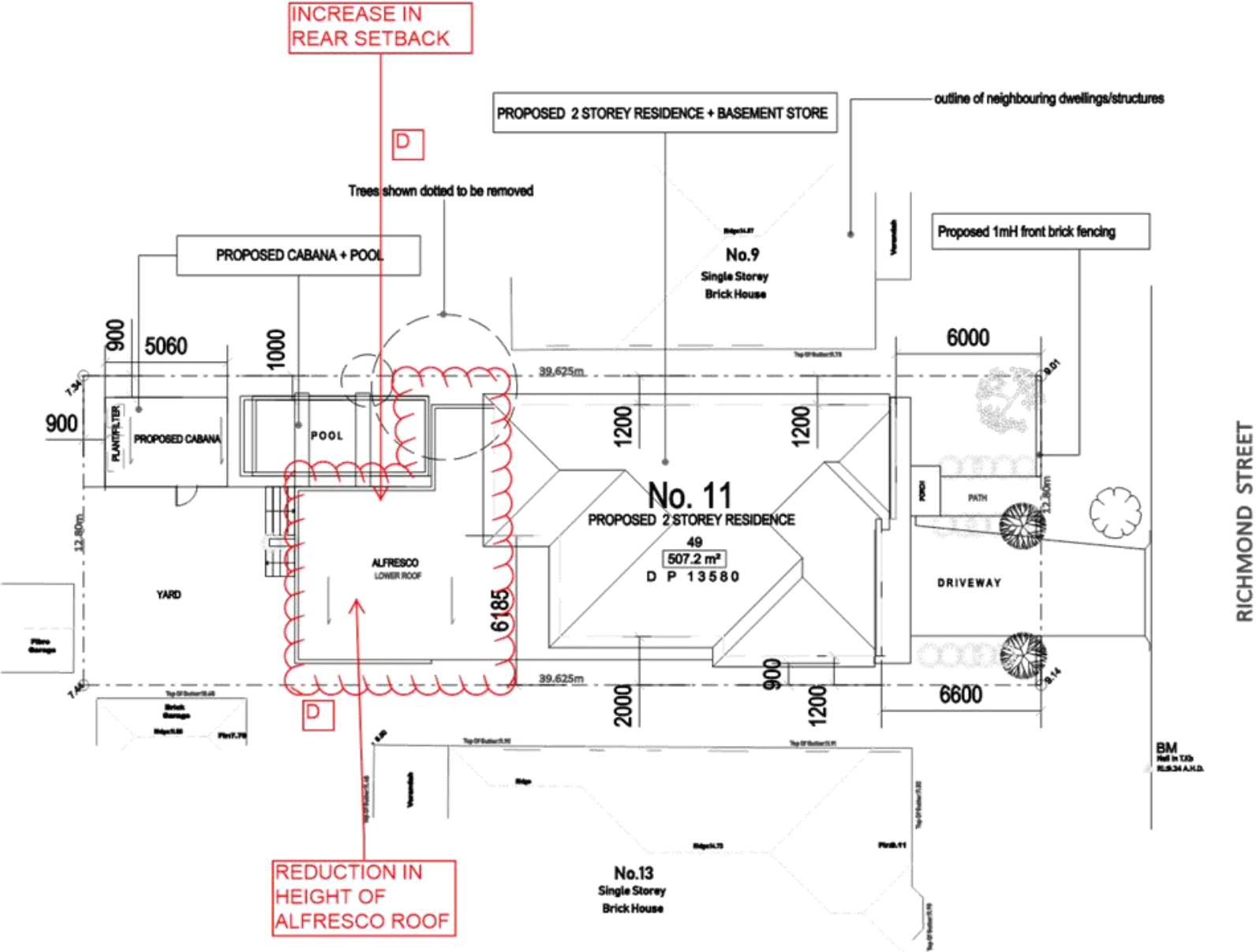
THERMAL COMFORT

external wall - cavity brick - 0.50 (or 1.17 including construction)
floor - suspended floor above enclosed outdoor, concrete - 0.70 (or 1.3 including construction) (down)
ceiling and roof - insulated ceiling / pitched or skillion roof (framed - ceiling: 4 (up), roof: full backed blanket (100 mm)
All windows - U-value: 5.6, SHGC: 0.369 - 0.451 (aluminium, single, Lo-Tint Low-e)

ENERGY

The applicant must install the following hot water system in the development, or a system with a higher energy rating: solar (electric boosted) with a performance of 31 to 35 STCs or better.
COOLING/HEATING - The applicant must install the following cooling/heating system, or a system with a higher energy rating, in at least 1 living + bed area: 5-phase air conditioning. Energy rating: 3.5 - 4.0

VENTILATION - At least 1 Bedroom: individual fan, ducted to facade or roof. Operation control: manual switch on/off
VENTILATION - Kitchen: individual fan, ducted to facade or roof. Operation control: manual switch on/off
VENTILATION - Laundry: individual fan, ducted to facade or roof. Operation control: manual switch on/off
LIGHTING - The applicant must ensure that the "primary type of artificial lighting" is fluorescent or light emitting diode (LED) lighting



CALCULATIONS

Total Site area = 507.2m2
Floor space -
Grd = 146m2 | 1ST = 106m2
Total = 252m2 (49%)
Private Open space = 88m2 (80m2 required)
Landscaped area = 141m2 (27%)
Setbacks/Heights - As noted on plans

site-roof plan

proposed new residence @
11 RICHMOND ST BANKSIA

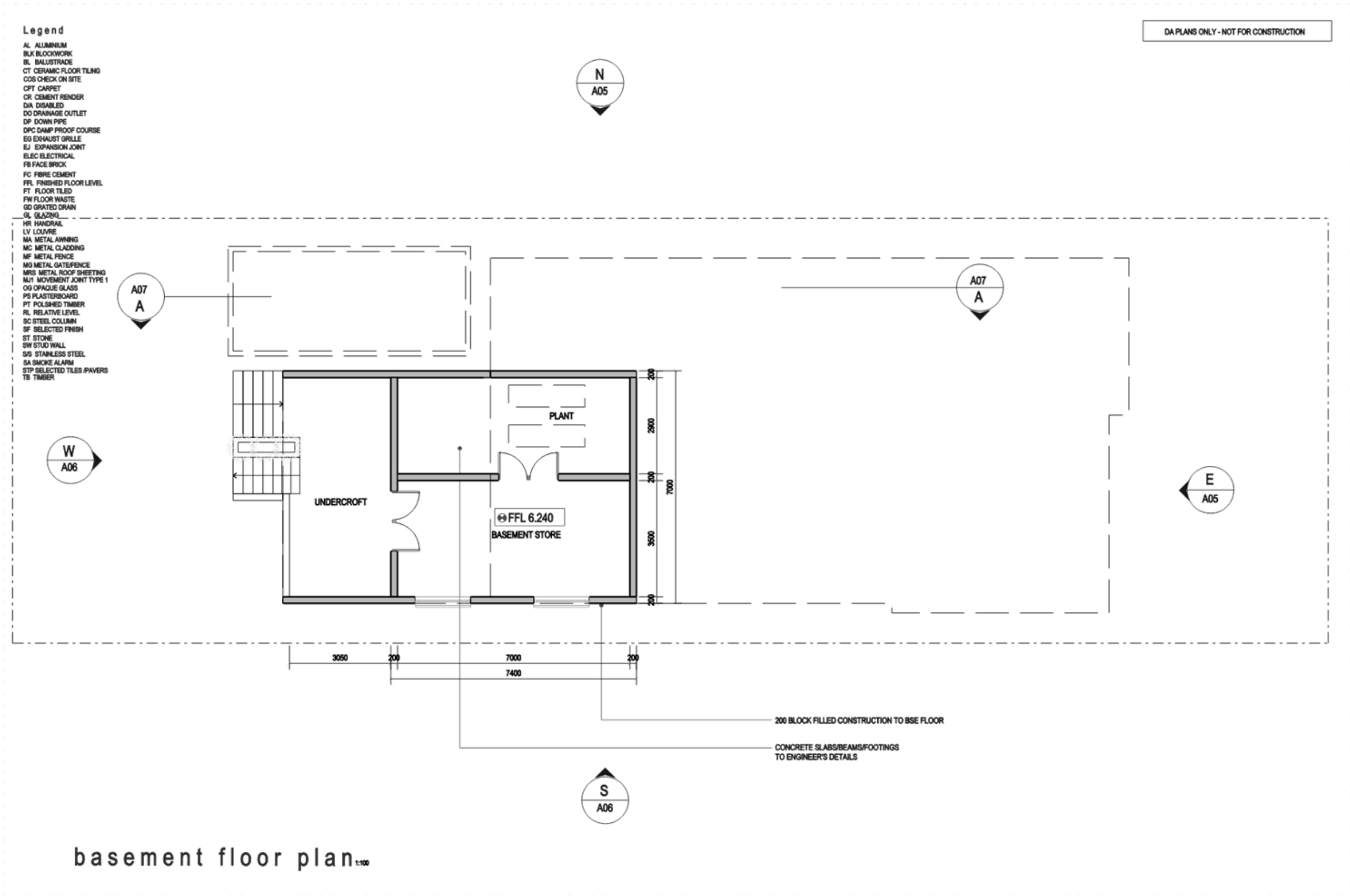
SITE/ROOF PLAN



M 0410 442 672
E info@dahouse.com.au
W www.dahouse.com.au

SECTION 82A AMENDED (D) - 21/11/2019
SECTION 82A AMENDED (C) - 31/10/2019
SECTION 82A (B) - 31/05/2019
AMENDED PLANS (A) - 14/08/2019
DEVELOPMENT APPLICATION - 02/04/2019

P-1903-A01



proposed new residence @
11 RICHMOND ST BANKSIA

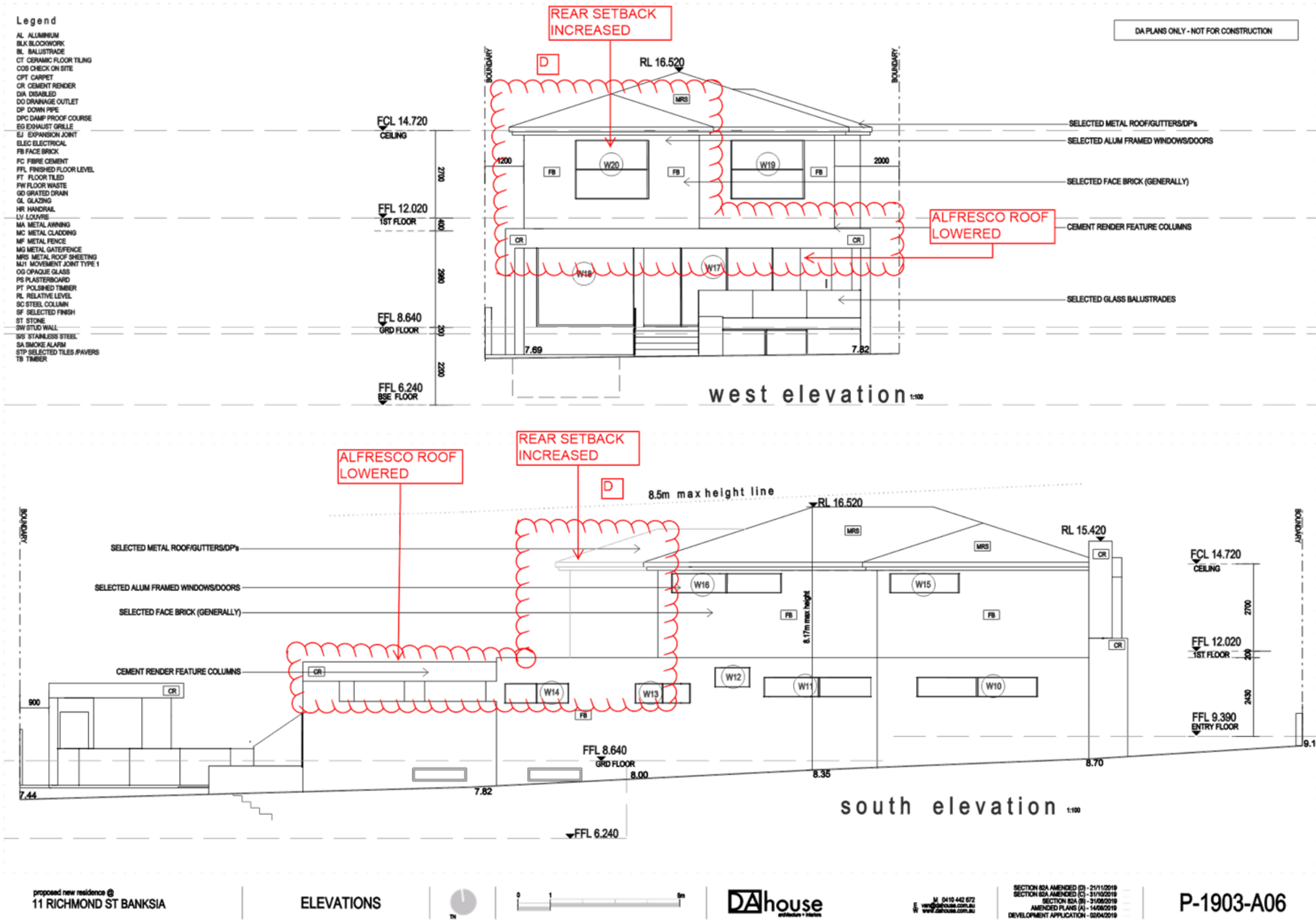
BASEMENT PLAN

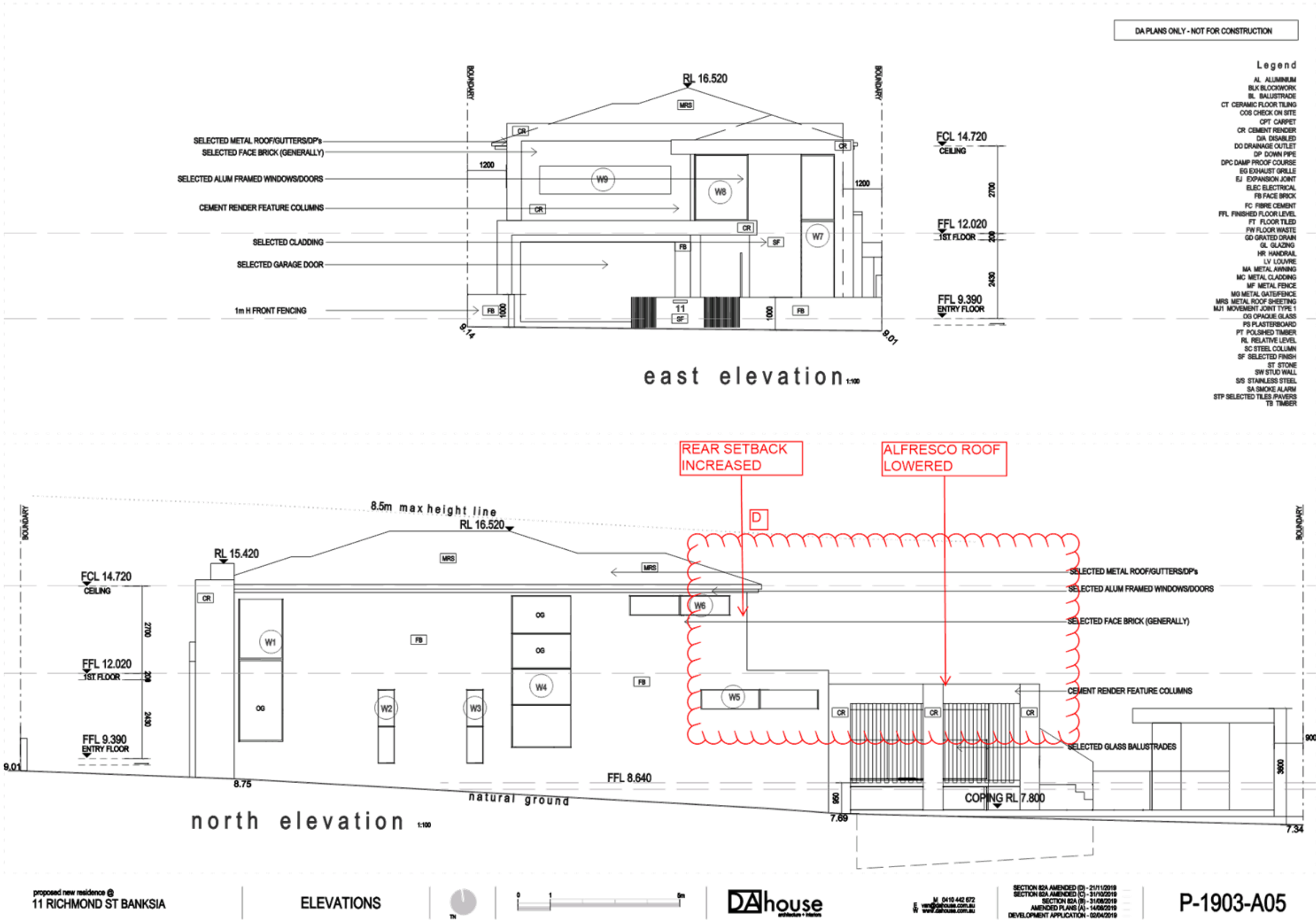


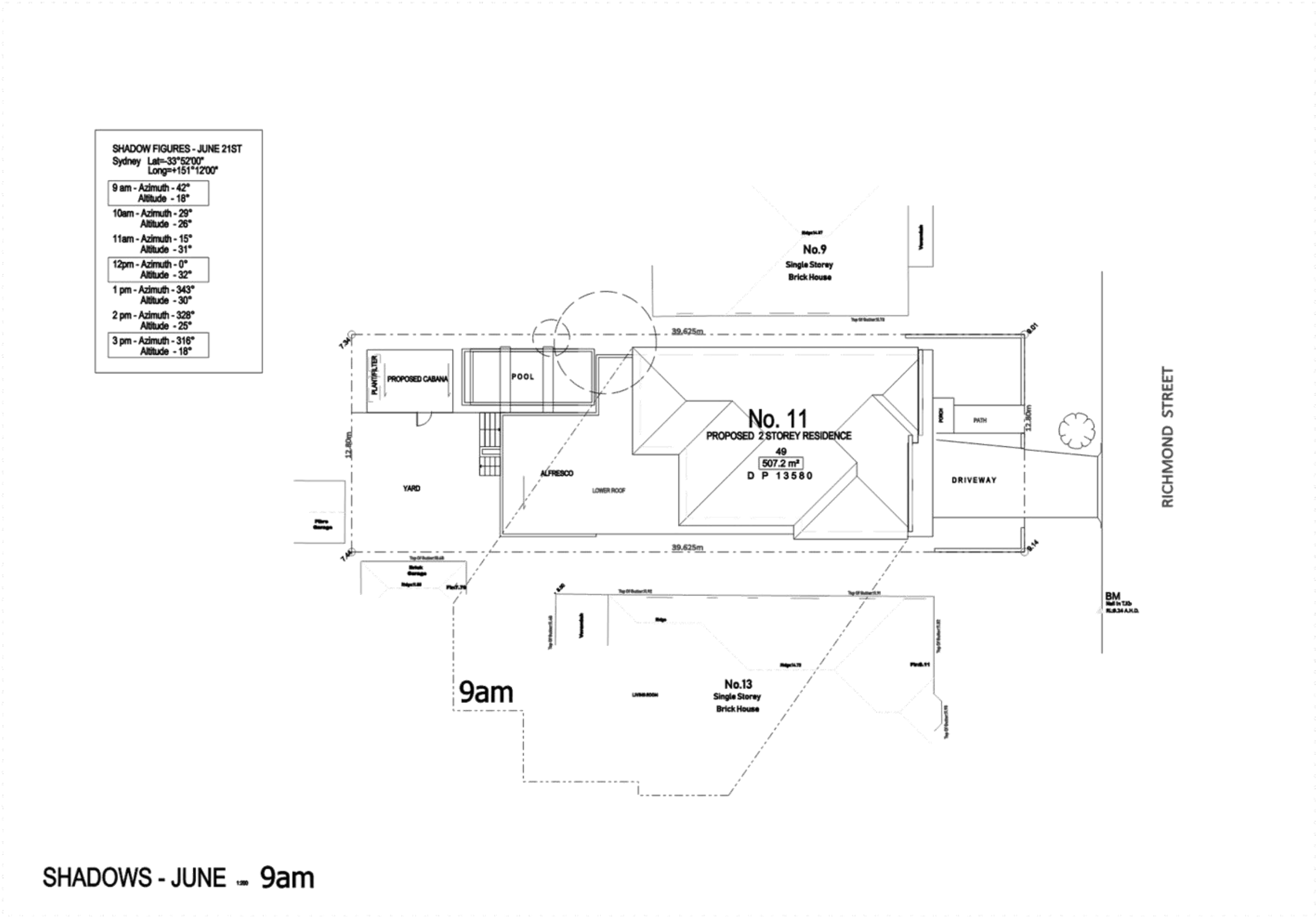
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W www.dahouse.com.au

SECTION 82A AMENDED (D) - 21/11/2019
SECTION 82A AMENDED (C) - 31/10/2019
SECTION 82A (B) - 31/09/2019
AMENDED PLANS (A) - 14/06/2019
DEVELOPMENT APPLICATION - 02/04/2019

P-1903-A04







proposed new residence @
11 RICHMOND ST BANKSIA

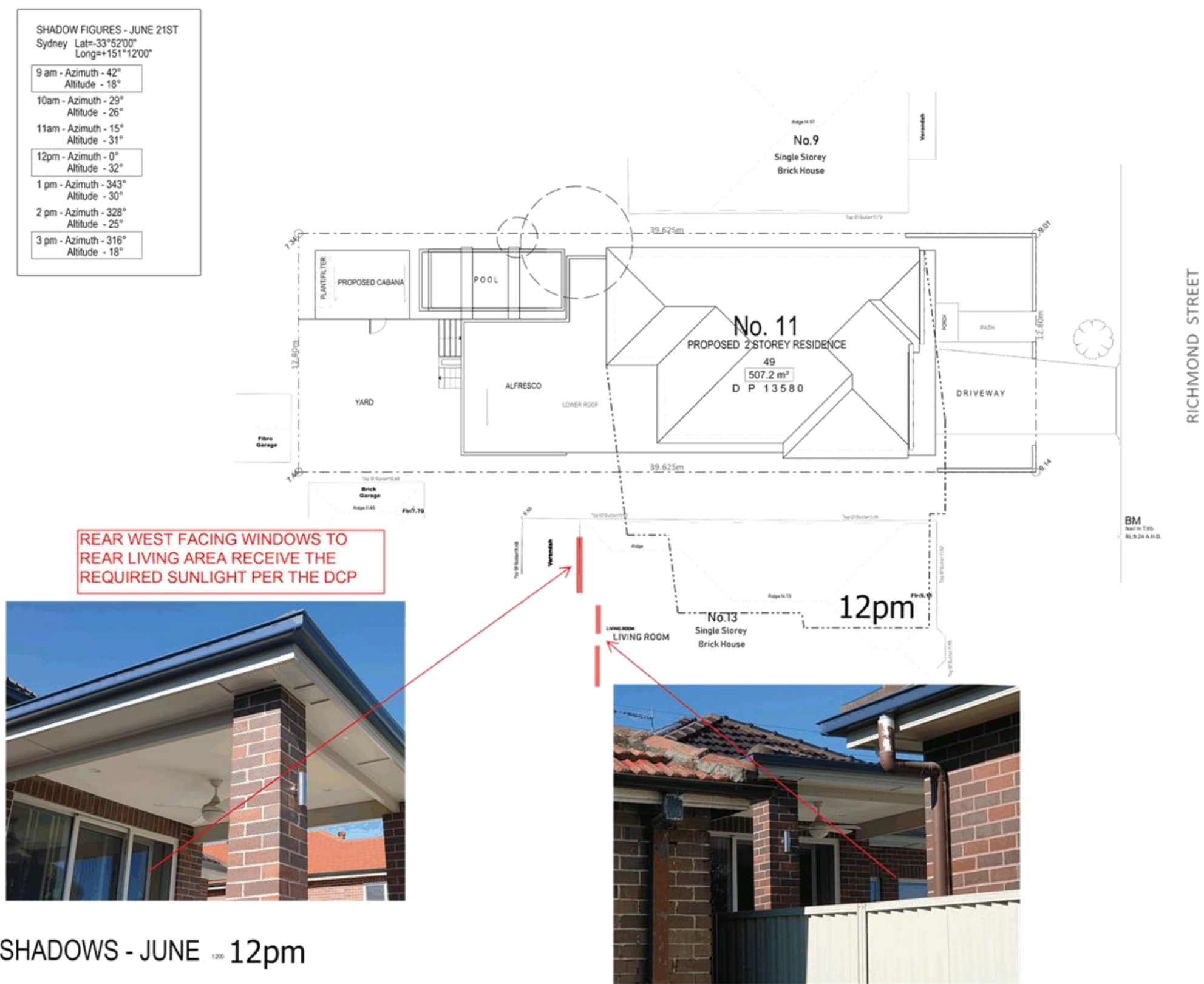
SHADOWS-JUNE



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W www.daihousen.com.au

SECTION 82A (D) - 21/11/2019
SECTION 82A (C) - 31/10/2019
SECTION 82A (B) - 31/08/2019
AMENDED PLANS (A) - 14/06/2019
DEVELOPMENT APPLICATION - 02/04/2019

P-1903-A10



proposed new residence @
11 RICHMOND ST BANKSIA

SHADOWS-JUNE

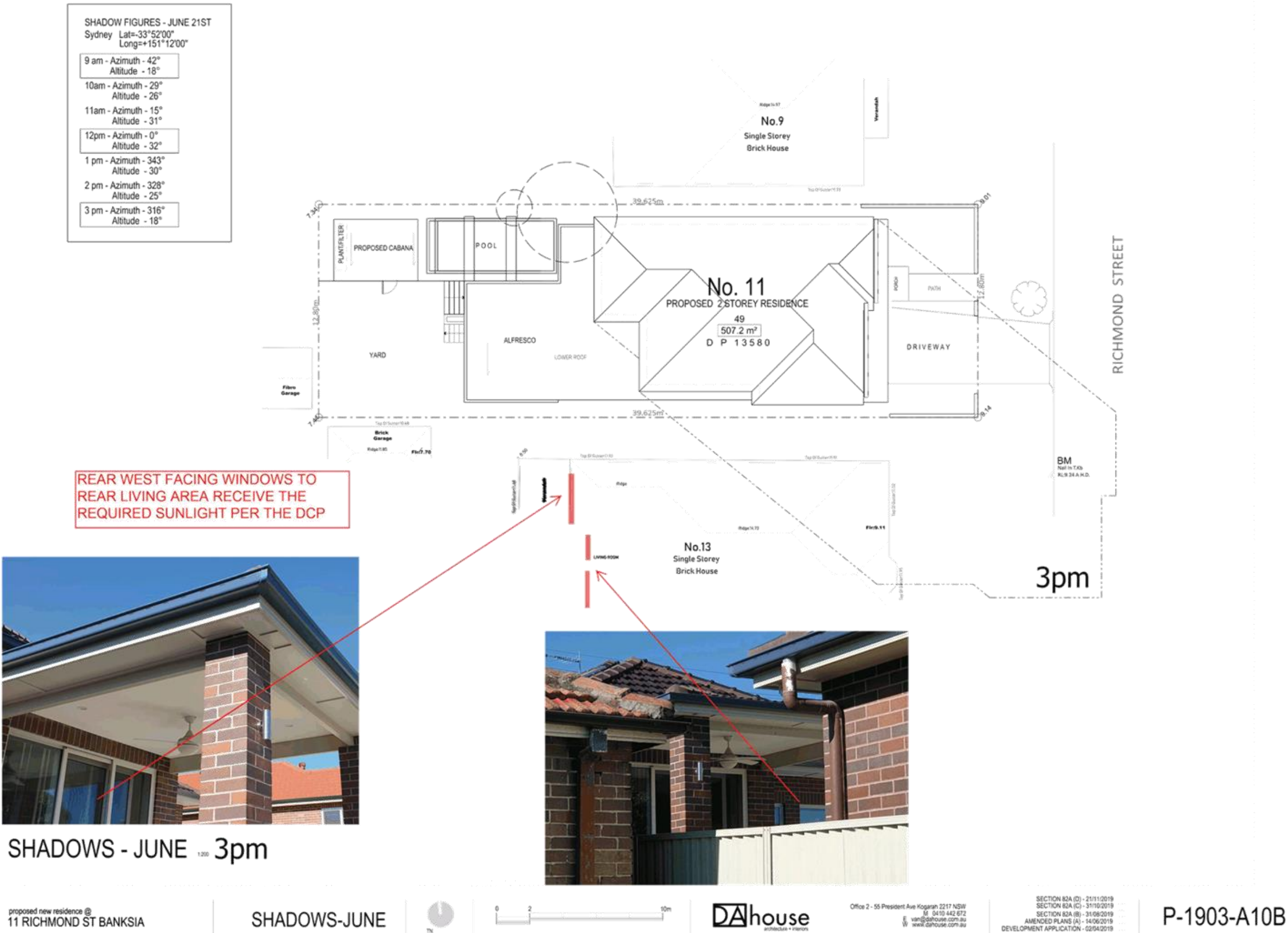


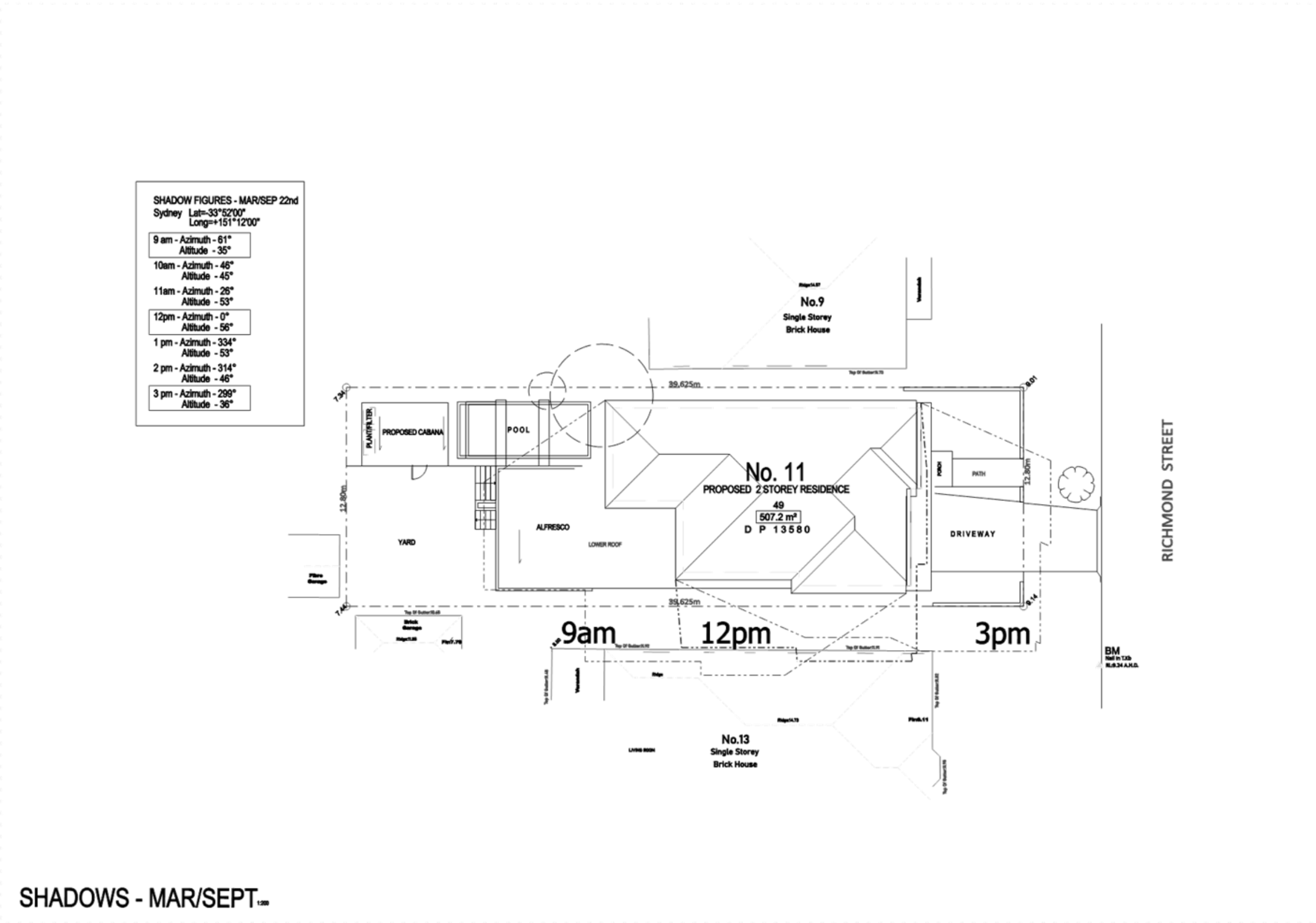
DAhouse
architects + interior

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SECTION 82A (D) - 21/11/2019
SECTION 82A (C) - 31/10/2019
SECTION 82A (B) - 31/08/2019
AMENDED PLANS (A) - 14/06/2019
DEVELOPMENT APPLICATION - 02/04/2019

P-1903-A10A





proposed new residence @
11 RICHMOND ST BANKSIA

SHADOWS-MAR/SEP



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SECTION 82A (G) - 31/10/2019
SECTION 82A (B) - 31/08/2019
AMENDED PLANS (A) - 14/08/2019
DEVELOPMENT APPLICATION - 02/04/2019

P-1903-A11



SELECTED METAL SCREENING/GATES-MONUMENT



DULUX LIME WHITE ON RENDER



DULUX LEAD COLOUR ON RENDER



SELECTED STONE FACING/CLADDING



MOWBRAY BLUE FACEBRICK

11 RICHMOND ST BANKSIA

schedule of colours + finishes

DEVELOPMENT APPLICATION - BAYSIDE COUNCIL



Bayside Local Planning Panel

10/12/2019

Item No	6.7
Application Type	Supplementary report for shop top housing development
Application No	DA-18/1172
Lodgement Date	17/09/2018
Property	106 Wilson Street Botany
Ward	Ward 1
Owner	106 Wilson Street Pty Ltd
Applicant	Julian Dolk- SRH Bureau
Proposal	Demolition of existing structures and construction of a three (3) storey shop top housing development comprising three (3) residential units, one commercial tenancy and five (5) car parking spaces
No. of Submissions	Nine (9) objections- Round 1 Nil- Round 2 Nil- Round 3
Cost of Development	\$1,913,239.00
Report by	Michael McCabe, Director City Futures

Officer Recommendation

1. That DEFERRED COMMENCEMENT consent be granted to development application DA-2018/1172 for demolition of existing structures and construction of a three (3) storey shop top housing development comprising three (3) residential units, one commercial tenancy and five (5) car parking spaces at 106 Wilson Street, Botany, pursuant to s4.16(3) of the *Environmental Planning and Assessment Act 1979* in accordance with the deferred commencement conditions listed below, and subject to the conditions of consent attached to this report. The period of deferred commencement consent is to be limited to 6 months.
 2. That the submitter(s) be notified of the Bayside Local Planning Panel's decision.
-

Location Plan



Attachments

- 1 Supplementary Report [↓](#)
- 2 Demolition Plan [↓](#)
- 3 Site Plan [↓](#)
- 4 Roof Plan [↓](#)
- 5 Eastern and Southern Elevation [↓](#)
- 6 Northern and Western Elevation [↓](#)
- 7 Shadow Diagrams [↓](#)
- 8 Statement addressing reasons for referral [↓](#)
- 9 Original Planning Assessment Report [↓](#)

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Number:	2018/1172
Date of Receipt:	17 September 2018
Property:	106 Wilson Street, Botany Lot 25 Sec 1 in DP 1742
Owners:	106 Wilson St Pty Ltd
Applicant:	Julian Dolk- SRH Bureau
Proposal:	Demolition of existing structures and construction of a three (3) storey shop top housing development comprising three (3) residential units, one commercial tenancy and five (5) car parking spaces
Recommendation:	Deferred Commencement, subject to conditions
Value:	\$1,913,239.00
No. of submissions:	Round One: Nine (9) objections Round Two: Nil Round Three: Nil
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	15 November 2019

Key Issues

On 23 July 2019, the subject development application was referred to the Bayside Local Planning Panel (BLPP) for determination. The report was put up to the meeting recommending refusal. The Panel deferred the development application to allow the applicant the opportunity to submit amended plans for Council's assessment and the matter referred back to the Panel for determination. The amended plans were to reduce the number of residential units and the amount of floor space and to provide car parking that does not dominate the site or the public domain. Public domain issues should also be addressed in the context of the adjacent approved development.

The amended plans were received by Council on 5 September 2019. These plans were re-exhibited to the general public for a period of fourteen (14) days between 13 September and 27 September 2019. No submissions were received. An amended ground floor plan was further submitted on 6 November 2019.

The amended plans demonstrate a reduction in the gross floor area from 426.76sqm (1.5:1) to 400.13sqm (1.4:1). The plans also demonstrate a reduction in the number of units proposed from four to three which consequently results in a reduction of car parking generated by the development. While there is a shortfall in the amount of commercial and visitor spaces

provided on the site, the amount of residential car parking spaces that have been provided complies with the BBDCP 2013. This is further discussed in the report below.

As the proposal has reduced the number of units by one, an assessment of SEPP No. 65 and the Apartment Design Guide (ADG) is no longer required to be undertaken. An assessment has been carried out against the controls within the relevant parts of the BBLEP and BBDCP 2013.

The bulk of the development has been slightly altered along the eastern side of the site as the two storey component has been reduced to provide one dormer rather than two originally proposed. This alleviates the overshadowing provided on the neighbouring site at 104 Wilson Street. While the proposal continues to have a three storey corner element, the overshadowing created solely by the three storey built form will impact on the southern site predominantly from 11am and onwards. This is further discussed in greater detail in the report below.

The applicant has not provided an amended BASIX Certificate at the time of writing this report. Discussion with the applicant in imposing a deferred commencement condition to provide an amended BASIX Certificate prior to the issue of an operational consent was agreed upon and therefore the report has been amended to address this.

The amended development application has been assessed in accordance with the relevant requirements of the *Environmental Planning Assessment Act 1979* (EPA Act) and is recommended for deferred commencement, subject to the conditions of consent in the attached schedule.

Recommendation

1. That DEFERRED COMMENCEMENT consent be granted to development application DA-2018/1172 for demolition of existing structures and construction of a three (3) storey shop top housing development comprising three (3) residential units, one commercial tenancy and five (5) car parking spaces at 106 Wilson Street, Botany, pursuant to s4.16(3) of the *Environmental Planning and Assessment Act 1979* in accordance with the deferred commencement conditions listed below, and subject to the conditions of consent attached to this report. The period of deferred commencement consent is to be limited to 6 months.
2. That the submitter(s) be notified of the Bayside Local Planning Panel's decision.

Background

History

There is no relevant town planning history for the site.

A pre-DA was carried out on 2 May 2018 for the current proposal which proposed four units and two car parking spaces over three levels. Slight modifications were carried out on the bulk of the development however car parking continued to be raised as an issue. The letter was sent on 5 June 2018.

Development Application History

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The development application has been assessed as follows:

- **17 September 2018** – Development Application was lodged with Council;
- **3 October to 17 October 2018** – The development application was placed on public notification where a number of submissions were received;
- **1 November 2018** – The application was presented to a Design Review Panel meeting and the design was favourably looked at with minor changes to the design of the building;
- **10 January 2019** – An additional information letter was sent out to the applicant to address issues relating to floor space ratio calculations, overshadowing, car parking, insufficient unit sizes, encroachments on council land, materiality, public domain upgrade and drainage;
- **6 March 2019** – Additional information was received by Council including amended architectural plans, stormwater plans, shadow studies, addendum to traffic report and report by planner of the changes;
- **29 April to 13 May 2019** – The amended plans were renotified for fourteen days in which additional submissions were received;
- **19 June 2019** – Informal plans were submitted to Council showing two options in car parking. Both options presented problems with the first option removing the majority of the active street frontage along Swinbourne Street and the second option continuing to have a residential and commercial car parking shortage; and
- **28 June 2019** – Council advised the applicant that the proposal would not be supported due to the outstanding number of issues present including car parking departures and overshadowing.
- **24 July 2019** – The application was presented to the Bayside Local Planning Panel for determination. The Panel deferred the matter to address issues relating to car parking, FSR and number of units
- **5 September 2019** – Amended documentation was provided to address the matters of deferral. This included amended architectural plans and design report
- **6 November and 18 November 2019** – Amended ground floor plan was provided to address concerns raised by Councils Development Engineer.

Proposal

The development application, in its amended form, seeks consent for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising three (3) residential units, one commercial tenancy and five (5) car parking spaces.

The proposed development is described in detail below:

Ground Floor:

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- Commercial tenancy with an area of 74.65sqm is proposed on the corner of Swinbourne Street and Wilson Street. The tenancy provides access from Swinbourne Street with one bathroom provided in the premise. A separate enclosed commercial waste area is provided directly adjacent to the tenancy;
- Residential foyer with access from Swinbourne Street;
- Five (5) car parking spaces within a garage are provided with one space for Unit 01, two (2) spaces for Unit 02 and two (2) spaces for unit 03.
- Four bicycle spaces are proposed adjoining the commercial tenancy and residential lobby;
- An enclosed residential bin storage area is provided at the northern portion of the development; and
- Landscaping is provided along the southern boundary adjacent to the commercial waste room.

First Floor:

- The first floor contains two units- one x one bedroom unit (lower floor) and one x two bedroom unit;
- The two bedroom unit contains an open plan living, kitchen and dining area with access to a 14sqm north-west facing balcony as well as two bedrooms with robe, ensuite, bathroom and laundry;
- The one bedroom units contain an open plan living, kitchen and dining room with access to an 13sqm north-facing balcony, bathroom, laundry room and stairs to the bedroom above.

First Floor:

- The second floor contains the upper level of the one bedroom unit and a two bedroom unit within the development.
- The two bedroom unit contains an open plan living, kitchen and dining area with access to a 14sqm north-west facing balcony as well as two bedrooms with robe, ensuite, bathroom and laundry;
- The one bedroom units provides the upper level which include a bedroom with robe and ensuite and access to a 4sqm north facing balcony.

Additionally, the development proposes photovoltaic panels located on the roof as well as landscaping on the ground floor.

The following figures demonstrate the proposed development as amended:

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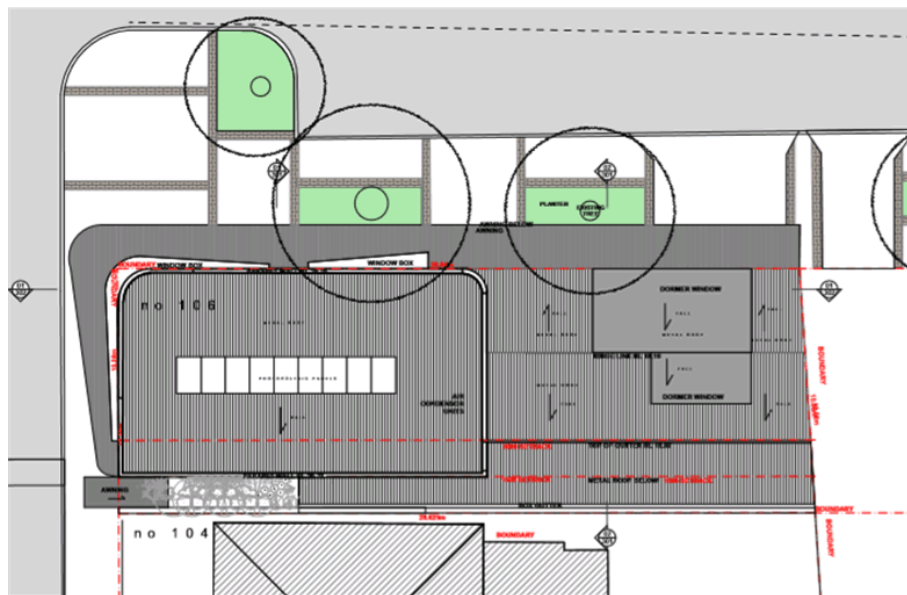


Figure 1. Proposed Site Plan



Figure 2. Proposed Northern Elevation

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Figure 3. Proposed Western Elevation

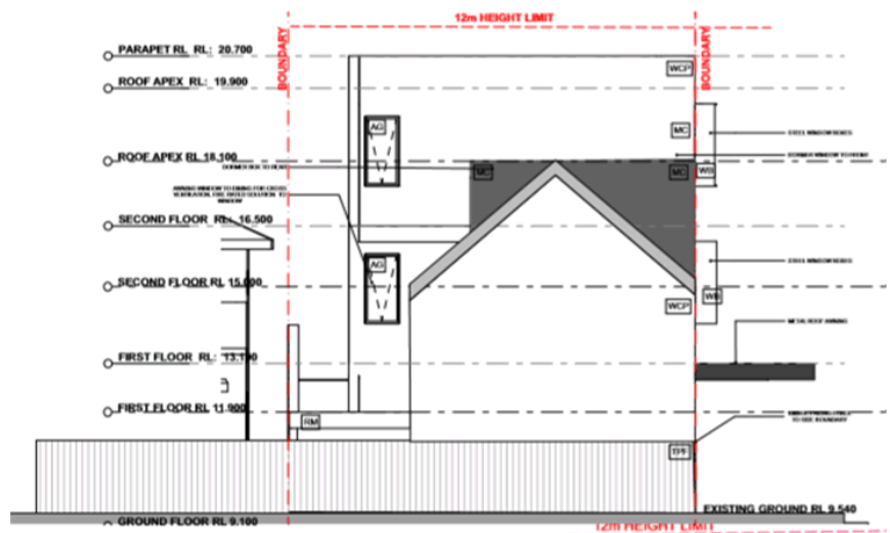


Figure 4. Proposed Eastern Elevation

Item

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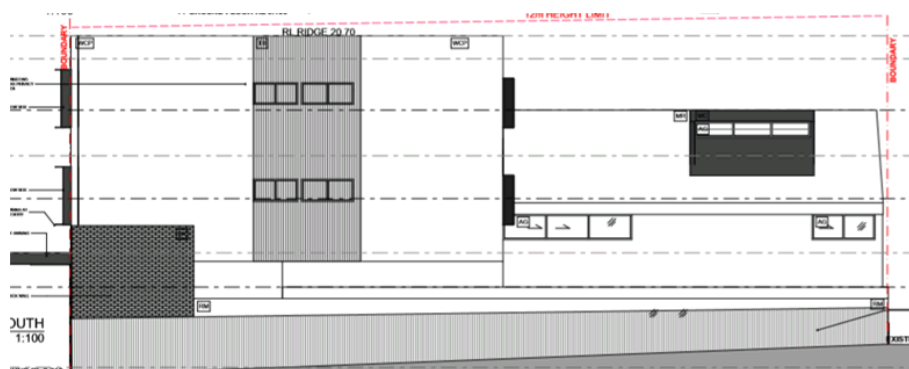


Figure 5. Proposed Southern Elevation

Site Description

The subject site is legally known as Lot 25 Sec 1 in DP 1742 and is identified as 106 Wilson Street Botany. The site is located on the south-eastern corner of the intersection of Swinbourne Street and Wilson Street. The site has an east-west orientation with west being the front of the site and east being the rear of the site.



Figure 6. Site Locality

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Figure 7. Aerial Map of the site

The subject site is rectangular in shape and has a site area of 284.7sqm. The site has a street frontage width along Swinbourne Street of 28.04 metres, a street frontage width along Wilson Street of 10.06 metres, an eastern boundary width of 10.06 metres and a southern boundary length of 28.625 metres. The site has a slight fall of 700mm from the eastern side of the site to the western side of the site.

The site currently comprises of a single storey rendered brick building that was originally a shop front however has been utilised as a dwelling for years. The rear of the dwelling contains a garden area which includes a garage, carport and two metal sheds. There are two street trees located along Swinbourne Street outside the site.



Figure 8. Existing building on the site with street trees along Swinbourne Street

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Development surrounding the site includes a mix of low density residential development in addition to shop fronts along Swinbourne Avenue. The adjoining site to the south at 104 Wilson Street contains a detached two storey dwelling house with rear garage. The development to the east at 1 Trevelyan Street comprises of a single storey shop and residence however approval has been granted for shop top housing development with two units. Opposite the site on the other side of Swinbourne Street contains two single storey shop fronts with residences behind at 19 and 23 Swinbourne Street. Approval has been granted at 23 Swinbourne Street for a three storey shop top housing development with six units.

The site is located within the B1- Neighbourhood Centre zone as well as the Swinbourne Street Neighbourhood Centre. The site is in close proximity to a heritage item (Item 158 'Streetscape- Verge Plantings Canary Island Date Palm') which is adjacent to the site to the north. Additionally the site is located within a 15-20 ANEF Contour. A bus stop is located outside the site along Swinbourne Street.

Statutory Considerations

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle metropolitan areas. The aims of the policy are (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP.

The proposal seeks to retain the two pepper street trees that are located along Swinbourne Street however the plans demonstrate an awning to be proposed which may impact onto the canopy of the trees. The application was referred to Council's Landscape Architect, Tree Management Officer as well as to the major project landscape architect within the public domain team. No objections were raised by all three departments subject to conditions imposed in the consent requiring tree preservation and public domain works to be carried out.

State Environmental Planning Policy (Infrastructure) 2007

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The site falls within land that is adjacent to a pipeline corridor therefore Division 12A Pipelines and pipeline corridors applies to the site. The development does not propose significant excavation however as there are three dwellings located on the site, the application was referred to the APA Group. No response has been received as of yet however it is considered by Council that as there is only three dwellings proposed, this is not considered to be a significant intensification of the site and is unlikely to impact the pipeline.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by an amended BASIX Certificate No. 941309M dated 4 July 2018 prepared by Sustainability-Z Pty Ltd however Council requested the applicant provide an amended BASIX Certificate prior to the determination of the application. The applicant has advised that they are in the process of applying for an amended certificate however this would not be provided prior to the completion of this report. Therefore a deferred commencement condition has been imposed in the consent requiring this to be provided prior to the issue of an operational consent.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The application was referred to Council's Environmental Scientist who provided the following commentary:

"The Statement of Environmental Effects advised that there is a long history of residential use and no known historical contaminating uses. There is no significant excavation with the building to be constructed at ground level, there will be no interception of groundwater or acid sulfate soils. Therefore there is no objection to the proposed development."

Based on the information provided above and the limited amount of excavation provided with the proposal, the site is suitable for development in relation to SEPP No. 55.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned B1 Neighbourhood Centre zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as shop top housing development is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the following objectives of the B1 Neighbourhood Centre: <ul style="list-style-type: none"> To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood. To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.
What is the height of the building? Does the height of the building comply with the maximum building height?	- Yes	A maximum height of 12 metres applies to the subject site. Top of the parapet: 11.99 metres The distance of the building was measured between the existing ground level (RL 8.71) and the proposed top of the parapet (RL 20.7) The maximum building height of the development complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.
What is the proposed Floor Space Ratio? Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	- Yes	A maximum FSR of 1.5:1 applies to the subject site. The site has a total area of 284.7sqm. <u>Amended Proposal:</u> GFA: 400.13sqm FSR: 1.4:1 The maximum FSR of the development complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.
Is the site within land marked "Area 3" on the Floor Space Ratio Map? If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A	The site is not located in an Area 3 zone.

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Is the land affected by road widening?	N/A	The land is not impacted by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The subject site is not a heritage item and is not located within a heritage conservation area however the site is in close proximity to Item 158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site to the north. The proposed development is not considered to impact onto the heritage items.
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 6.2 – Earthworks 6.3 – Stormwater Management 6.9 – Development in areas subject to aircraft noise 6.15 – Active Street frontage 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The site is located within a Class 4 ASS zone. The proposed development does not seek to excavate greater than 2 metres below ground as the development is proposed on slab.</p> <p>Minimal excavation and fill are proposed to level the development however this is minimal and not considered to be impactful.</p> <p>The proposal provides for a below ground OSD which is located underneath the rear footpath adjoining the residential lobby. Additionally the proposal provides for a 10,000L rainwater tank that is located underneath the two ground floor car parking spaces on the eastern side of the site.</p> <p>The site is located within a 15-20 ANEF Contour. The applicant provided an acoustic report with the development application however as the site is located in an area that is less than 20 ANEF, a condition is not required to be included within the consent.</p> <p>The site requires active street frontage to be provided along Swinbourne Street. The proposal provides activation along the northern ground floor elevation with commercial tenancy proposed for the majority of the length and residential entry directly adjoining to the east.</p>

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

There are no current Draft EPIs applicable to this development

S4.15(1)(a)(iii) - Provisions of any Development Control Plan**Botany Bay Development Control Plan 2013**

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

Part 3A –Parking and Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	<u>Residential</u> 1 space/studio and 1 bedroom= 1 space 2 space/ 2 + bedrooms = 4 spaces 1 visitor space/ 5 units = 1 space Total: 6 car spaces required <u>Commercial (shop)</u> 1 space / 25sqm (3 req.) Total car parking required: 9 car parking spaces	The amended proposal has provided five car parking spaces. These spaces will be allocated to the residential units. There is a shortfall in the visitor car parking space and the commercial car spaces.	No – See Note 1 below
3A.3.1 – Car Park Design	C13 Pedestrian entrances and exits shall be separated from vehicular access paths.	The pedestrian and vehicle access points are separated and demonstrated on the plans by a hatched area.	Yes
	C15 Vehicle access points of the property should not be located: a) In places with high traffic volumes, such as classified or arterial roads; b) Close to intersections as outlined in Section 3.2.3 of AS2890.1; c) Where there is heavy or constant pedestrian movements along the footpath; d) Opposite to other traffic generating developments; e) Where traffic using the driveways interferes with or blocks the operations	The vehicle access point is located on the eastern side of the site. The plans have been amended so that the ground floor has been reconfigured to allow for forward entry and exit from the site. This rectifies the previous access proposed which was forward entry and backward movement exit which would have contributed to safety concerns.	Yes

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Part	Control	Proposed	Complies
	<p>of bus stops, taxi ranks, loading zones or pedestrian crossings;</p> <p>f) Adjacent to or at the sag point of the street; and</p> <p>g) In places where sight distance requirements outlined in Section 3.2.4 of AS2890.1 cannot be complied with.</p>		
	<p>C28 The minimum width of the access driveway at the property boundary shall be:-</p> <ul style="list-style-type: none"> For other residential developments: 5.5 metres (two way); The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary. 	The width of the driveway provided is at least 5.5 metres.	Yes
	<p>C40 The waste collection point shall be designed to:</p> <p>(i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and</p> <p>(ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like.</p>	Waste collection is proposed from the street. All waste is stored in separate waste collection rooms on the south and northern side of the site.	Yes
3A.3.2 Bicycle Parking	C1-C5 To comply with AS2890.3 and AUSTROADS (i.e. 10% of the required amount of car parking = 1 req.)	The proposal provides for 4 bicycle spaces which will be in a secure area directly adjoining the residential entry.	Yes
3A.3.4 On-site Loading and Unloading	C1-C11 1 service bay/50 dwellings	As the proposal has less than 20 units, on site loading and unloading for residential is not required. There is no space for loading or unloading provided for the commercial component however considering that the size of the commercial tenancy is small in nature, this is considered acceptable.	Acceptable

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Note 1- Departure in car parking

Table 1 of Part 3A.2 of the BBDCP 2013 requires that the development provide five car parking spaces for the residential component, one visitor space and three commercial spaces which equates to a total of 9 spaces within the site. The proposed development provides five car parking spaces within a garage located on the eastern side of the site. The five spaces are allocated to the residential component of the site with two spaces provided each for the two bedroom units and one space provided for the one bedroom unit. There is a shortfall in the visitor car space and the commercial car parking spaces. This equates to a deficit of four car spaces.

The amended plans have been modified to allow for compliance with the number of residential spaces as this was the key issue in the original report that was presented to the Panel for consideration. Council had been consistently determining applications with full compliance in residential car parking spaces. As the plans have now complied with the residential car parking requirements specified in the BBDCP 2013, the issue originally raised goes away.

The shortfall in the visitor car parking space is considered acceptable particularly as there is only three units proposed for the development. The site has the benefit of having a bus stop located directly outside the site and on the northern side of Swinbourne Street. Council has exhibited public domain plans for the area which demonstrates that the bus stop will be relocated further along Swinbourne Street to the east of the site. This continues to be within walking distance. The surrounding streets can accommodate one additional car parking space, if necessary, should any visitor wish to drive. This justification also applies to the commercial car parking deficiency. The commercial tenancy is less than 75sqm and is not considered to generate a large number of employees on the site. The site is located within a Neighbourhood Centre where it is anticipated that any future use would service the day to day needs of the surrounding residents. It is considered that any visitors to the shop would unlikely spend large amounts of time there. Based on the above assessment, the shortfall is considered acceptable in this instance.

Part 3B – Heritage

The subject site is not a heritage item and is not located within a heritage conservation area however the site is in close proximity to Item 158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site to the north. The application was referred to Council's Heritage Advisor who had no objections to the proposal from a heritage point of view relating to the heritage items.

Part 3C – Access and Mobility

The amended proposal continues to provide level entry to the commercial tenancy and to the residential lobby off Swinbourne Street. The proposal does not provide adaptable units or a lift as this is considered onerous and unnecessary in a development that has provided only three units. This is further reiterated in Part 3C.2 of the BBDCP 2013 where developments that have less than 10 units do not require to provide adaptable housing.

Part 3G- Stormwater Management

The amended plans were provided for assessment to Council's Development Engineer. The proposal does not change the stormwater system originally proposed and Council continues to have no issues with the development subject to appropriate conditions imposed in the consent.

Part 3J – Aircraft Noise and OLS

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The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 15-20 ANEF contour. Residential development in these areas is considered acceptable under Table 2.1 of Australian Standard AS2021-2000.

Part 3K – Contamination

Refer to SEPP No. 55 discussion above for further information relating to the suitability of the site.

Part 3L – Landscaping and Tree Management

The proposal provides landscaped planter area along the rear of the site as well as retention of the existing pepper trees that are located on the Swinbourne Street street verge. Discussion with Council's Landscape Team within Major Projects which is overseeing the works to the public domain within the Swinbourne Street Neighbourhood Centre have been carried out with the applicant and this was discussed. Appropriate conditions have been provided relating to the public domain. The application was also referred to Council's Landscape Architect who considered the size of the development and the amount of deep soil provided on the site and found the proposal to be appropriate in regards to landscaping.

Part 3N – Waste Minimisation and Management

The development proposes on-street garbage collection for both the residential and commercial component. As the development proposes less than 20 units, on street garbage collection is acceptable for the residences. With regards to the commercial component, it is required that off-street garbage collection be carried out. This does not comply as the site cannot physically accommodate one space within the garage which will allow for forward entry and exit as well as not obstruct the residential car parking spaces. This was reviewed by Council's Development Engineer and Waste Officer who have concluded that due to the size of the commercial tenancy, the waste that is generated is not considered to be substantial therefore commercial waste collection on street is accepted.

Part 4C – High Density Residential

The subject development is identified as a high density development with residential and commercial proposed. Part 5 of the BBDCP 2013 is more applicable to the development however there are some controls which relate to the site which are not included within Part 5 but rather in Part 4C. This is predominantly around family friendly controls as identified below.

4C.4.1 Dwelling Mix and Layout		
C2 For developments with 10 or more units, the combined total number of one-bedroom dwellings shall not exceed 25% of the total number of dwellings within any single site area in residential zones.	The proposal provides three units therefore this control is not applicable. Regardless, the proposal provides 33% one bedroom units and 67% two bedroom units.	N/A
All 2 and 3 bedroom apartments are to satisfy the family friendly controls.	Similarly to the above, the family friendly controls do not apply in this instance as the number of units is considerably less than 10.	

Part 5 – Business Centre

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The site is located within the Swinbourne Street Neighbourhood Centre. The objectives of the Centre that apply to the site under Part 5.2.2.5 of the BBDCP is as follows:

Objective	Response
O1 To promote a viable and attractive Neighbourhood Centre with an improved and safer public domain	The design is contemporary in nature and provides for an active street frontage along Swinbourne Street.
O2 To ensure that development recognises predominant streetscape qualities (i.e. setbacks & design features);	The proposal provides for a nil boundary street setback which is consistent with the zone however is inconsistent with the number of stories envisaged for the southern side of Swinbourne Street.
O3 To ensure development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character;	The development is not consistent with the number of stories within the desired future character of the area which is two. The proposal provides a maximum of three stories.
O4 To retain existing heritage trees and supplement existing landscaping within the streetscape;	The heritage trees are not to be impacted as part of this proposal.
O5 To allow reasonable redevelopment and to improve the architectural quality of building stock;	The materials and colour scheme proposed for this contemporary building is appropriate and consistent with the materials approved in the surrounding developments.
O6 To retain a coherent streetscape with a consistent street wall and parapet line	Street wall differs from the desired future character and the setbacks and number of stories approved at 1 Trevelyan Street to the east.
O7 To ensure that access driveways do not dominate the streetscape; and	The driveway does not dominate the streetscape.
O8 To ensure that shop top housing provides passive surveillance, resident interaction and addresses the street. To encourage development of awnings as balconies for residential and commercial units above (to improve amenity for unit dwellers and promote passive surveillance of streets).	All balconies front onto Swinbourne Street/Wilson Street and provide passive surveillance.

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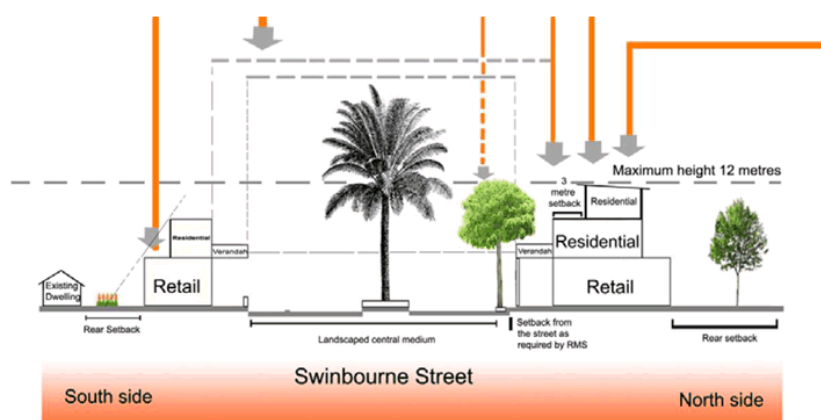


Figure 9. Reproduction of Figure 20 from Part 5 of the BBDP 2013

The following controls apply to the Swinbourne Street Neighbourhood Centre and are as follows:

Control	Proposed	Complies
5.2.2.5 Swinbourne Street Neighbourhood Centre		
C1 Development must provide landscaping, street trees, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figure 20 .	Council's major project department has stated that public domain improvements are to be carried out along Swinbourne Street. The proposal does not seek to provide any seating however seeks to retain street trees and landscaping along the street verge.	Yes
C2 Pedestrian amenity and connectivity must be enhanced in conjunction with new development.	The active street frontage allows for appropriate pedestrianization.	Yes
C3 Redevelopment is encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.	The applicant has sought to reduce the number of units to address significant issues with the development relating to car parking deficiencies and overshadowing. The site does not require site consolidation with adjoining sites as the sites to the south within the R2 zone will continue to be standalone sites.	Yes
C4 The design of development must be generally consistent with the Desired Future Character of the centre identified in Figure 20	The design is inconsistent with the figure which requires developments on the southern side of Swinbourne Street to have a two storey built form.	No – Refer to Note 2 below

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C5 A maximum height of 12 metres applies under BBLEP 2013. Notwithstanding the 12 metre height limit, a maximum height of two stories applies along the street frontage with a third level permitted which is setback from the street frontages and the rear. The setback from the rear is to be determined following a detailed site analysis at development application stage and must satisfy Council that the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access, privacy and visual amenity. Applicants must therefore demonstrate at development application stage that impacts on the residential area are minimised.	The development proposes a height of 11.99 metres which complies with the BBLEP 2013 requirement.	Yes
C6 With redevelopment of the shops, landscape planting must be provided along the rear boundary where a site adjoins a residential property, to provide a visual separation between the shops and the residential area.	The proposal provides a landscaped planter area to a portion of the southern boundary. The development continues to provide a 2.4 metre high wall to provide for privacy of the neighbouring site.	Yes
C7 New development is to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character.	The proposal has been designed to incorporate elements that have been approved in the shop top housing developments on the eastern and northern side of the site. This includes dormer windows and attic style roof form which was approved at 1 Trevelyan Street and similar colour and materials used at 13-17 Swinbourne Street. While the existing streetscape is of single storey shops and dwellings, the emerging character is of a two and three storey form.	Yes
C8 Alterations and additions are to reflect the architectural design of the existing building. Materials and finishes are to be compatible with the existing building.	No alterations and additions are proposed.	N/A
C9 Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building	The proposal provides a three storey corner element on the western corner of the site. Additionally the proposal is of a contemporary nature with box windows, curved edges and balconies facing the street. As stated above, there is an emerging character in the street with the recent approvals of the adjoining sites.	See Note 2 below

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designs provided that development outcomes complement the existing character of the suburb.		
C10 Shop top housing must be provided in any redevelopment of the existing shops.	Shop top housing is proposed.	Yes
C11 The design must improve the residential amenity for the housing above the shops by providing direct access to balconies and private open space; and provide for passive surveillance of the surrounding streets and pedestrian walkways.	The units above ground level are north facing and provide balconies that look onto Swinbourne Street. The corner units also have large windows to provide surveillance onto Wilson Street. All units would receive appropriate sunlight.	Yes
C12 All development must address the street frontage	The proposal addresses both street frontages.	Yes
C13 All designs must provide awnings above the footpath on the Swinbourne Street frontage	The proposal demonstrates a street awning.	Yes
C14 Awnings above the footpath are encouraged as trafficable verandahs for the use of residents on the first floor. If the verandah is built over the street then a lease fee is payable to Council. The fee is set out in Council's Fees and Charges .	No trafficable verandahs are proposed with all private open space provided within the site.	Yes
C16 The design must encourage active street life while providing a high residential amenity and provide for small scale shops that will serve the local community.	The proposal provides a commercial tenancy at ground level and is considered to activate the street frontage.	Yes
C17 A street number for the property is to be clearly identifiable from the street.	Street numbering has been provided.	Yes
C18 Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.	An awning has been provided on the development.	Yes

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C19 Air conditioners must not be installed on street awnings or the front façade of buildings.	The plans do not demonstrate the location of air conditioning units.	N/A	
C20 Development must comply with Council's sustainable development requirements as identified in Part 3H - Sustainable Design .	The proposal provides a 10,000L rainwater tank.	Yes	
C21 Development must comply with Part 3A - Car Parking .	The development proposes five car spaces at ground level.	No – Refer to Note 1 above	
C22 Maintain limited advertisements and business signage to minimise visual impact on the surrounding residential area.	Signage is not proposed as part of this proposal.	N//A	
C23 Restrict signage to the awning fascia, under the awning or behind the shop window at street level	Signage is not proposed as part of this proposal.	N//A	
C24 Development must comply with Part 3D - Signage	Signage is not proposed as part of this proposal.	N/A	
C25 A Stormwater Management System is to be provided in accordance with Part 3G - Stormwater Management .	A below ground OSD in addition to a 10,000L rainwater tank has been proposed within the development.	Yes	
5.3 General Controls			
5.3.1.1 Floor Space Ratio	C2 In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse impacts on adjoining dwellings or the streetscape in terms of loss of privacy, overshadowing, loss of views, visual amenity and increased traffic generation.	The development proposes an FSR of 1.4:1 which complies with the BBLEP 2013. There is overshadowing proposed onto the southern neighbour which is discussed greater below.	See Note 3 below
5.3.1.2 Height	C1 The maximum height of buildings must comply with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	The development proposes a height of 11.99 metres which is compliant with the BBLEP 2013.	Yes
	C2 & C3 In addition to C1, new buildings must also consider and respond to the predominant and characteristic height of buildings within the Centre; and consider the topography and shape of	The proposal provides a three storey corner element which departs from the desired future character which is demonstrated in Figure 20 of Part 5.2.2.5. The figure requires the development to have a two storey built form.	No – See Note 2 below

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	the site. In this regard, the maximum number of storeys must not exceed the maximum number of storeys identified in the relevant character statement for each Business Centre as set out in Part 5.2 - Character Statements for the Business Centres. If the maximum number of storeys is not identified in the Character Precinct, the maximum number of storeys must be consistent with the characteristic building height.		
5.3.1.3 Street Setbacks	C1 Buildings are to be aligned along the street frontage to create a consistent street wall no higher than two storeys. A variation to the two storey street wall height along the street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys. In this instance, the applicant is to submit a written justification to Council for this variation and will be considered by Council on its merits.	The proposal has a nil setback along the streetscape. The proposal has a three storey street wall along the corner.	No- Refer to Note 2 below
5.3.1.4 Side and Rear Setbacks and Building Separation	C1 Where a site adjoins residential development appropriate rear or side setbacks must be provided to ensure that potential impacts on adjoining or surrounding residential properties are minimised in terms of loss of privacy, sunlight and daylight access and visual amenity.	The proposal proposes a setback of 1.5 metres to 4.5 metres along the rear setback, The site adjoins a low density residential zone therefore the bulk of the development does provide overshadowing onto 104 Wilson Street.	No – Refer to Note 3 below
	C2 Development to which SEPP 65 applies are to adhere to the Apartment Design Guide for building separation.	The proposal is not a SEPP 65 development.	N/A
5.3.1.5 Built Form and Streetscape	C2 Building must have a consistent street wall height and provide a continuous street frontage and awning height along the street frontage where appropriate.	The proposal has a three storey street wall height on the corner with the eastern part of the site containing a two storey street wall with dormers for the third floor.	No – Refer to Note 2 below

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5.3.2.1 Design Excellence	C2 The Development Application must identify how design excellence will be achieved in the proposed development.	The proposal was originally presented to the design review panel. The amended plans was not presented to DRP however there has not been a significant change to the development with regard to materiality and built form.	Yes
5.3.2.2 Building Design	C2 All development applications that contain residential development or are adjacent to residential development must provide a design statement addressing privacy and overshadowing of residential dwellings from the business component.	A design statement had originally been provided with the development application.	Yes
	C4 If residential dwellings are proposed as part of a mixed use development, balconies, private open space area and communal open space areas must be screened to address any privacy impacts on adjoining residential properties.	All private open space areas are orientated to the north away from adjoining low density residential properties.	Yes
	C7 A schedule of external finishes and materials must be submitted at development application stage to articulate the building's design complements the Business Centre.	A schedule of colours, finishes and materials has been provided with the development application. The materials and colours shown are consistent with approved developments to the north and east of the site.	Yes
5.3.2.3 Reflectivity	C3 The solar reflectance value of building materials must not exceed 20%.	The proposal does not provide materials that are reflective.	N/A
5.3.2.4 Awnings and Verandahs	C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.	Awnings are proposed along the street frontages.	Yes
5.3.2.5 Public Domain Interface at Ground Level	C1 Development must comply with the Desired Future Character objectives and controls identified in Part 5.2 - Character Statements for the Business Centres.	The proposal does not comply with the desired future character controls in the Swinbourne Street Neighbourhood Centre.	No – Refer to Note 2 below
	C2 Development must be designed so that it has a clearly definable entry and addresses the street.	The residential and commercial entries are clearly definable.	Yes

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	C3 For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.	There is no ground floor private open space areas. All POS are in the form of first floor balconies.	Yes
	C4 The visual and physical connection between the building frontage and the public domain must be considered in all development applications to ensure that the interface at ground level promotes a high level of pedestrian amenity.	This has been considered as part of the proposal.	Yes
5.3.2.6 Active Street Frontages	C1 Development is to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street Frontages under BBLEP 2013.	Active street frontage has been provided along Swinbourne and Wilson Streets.	Yes
5.3.2.8 Interface between Business Zones and Adjoining Landuses	C1 Clear boundaries between the public and private domain must be created to enhance security, privacy and safety.	This has been demonstrated within the plans particularly along Swinbourne Street.	Yes
	C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and 3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable.	Amended shadow diagrams have been provided with the development application. The plans demonstrate overshadowing onto the southern property at 104 Wilson Street.	No – Refer to Note 3 below
5.3.2.9 Landscaped Area	C1 Residential setbacks from streets and parks are to support planting, at a scale that allows passive surveillance of the public domain. This requirement may vary with each block	There is no landscaping proposed along the street frontage however this is acceptable in this case.	Yes

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	C3 Provide a sufficient depth of soil on podium areas in accordance with the Councils Technical Guideline for Landscape in Development Sites.	No podiums are proposed as part of this application.	N/A
5.3.2.10 Private Open Space and Communal Open Space	C1 The primary area of outdoor private open space must not be located at grade on the street frontage.	All private open space areas are located on first floor balconies.	Yes
	C2 Communal open space can be provided at grade or on podiums and roof tops. The space must be appropriately landscaped and provided with a recreational facilities or features, for example BBQ area, seating, children's play area, landscape features or the like and must include pedestrian scale lighting, to be shown in the detailed landscape plan.	There is no communal open space proposed however this is not required in this instance as there are only three units proposed.	Yes
5.3.2.11 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade is to accompany all Development Applications involving building works	A schedule of colours and finishes has been provided with the development application and the colours and materials proposed are acceptable.	Yes
5.3.2.12 Servicing	C1 New commercial or mixed use buildings must provide a loading dock on-site. Where this is not viable loading and unloading may be permitted from to a rear lane or side street subject to Council's engineer approval.	Appropriate conditions have been provided.	Acceptable
5.3.2.14 Access and Mobility	C1 Development must comply with Part 3C – Access and Mobility <ul style="list-style-type: none"> ▪ Residential flat buildings (RFB), conversion of non-residential buildings into RFBs, shop top housing, multi dwelling housing and live/work buildings – Statement of consistency lodged. ▪ In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings 	Refer to Part 3C above.	Yes

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	<p>designed in accordance with Adaptable Housing Australian Standard 4299 Class B. Refer to AS4299 Class B.</p> <ul style="list-style-type: none"> ▪ Appropriate access for all persons through the principal entrance of a building and access to all common facilities. Refer to BCA and AS1428.1. ▪ In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings with a preference for AS4299 designs for at least 80% of the accessible spaces and a maximum of 20% of spaces complying with AS2890.6. 		
5.3.3.1 Acoustic Privacy	C1 Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.	An acoustic report prepared by Acoustic Logic has been provided with the development application and assesses traffic and aircraft noise.	Yes
5.3.3.2 Visual Privacy	<p>C1 In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures:</p> <ul style="list-style-type: none"> (i) Fixed screens of a reasonable density (min 75% block out); (ii) Fixed windows with translucent glazing (providing natural ventilation is not compromised); (iii) Appropriate screen planting or planter boxes. 	The majority of windows are fronting either the western and northern elevations with limited windows proposed along the southern elevation to prevent any direct overlooking of the southern property.	Yes
5.3.3.5 Solar Access & Shadow	<p>C1 Development must demonstrate:</p> <ul style="list-style-type: none"> (i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary 	The application provided a solar study on the impact of the development onto the southern property. The adjoining site will be overshadowed in mid-winter to both the principal living areas and rear yard.	No – Refer to Note 3 below

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	private open space and 50% of windows to habitable rooms; and (ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.		
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Note 2 – Desired Future Character

The site is located within the Swinbourne Street Neighbourhood Centre which is characterised by nine sites that are centralised near intersections and contain, until recently, a number of single storey shops that would cater for the everyday needs of residents.

Part 5.2.2.5 of the BBDCP 2013 provides controls and objectives for this area which have been addressed in the tables above. Figure 20 within this section outlines the desired future character that was envisaged by Council when the BBDCP 2013 was being written. The subject site has been designed to incorporate a two storey street wall with nil street boundary setback and large rear setbacks with a greater setback proposed on the upper level so that an appropriate transition between the business zone and residential zone is provided.

The development proposes a two and three storey built form with the eastern portion of the site containing a two storey built form with a third storey attic bedroom with dormer windows while the western side of the site has a three storey built form. The three storey built form is built to the northern and western boundary however has a setback of 1.5 metres from the southern boundary for its entire height. The two storey plus attic built form has a three metre to 4.5 metre setback with the upper level set in further away from the rear setback.

The proposal was discussed at a pre-DA meeting, particularly relating to the three storey nature of the corner element. Council would consider a slight departure to the desired future character as long as the additional bulk was within the height limit and did not contribute to any adverse impact to the residential amenity of the neighbouring site to the south. The three storey element was proposed to reflect the approved developments and developments under assessment on the northern side of the street. While it is acknowledged that there is a different character envisaged for the development opposite the site, the proposal was designed to encapsulate the materials and colour schemes previously approved. The two storey plus attic portion of the site is consistent with the built form that was approved at 1 Trevelyan Street.

The applicant has provided further amended plans following deferral of the application by the Panel at the 23 July 2019 Panel meeting. The amended plans demonstrate a reduction in the bulk provided on the eastern portion of the development. The proposal originally contained two dormer windows to service 2 x one bedroom units. As one of the units has been removed, the third attic storey, has been halved. This improves the amount of solar that is received onto the neighbouring site. Overshadowing is discussed in greater detail in Note 3 below. The three storey component has not been modified within the amended plans.

As a number of issues have been resolved following amended plans with the exception of overshadowing and visitor and commercial car parking, the proposal is generally consistent with the desired future character and controls contained within the BBDCP 2013. From a visual

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perspective, the proposal is consistent and appropriate for the neighbourhood centre as it aligns with the adjoining approved development.

Note 3 – Overshadowing/Solar Assessment

Part 5.3.3.3- *Solar Access and Shadow* of the BBDCP 2013 requires neighbouring developments to receive at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms.

The site has an east-west orientation therefore any overshadowing would fall onto the south. The applicant has provided aerial shadow diagrams as well as solar study of views from the sun with the amended proposal. In assessing the amended shadow diagrams, it is demonstrated that during mid-winter, the northern elevation of the southern adjoining neighbour would continue to be overshadowed. The rear yard receives greater sunlight in the morning hours than originally proposed and this is due to the reduction in the bulk along the eastern side of the development. The shadow diagrams provided at mid-winter at aerial perspective and from the sun are provided as an attachment to this report.

The applicant provided the following justification for the solar impact onto the southern property, following the amended plans:

“The lowering of the roof ridge of the northern part of the building by approximately 1m has had a corresponding benefit on the rear yard of the neighbouring dwelling at 104 Wilson Street.

The relevant controls for neighbour impact are at Part 5.3.3.3 Solar Access and Shadows of the DCP, provided below:

“Controls

C1 Development must demonstrate:

(i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; “

The amended shadow diagrams provided now include views from the sun. The rear yard of 104 Wilson Street now received sun from 9.00am to approximately 1.30pm during mid-winter. The percentage of back yard receiving sun during this period varies; however substantial solar access is provided to both the rear yard and associated windows to the dwelling for over 4 ½ hours during midwinter which exceeds the requirements of control (2 hours).

The amended DA now provides for a building form that exceeds the solar access requirements for neighbours under the DCP and allows for a building form that reasonably implements the objectives of the site B1 Mixed Use zone.”

A detailed assessment is provided against the Land and Environment Court planning principle on the impact on solar access of neighbours (Parsonage V Ku-ring-gai (2004) NSWLEC 347) and (The Benevolent Society V Waverley Council (2010) NSWLEC 1082) as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

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Comment: The site has an east-west orientation therefore the property to the south will be directly impacted by the proposal. The site falls within the B1 Neighbourhood Centre which allows for a greater height however the site is bound to the rear by the R2 Low Density Residential zone. There is no transitional zone between the two. The site does have the benefit of limiting the maximum building height to 12 metres in which the proposal complies with. The amended plans demonstrate a greater portion of the rear yard will receive sunlight than what was originally proposed.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

Comment: The proposal generally complies with the two storey plus third storey dormer built form demonstrated within the desired future character section of the BBDCP 2013. However the three storey corner element is not strictly compliant with the desired future character. The three storey element will predominantly impact onto the southern neighbour from 11am onwards as any shadow cast from this portion of the development prior to 11am would fall onto Wilson Street. The shadow diagrams that have been provided demonstrate that all the windows along the northern elevation of 104 Wilson Street will be overshadowed in mid-winter. It is key to note that mid-winter is the worst possible circumstance for overshadowing and that any overshadowing onto the site would improve in the spring-equinox and summer months. Unfortunately the site is quite narrow in depth therefore any greater setbacks to the development from the southern boundary are limited.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

Comment: The elevation shadow diagrams demonstrate that at mid-winter, all windows on the northern elevation of 104 Wilson Street will be overshadowed by the proposal. The applicant has provided a solar analysis of the existing shadow, a compliant two storey development and the subject proposal. It is evident that there is no glazed area that will receive sunlight during mid-winter. As also provided with the original plans which have not been provided in the new set of amended plans, the applicant has also demonstrated the impact of the proposal to the existing neighbouring windows during spring equinox. The proposal has not been amended to the three storey portion therefore these shadow diagrams would still apply. The first floor of the neighbouring site will receive a degree of sunlight to these windows. An assessment of the windows along the eastern and western elevation have not been carried out however it is guaranteed that these windows will receive some sunlight in the morning and afternoon hours.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

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Comment: The private open space area of the neighbouring site is located on the eastern side of the site which adjoins the two storey plus attic portion of the development. The amended plans demonstrate that a portion of the rear yard will receive sunlight in mid-winter. This is an improvement to the original plans presented to the Panel as the rear yard was completely overshadowed by the proposal.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: The development proposes a 2.4 metre high boundary fence which would contribute to additional overshadowing to the ground floor windows and rear yard. The wall has been installed to provide greater privacy and protection from noise coming from the carpark. There is no existing vegetation within the subject site or significant vegetation in the adjoining properties rear yard which would create further solar obstruction. If the Panel do not support a wall of that height, a condition to reduce the wall to a maximum height of 1.8 metres could be entertained.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment: It is not considered that the R2 zone to the south be changed and is likely to be retained as low density. The B1 zone is undergoing transition and based off the BBLEP 2013 maps for building height and FSR, these sites have a greater height and FSR control than the neighbouring R2 zone. Therefore it is harder to maintain solar amenity to these neighbouring properties. The applicant has made amendments to their original plans including reducing the number of units proposed on the site.

Considering the above, the proposal has been assessed accordingly in regards to solar amenity and is not acceptable in this instance.

Part 8 – Botany Character Precinct

While Part 8 contains general objectives for the future character of the Botany Area, Part 5 of the BBDCP contained specific controls and objectives for the desired future character of the Swinbourne Street Neighbourhood Centre which has been addressed in detail above.

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

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

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

As outlined in the assessment above, the proposed development will not have significant adverse environmental, social or economic impacts in the locality.

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

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The site is not impacted by aircraft noise, flooding or contamination.

The proposed development is permissible in the zone and satisfies the objectives of the zone. The traffic impacts are not considered to be significant given the scale of the development and no significant planning issues are raised that would warrant the refusal of the proposed development.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a fourteen (14) day period from 3 October to 17 October 2018. Nine (9) objections were received during this period. The amended plans were re-notified for a fourteen (14) day period between 29 April to 13 May 2019. Following deferral of the application by the Panel on 23 July 2019, the application underwent a third round of notification between 13 and 27 September 2019. Nil submissions were received. While there were no issues raised in the last two rounds of objections, consideration of the key issues originally raised from the first round of submissions have been provided below:

- *Visual Privacy and overlooking*

The amended proposal has attempted to limit the location of the windows within the development away from the southern and eastern elevations. The majority of the windows and balconies are located on the northern and western elevations. Adjoining sites are separated by Swinbourne Street and Wilson Street and this is considered sufficient separation from neighbouring development. The location and size of the windows and balconies is considered acceptable and will not create any adverse visual privacy impacts.

- *Adverse impact due to the bulk and scale of the development*

This has been addressed in Note 2 above.

- *Overshadowing*

This has been addressed in Note 3 above.

- *Overdevelopment*

The plans have been modified to reduce the number of units from four to three. The proposal is compliant in height and FSR, meets the objectives of the zones and is consistent with approved development along the northern side of Swinbourne Street. It is not considered that the development, in its amended form, is an overdevelopment of the site.

- *Not in character with the area*

This is addressed in Note 2 above.

- *Unnecessary commercial premises*

The proposal has provided a commercial tenancy as the site is subject to an active street frontage control which provides Swinbourne Street with activation. The development complies

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with the relevant clauses in the BBLEP 2013. The viability of the commercial tenancy is outside the scope of assessment of this application.

- *Traffic danger due to visual obstruction*

This has been amended in the most recent plans. All vehicles will be entering and exiting the site in a forward direction. Safety has been improved for pedestrians.

- *Departure in car parking and increased traffic to the area*

This is addressed in Note 1 above.

- *Lack of landscaping*

It is considered the amount of landscaping provided is acceptable as discussed in the report above.

- *Inconsistent building height*

The building height is less than the maximum building height of 12 metres. While the proposal is higher than the surrounding development to the south, these sites are located within an R2 Low Density Residential zone where the height limit is infinitely less. The desired future character of the site is discussed in Note 2 above.

- *Site too small*

It is acknowledged that the site is narrow in depth however the applicant has amended their plans to reduce the amount of units and gross floor area to comply and reduce the impact on the surrounding development. Any non-compliances have been addressed in the report above.

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

It is considered that granting approval to the proposed development will not have significant adverse impact on the public interest.

Section 7.11 Contributions

The Section 7.11 Contributions, as calculated within the Former City of Botany Bay Section 7.11 Contribution Plan 2016, for the proposed development are calculated as follows:

The construction of a 3 storey shop top housing development containing a total of 3 dwellings and one commercial tenancy at 74.65sqm:

Residential

PROPOSED	Proposed	Contribution per dwelling	Total payable
1 bed	1	\$20,000.00	\$20,000.00

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2 bed	2	\$20,000.00	\$40,000.00
TOTAL	3		\$60,000.00

Commercial

As the proposal lies outside of the Mascot Station Precinct, no contributions are payable for commercial development under the *Section 7.11 Development Contributions Plan 2016*. Contributions for commercial development in this location would be calculated under the *Section 7.12 Development Contributions Plan 2016* plan. However, only one of the plans can be applied to any given application. The contribution under the Section 7.12 plans would be significantly less than that available under the Section 7.11 plan, and it is therefore appropriate to require payment in accordance with the plan requiring the highest contribution.

Therefore the total contribution payable for the proposal is **\$60,000.00**. A breakdown of the figure is provided in the condition of consent.

Conclusion

Development Application No. 2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising three (3) residential units, one commercial tenancy and five (5) car parking spaces at 106 Wilson Street, Botany, has been assessed against the requirements of the *Environmental Planning and Assessment Act 1979*.

The assessment of the proposal has taken into consideration the proposed bulk and scale, character of the street, car parking, overshadowing, visual privacy concerns as well as the numerous issues that were raised by objectors during notification. The report has assessed the proposal and has concluded that the proposed development has been adequately addressed. An amended BASIX Certificate remains outstanding and is to be provided prior to the issue of an operational consent.

The proposal is consistent with the objectives of the BBLEP 2013 particularly relating to zoning, height and FSR. The development is considered suitable for the site and is recommended for deferred commencement subject to the deferred commencement condition and the subsequent conditions of consent attached to the report.

Attachment

Schedule 1 – Conditions of Consent

Premises: 106 Wilson Street, Botany

DA No.: DA-2018/1172

SCHEDULE OF CONSENT CONDITIONS

DEFERRED COMMENCEMENT CONDITIONS

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The Consent given does not operate until the following condition is satisfied:

DC1 The developer is required to provide an amended BASIX Certificate to Council for approval to reflect the amended proposal. The period of the "Deferred Commencement" consent is to be limited to 6 months.

Note: that once the "deferred commencement" condition is satisfied, that certain draft conditions may need to change when the amended drawings required by the "deferred commencement" conditions are submitted.

GENERAL CONDITIONS

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

Plans	Author	Dated / Received by Council
DA-000- Title Page	SRH Bureau	Received 5 September 2019
DA-001- Site Analysis Plan		Received 5 September 2019
DA-002- Site Plan- Rev 3		Dated 10 September 2019; Received 5 September 2019
DA-003- Public Domain Plan- Rev 1		Dated 14 August 2019; Received 5 September 2019
DA-101- Ground Floor Plan- Rev 4		Dated 5 November 2019; Received 18 November 2019
DA-102- First Floor Plan- Rev 4		Dated 14 August 2019; Received 5 September 2019
DA-103- Second Floor Plan- Rev 4		Dated 14 August 2019; Received 5 September 2019
DA-104- Roof Plan- Rev 4		Dated 14 August 2019; Received 5 September 2019
DA-201- Elevations- Rev 4		Dated 14 August 2019; Received 5 September 2019
DA-202- Elevations- Rev 4		Dated 14 August 2019; Received 5 September 2019
DA-301- Sections- Rev 4		Dated 14 August 2019; Received 5 September 2019
DA-302- Sections- Rev 4		Dated 14 August 2019; Received 5 September 2019
DA-501- FSR Calculations		Dated 14 August 2019; Received 5 September 2019

Reference Document(s)	Author	Dated / Received by Council
Amended Design Report	Dickson Rothschild	Dated 27 August 2019; Received 5 September 2019
Stormwater Plans, Erosion and Sediment Control Plan and Notes- Rev B	ING Consulting Engineers Pty Ltd	Dated 29 January 2019; Received 6 March 2019
Addendum to Traffic Report	TEF Consulting	Dated 8 February 2019; Received 6 March 2019
Access Report	Accessible Public Domain	Dated 3 July 2018; Received 17 September 2018

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Acoustic Report	Acoustic Logic	Dated 12 September 2018; Received 17 September 2018
BASIX No, 941309M	Sustainability- Z Pty Ltd	Dated 4 July 2018; Received 17 September 2018
SEPP 65 Design Verification Statement	SRH Bureau	Dated 4 July 2018; Received 17 September 2018
Statement of Environmental Effects	BBC Consulting	Dated 4 July 2018; Received 17 September 2018
Traffic Report	TEF Consulting	Dated 27 June 2018; Received 17 September 2018
Waste Management Plan	Prepared by SRH Bureau	Received 17 September 2018

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

- 2 This Consent relates to land in Lot 25 Sec 1 DP 1742, as such, building works must not encroach on to adjoining lands or the adjoining public place.
- 3 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 persons intention to commence the erection of the building.
- 4 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 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 each relevant BASIX Certificate for each building in the development are fulfilled.
 - a) 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

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- ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- iii) BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY WORKS

- 6 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.
- 7 Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: - *(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)*
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit to install temporary ground anchors in public land,
 - d) Permit to discharge ground water to Council's stormwater drainage system,
 - e) Permit for roads and footways occupancy (long term/ short term),
 - f) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - g) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - h) Permit to place skip/waste bin on footpath and/or nature strip, and
 - i) Permit to use any part of Council's road reserve or other Council lands.
 - j) Permit to stand mobile cranes and/or other major plant on public roads and all road reserve area. It should be noted that the issue of such permits may involve approval from RMS and NSW Police. In some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

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- 8 A Traffic Management Plan shall be included as part of the Roads Act Approval for road and drainage works to be carried out within public road reserves in strict compliance with the requirements of current Australian Standard 1742.3 (Traffic Control Devices for Works on Roads) and current RMS Traffic Control at Work Sites manual. Any persons preparing such traffic control layout plans shall be RMS accredited.
- 9 Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 10 If an excavation associated with the proposal extends below the level of the base of the footings of a building and/or structure and/or road 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 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.
- 11 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

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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.

- 12 Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - (1) to a public sewer; or
 - (2) if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - (3) if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 13 This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 14 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

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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. A copy of any written direction required by this condition must be provided to the Principal Certifier 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.

- 15 Prior to the commencement of any works, 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.
- 16 An Erosion and Sediment Control Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.
- 17 Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
- 18 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.

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- 19 In the public domain along the northern side boundary is located Two (2) street tree's, both *Shinus molle* (Peppercorn Tree) which are to be retained and protected with a TPZ.
- 20 Prior to commencing demolition/any works on site, in order to ensure that the *Shinus molle* (Peppercorn Tree) is protected during demolition and construction, and the health and structural stability ensured a Tree Protection Zone shall be established as follows.
- Fencing shall be erected to ensure that the public footway is unobstructed. If there is insufficient space to erect fencing, then the trees are to be physically protected by wrapping the trunk with hessian or carpet underlay to a height of 2.5 meters or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
 - Prior to the commencement of any work the applicant is to submit payment for a Tree Preservation Bond of \$5,000.00 to ensure protection of Council's street trees.
 - Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's.

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

- 21 Prior to the issue of any Construction Certificate, amended plans are to be provided and approved by Council relocating the air conditioning units from the rooftop to elsewhere on the site. Any air conditioning units that breach the maximum building height applicable on the site is not supported.
- 22 Prior to the issue of any Construction Certificate, the following fees are to be paid:-
- | | | |
|----|----------------------------|-------------------------|
| a) | Development Control | \$3,174.00 |
| b) | Section 7.11 Contributions | \$60,000.00 (See below) |
| c) | Footpath Crossing Deposit | \$16,764.00 |
- 23 Prior to the issue of any Construction Certificate, the payment of a monetary contribution of **\$60,000.00** in accordance with Council's Section 7.11 Contributions Plan 2016 which is broken down as follows:
- | | | |
|----|-----------------------|-------------|
| a) | Community Facilities | \$4,911.48 |
| b) | Recreation Facilities | \$50,672.50 |
| c) | Transport Management | \$3,979.15 |
| d) | Administration | \$436.87 |

Note: The Section 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time. The Section 7.11 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

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- 24 Prior to the issue of any Construction Certificate, the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
- 25 Prior to the issue of any Construction Certificate, the applicant shall lodge a Footpath Crossing Deposit of **\$16,764.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
- 26 Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
- 27 Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall be designed to conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.
- As part of this development, a new concrete driveway shall be constructed. A new five and a half (5.5) metre wide driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter. All redundant vehicular crossings shall be removed and replaced with public domain improvements.
- 28 Prior to the issue of any Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to the Principal Accredited Certifier for assessment and approval. Design certification and drainage design calculations are to be submitted with the plans. Botany Bay DCP Part 10— Stormwater Management Technical Guidelines (SMTG) sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the site, including the final discharge/end connection point, must comply with Botany Bay DCP Part 10 — Stormwater Management Technical Guidelines. All drawings shall correspond with the approved architectural plans.

The detailed design plans must incorporate, but not be limited to, the following:

- a) The On-Site Detention System (OSD) must be designed according to Part 6 of the SMTG. It should be noted that OSD systems must be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) must be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition (note: a volume offset is available for the OSD system

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- with the provision of rainwater tanks as per section 4 of the technical guidelines), and
- b) In accordance with Botany Bay DCP SMTG section 4, a minimum capacity 10000L of Rainwater Tank(s) shall be provided for the site. The rainwater tank(s) must be connected to all toilets, the cold water tap that supplies each clothes washer in the development and any outdoor irrigation/taps within the development. In order to reduce pollutants entering the tank, a first flush device to divert minimum 1mm initial runoff from the roof area bypassing the tank shall be provided. Overflow from the rainwater tank shall be directed to the site drainage system, and
 - c) Incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG, and
 - d) The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site, and
 - e) A WSUD Strategy and MUSIC model must be prepared and submitted for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
 - f) Detailed calculations including computer modelling supporting the proposal.
- 29 To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant must:
- 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.
 - c) The Ausgrid lighting poles will need to be decommissioned and new lighting poles must be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
 - d) All above ground utilities must be relocated underground in accordance with Ausgrid and any other affected and relevant service provider, and
 - e) All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate.

All low voltage street mains in the street/s adjacent to the development must be placed underground. This shall include any associated services and the installation of

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underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to the issue of the Construction Certificate.

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

- 30 Prior to issue of the Construction Certificate, details of the approved street awning, including plans and sections, must be provided to the Principal Accredited Certifier for assessment and approval. The awning shall be consistent with the approved development application plans.

The details must include:

- a) A minimum setback of 600mm from the face of the kerb, minimum Fascia height 600mm, minimum soffit height 3.3m for sloping sites maximum step of 900mm. The awnings must be entirely self-supporting; posts are not permitted, and
- b) All stormwater is to be collected and connected to the street gutter. In this regard awning downpipes for drainage are to be fully concealed within or recessed into the ground floor frontage of the building. Awning gutters are to be constructed so that they are not visible from the footpath or are integral to the awning structure, and
- c) The design and certification by a Structural Engineer for Roof Category R1 in accordance with AS/NZS 1170.1: 2002, AS/NZS 1170.0: 2002, and AS/NZS 1170.3: 2011. The design must incorporate all loads including dead loads, live loads, wind load (lateral, uplift, and downward pressure), and potential impact load, and
- d) If the awning(s) is to be built over an exit that would be utilised in an emergency it must be constructed of non-combustible material, and
- e) Lighting is required and must comply with AS/NZS 1158.3.1: 2005 and AS/NZS 1158.0: 2005. Lighting must be recessed into the awning and be integral to its structure with all wiring and conduits concealed, and
- f) The design shall include cut outs (if necessary) to accommodate the new street trees along Swinbourne Street as in the approved public domain plans. Approximate dimensions shall be 3 meters wide by 1.8 meters deep from face of kerb or as specified by the landscape architect.

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.

- 31 A Public Domain Frontage Design must be prepared by suitably qualified professionals for assessment and approval by Council's Public Domain Team and Major Projects Team for all frontage works that are required to be constructed within the public domain and which are subject to approval pursuant to Section 138 of the Roads Act 1993. All frontage works shall be in accordance with Council technical manuals, master plans,

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town centre plans, Australian standards and standard design drawings and specifications.

Public domain frontage works shall include, but not be limited to, civil, drainage, landscaping, undergrounding of services, lighting, traffic signage, line marking, parking and traffic devices.

A 'public domain frontage works application' must be submitted to Bayside Council's Customer Service Centre for assessment of all required works within the road reserve, upon payment of the relevant fee, prior to the issue of any Construction Certificate.

Note: Preliminary consultation with Council's public domain team is recommended.

- 32 Prior to the issue of a Construction Certificate, the applicant shall submit a Frontage Works Application. Public domain landscape improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting along Botany Road, footpath paving (segmental/other), street tree pit treatments and tree guards, street furniture, in ground landscaping, irrigation, lighting. The Plan shall be in accordance with Council's City Identity Program, Landscape DCP and any other Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements. Contact Council's Landscape Architect for further details of specific requirements in preparation of the plan. Street tree planting along Botany Road shall be supplied and planted at advanced form, minimum container size shall be 200 litres.
- 33 Prior to the issue of any Construction Certificate, a Construction Management Program must be submitted to, assessed and approved by the Principal Accredited Certifier prior to the issue of any Construction Certificate. The program must 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,

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- 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 and the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.
 - k) The location of any Construction Work Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
 - l) Obtain Permits required under this consent.
- 34 Prior to the issue of any Construction Certificate, a detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the Principal Certifier for approval. The plan shall:
- a) be prepared by a RMS accredited consultant,
 - b) nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - c) if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.
- Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.*
- 35 Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
- 36 All balconies shall have a water supply tap and a gas connection where gas is available. These shall be indicated on the plans prior to the issue of the construction certificate.
- 37 The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council or PCA approval.

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- 38 Prior to the issue of any Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
- 39 Details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. The report must:
- a) identify each item of plant and equipment;
 - b) the following additional criteria adopted by Bayside Council:
 - i) The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds L_{Aeq} 50dB(A) day time and L_{Aeq} 40 dB(A) night time.
 - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds L_{Aeq} 65dB(A) day time/night time.
 - iv) For assessment purposes, the above L_{Aeq} sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- Note** "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- 40 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, the Principal Certifying Authority and Principal Certifying Authority must:
- a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

- 41 Prior to the issue of the relevant Construction Certificate, details on the mechanical plant and equipment to be submitted to the Principal Certifying Authority. The report must:
- a) identify each item of plant and equipment;
 - b) the following additional criteria adopted by Bayside Council:
 - i) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - ii) The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - iii) The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - iv) 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.
- Note "sensitive" positions should be selected to reflect the typical use of a property (i.e. any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- 42 Prior to the issue of the relevant Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority. The garbage and recycling storage area shall be adequately ventilated, roofed and screened from public view. The floor shall be made of an impervious surface, drained to sewer and include a dry arrestor pit with a removable basket. Washing facilities shall be provided within close proximity to the garbage and recycling storage area.
- 43 Prior to the issue of the relevant Construction Certificate, any electrical kiosk, fire booster assembly or similar utilities must be located in an unobtrusive location away from vehicle and pedestrian entrances to the property and not within the landscaped street setback. The utilities must be screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by the Principal Certifying Authority prior to their installation.
- 44 Design certification, prepared by a suitably qualified engineer shall be submitted to Principal Certifying Authority certifying the car parking area shown on the construction plans has been designed in accordance with AS 2890.1, AS2890.2, and AS2890.6.
- 45 A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system

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shall be submitted to Principal Certifying Authority and its location and specifications endorsed on the construction drawings.

- 46 Prior to the issue of the relevant Construction Certificate, an application for Property Address Allocation and associated fee is required to be submitted to Council. Determination of address numbers are 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/0007/199411/2018_NSW_Address_ing_User_Manual.pdf

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 Council for addressing approval prior to registration of the subdivision plan.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS

- 47 If the work involved in the construction of a building:
- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
 - b) involves the enclosure of a public place:
 - i) a hoarding or fence must be erected between the work site and the public place.
 - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.
 - c) Suitable consent shall be obtained from Council prior to the erection of any hoarding at the property.
- 48 Construction operations shall comply with the following:
- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.

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- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- 49 The Applicant shall conduct all demolition, construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 50 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,
- 51 The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
- 52 During Demolition, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
- 53 During demolition, excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

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- 54 During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.
- 55 The development is to be constructed to meet the following construction noise requirements:
 - 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 exceed the background level by more than 10dB(A).
 - ii) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - 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 exceed the background level by more than 10 dB(A).
 - c) Time Restrictions
 - i) Monday to Friday 07:00am to 05:00pm;
 - ii) Saturday 08:00am to 01:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.
- 56 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Soil and Water Management Plan if required under this consent;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
- 57 All contractors shall comply with the following during all stages of demolition and construction:
 - a) A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

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- b) A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - c) A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - d) A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - e) A 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.
- 58 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, 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.
- 59 Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
- 60 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.
- 61 Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) SafeWork NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.

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- 62 For any water from site dewatering to be permitted to go to the stormwater system, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge to council's stormwater shall be provided in this report. Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.
- 63 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 councils stormwater system a permit to discharge to the stormwater shall be obtained from Council. Dewatering shall not commence until this is issued by Council.
- 64 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.
- 65 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.
- 66 The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Erosion and Sediment Control Plan;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
- 67 Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

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

- 68 All applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.

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- 69 Prior to the issue of the relevant Occupation Certificate, the floor surface of the entry, dining room and kitchen floor and internal storage areas are to be water-resist for all two bedroom apartments.
- 70 A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
- 71 Evidence of a Sydney Water permit or consent for discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority prior to use or occupation of the premises. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.
- 72 Prior to the issue of an Occupation Certificate, the underground placement of all low and/or high voltage street electrical mains in the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, must be carried out at the applicant's expense, to the satisfaction of the asset owner. The works shall be completed in accordance with Ausgrid's requirements and approved electrical design.
- 73 Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
 - a) On Wilson Street and Swinbourne Street, adjacent to development, remove redundant driveway crossovers and replace with required tree planting and public domain improvements as specified by Council as per any public domain masterplans and Council's Infrastructure Specifications, and
 - b) On Wilson Street and Swinbourne Street, adjacent to development, construct new Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications and precinct public domain plans, and
 - c) On Wilson Street and Swinbourne Street, adjacent to development, demolish existing footpath and construct new footpath as per Council's Infrastructure, Landscape Architect specifications and public domain plans, and
 - d) On Wilson Street and Swinbourne Street, adjacent to development, where necessary reconstruct road asphalt and road pavement to suit new public domain design.
- 74 The public footpaths on Swinbourne Street and Wilson Street shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
- 75 All 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 a prominent place near the primary vehicular entrance to the site, approved by the principal certifier,

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stating the following: "All vehicles shall enter and exit the site in a forward direction at all times".

- 76 The condition to be inserted under the heading of prior to Issue of the relevant Occupation Certificate is to read:
- i) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
 - ii) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.
 - iii) Where a building is to be Strata Subdivided, a condition should be placed in the by-laws advising residents that they are not eligible to participate in on-street resident parking schemes.
- 77 Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
- 78 Prior to the issue of any Occupation Certificate, documentation from suitably qualified engineer must be submitted to the Principal Accredited Certifier certifying that the vehicle access and off street parking facilities have been constructed in accordance with the approved construction plans, AS/NZS 2890.1:2004, line marked, all signage relating to car parking erected and that the car parking area is clearly and appropriately marked/signposted indicating all the vehicular movements on the site.
- 79 Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
- 80 Prior to the issue of any Occupation Certificate, a registered plumber's certification that the Rainwater Re-use system has been fitted with proprietary first flush device and connected for non-potable uses including toilet flushing, laundry and landscape irrigations must be provided. All works completed shall comply with the current plumbing requirements of Sydney Water and Committee on Uniformity of Plumbing and Drainage Regulations of NSW.
- 81 Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

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- a) Restriction on Use of Land and positive covenant for On-Site Detention System. Refer to Appendix B of the Stormwater Management Technical Guidelines for suggested wording.
 - b) Restriction on Use of Land and positive covenant for Stormwater Quality Improvement Device. Refer to Appendix B of the Stormwater Management Technical Guidelines for suggested wording.
- 82 Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
- 83 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.
- 84 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 > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
- 85 Prior to the issue of the relevant Occupation Certificate, 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.
- 86 Prior to the issue of the Final Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.
- 87 Street numbers shall be clearly displayed with such numbers being of contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council for approval in accordance with the NSW Addressing Policy prior to the issue of the Occupation Certificate. Application fees apply.
- 88 Prior issue of an Occupation Certificate the Council footpath in front of the property is to be suitably repaired and made good after completion of construction works to Council specification and at the Applicant's expense. If existing pavers are damaged, subject to Council inspection and instruction, the Applicant is to source and purchase new pavers to match existing pavers in the street. If a significant number of new pavers are required Council may require that the entire frontage be replaced to allow for a uniform appearance. The footpath shall be maintained in a clean and tidy state at all times by the occupiers. Maintenance includes the removal of weeds and rubbish and periodic cleaning.

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- 89 At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to Bayside Council prior to the Issue of an Occupation Certificate.

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

- 90 The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines. The water from the rainwater tank should not be used for drinking, the rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed. Solids shall be disposed to the waste disposal and de-sludged liquid shall be disposed to the sewer.
- 91 Ongoing maintenance of the road verges and footpaths on Wilson Street and Swinbourne Street shall be undertaken by the owner/body corporate/Strata Corporation. Maintenance includes mowing, watering and maintaining the landscaping in these areas at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees at any time.
- 92 Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.
- 93 No roller shutters are to be installed to any of the commercial shopfront that fronts Swinbourne Street and Wilson Street.
- 94 Should the external fabric of the building(s), walls to landscaped areas and like constructions be subject to graffiti or similar vandalism, then within seven (7) days of this occurrence, the graffiti must be removed and the affected surface(s) returned to a condition it was in before defilement.
- 95 The use of the retail tenancy is subject to a separate approval (DA or complying development certificate).
- 96 No garbage collection associated with the retail premises is permitted between 10pm and 6am.
- 97
- a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;

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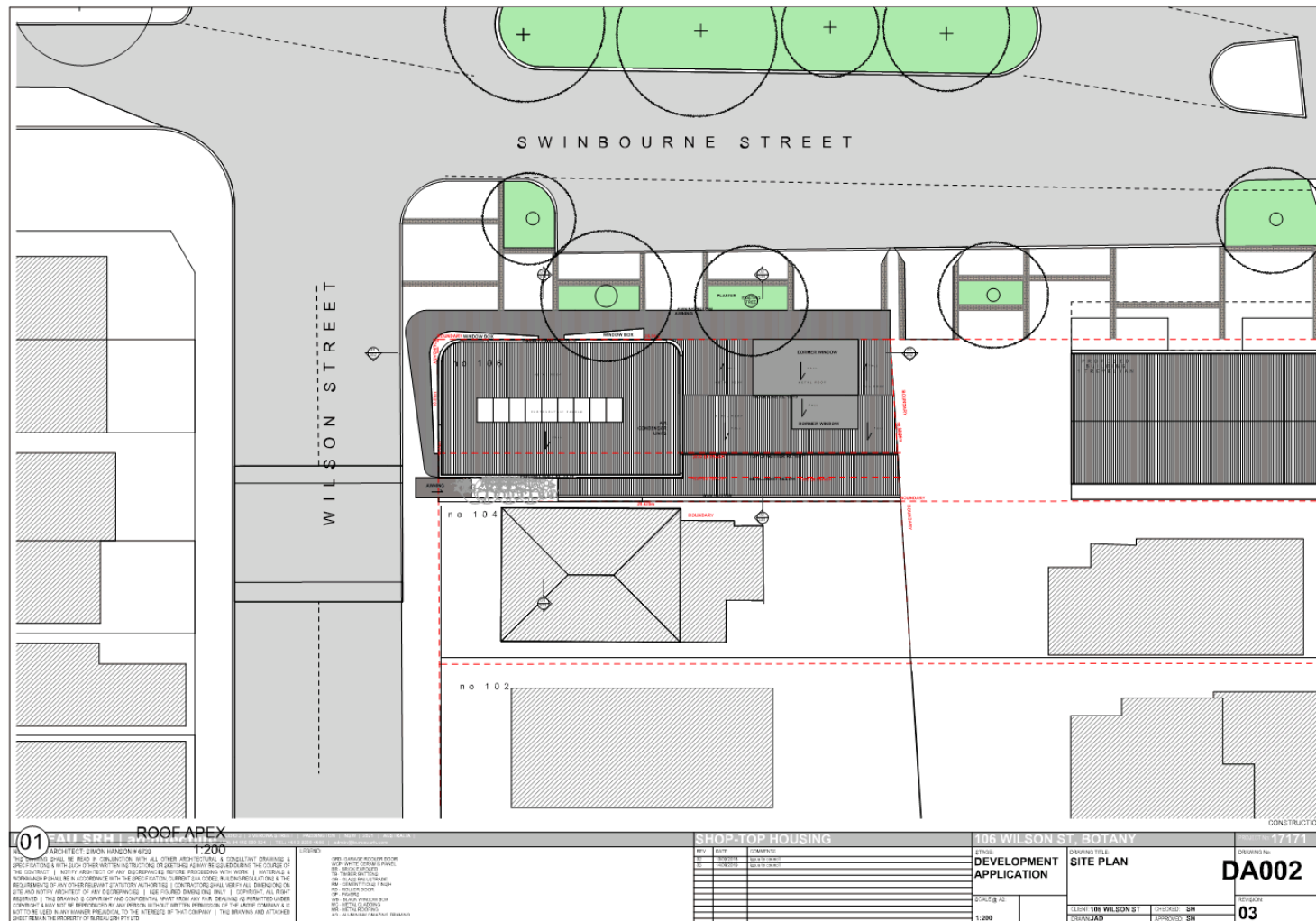
Bayside Planning Panel 10/12/2019

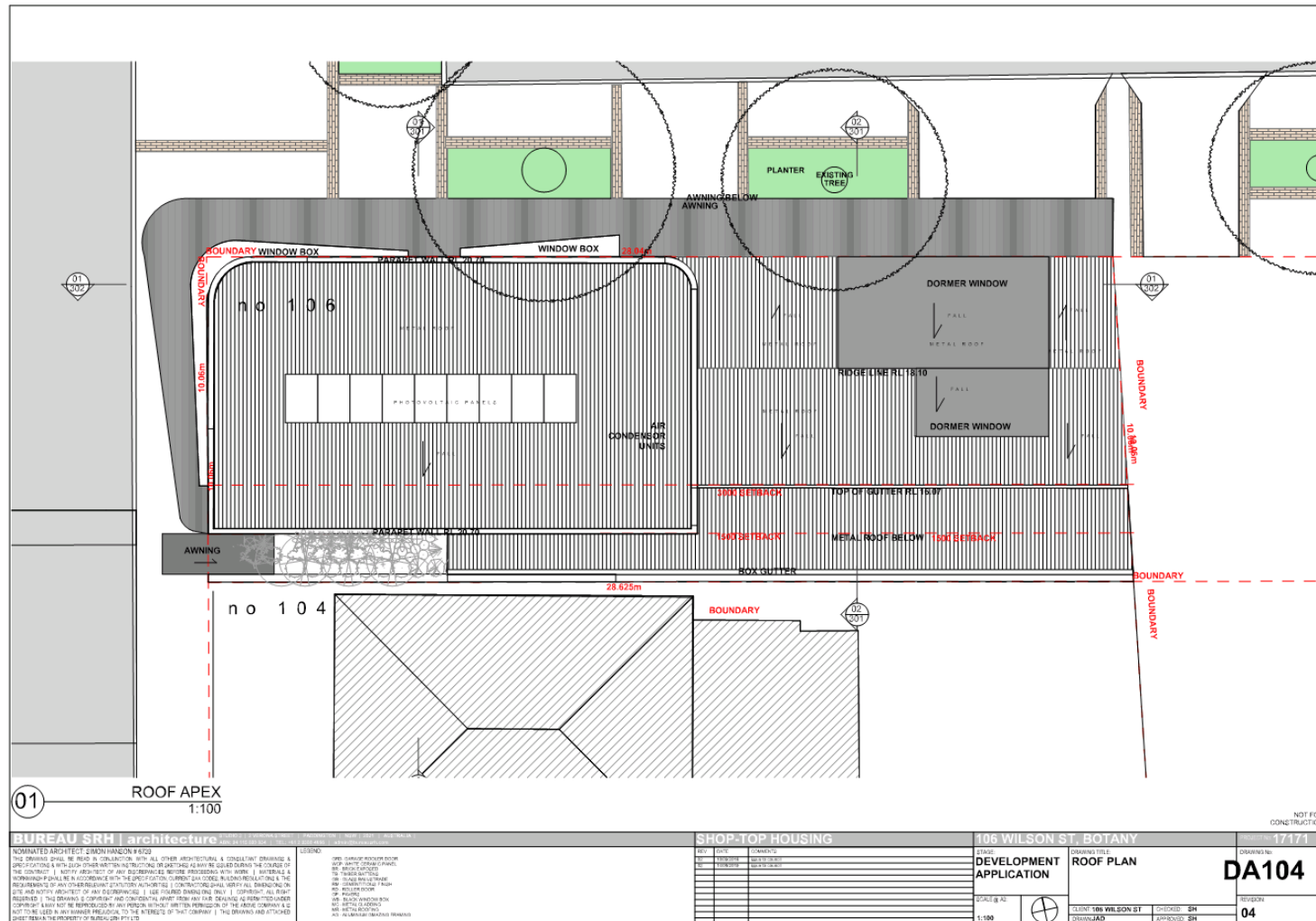
- 98 The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
- a) permit stormwater to be temporarily detained by the system;
 - b) keep the system clean and free of silt, rubbish 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 proprietor's 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.
- 99 The existing and future owners (Registered Proprietor) of the property will be responsible for the efficient operation and maintenance of the pump system. The Registered Proprietor will:
- a) permit stormwater to be temporarily detained and pumped 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 proprietor's expense;
 - e) not make 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 requirement 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.
- 100 All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems.*

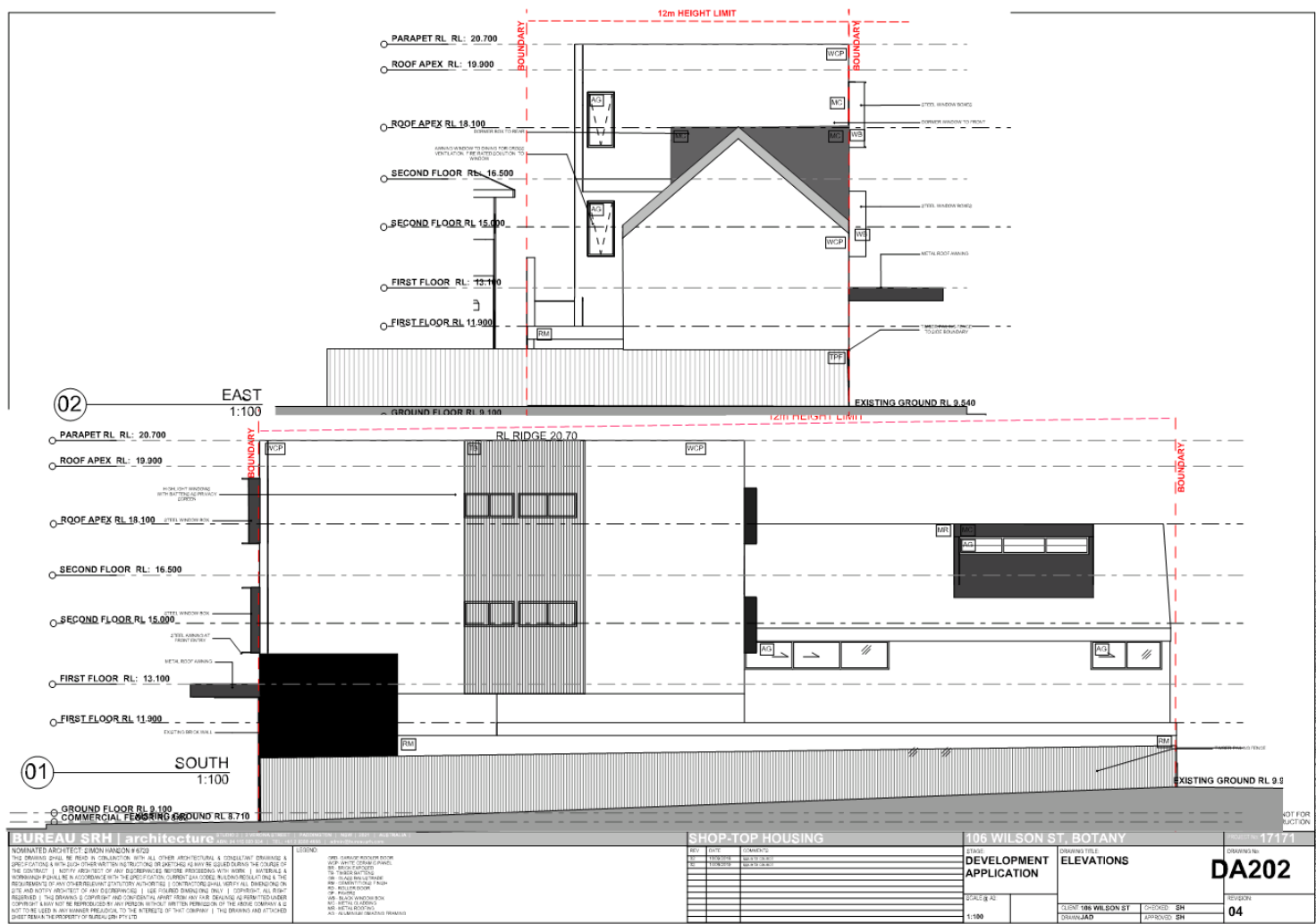
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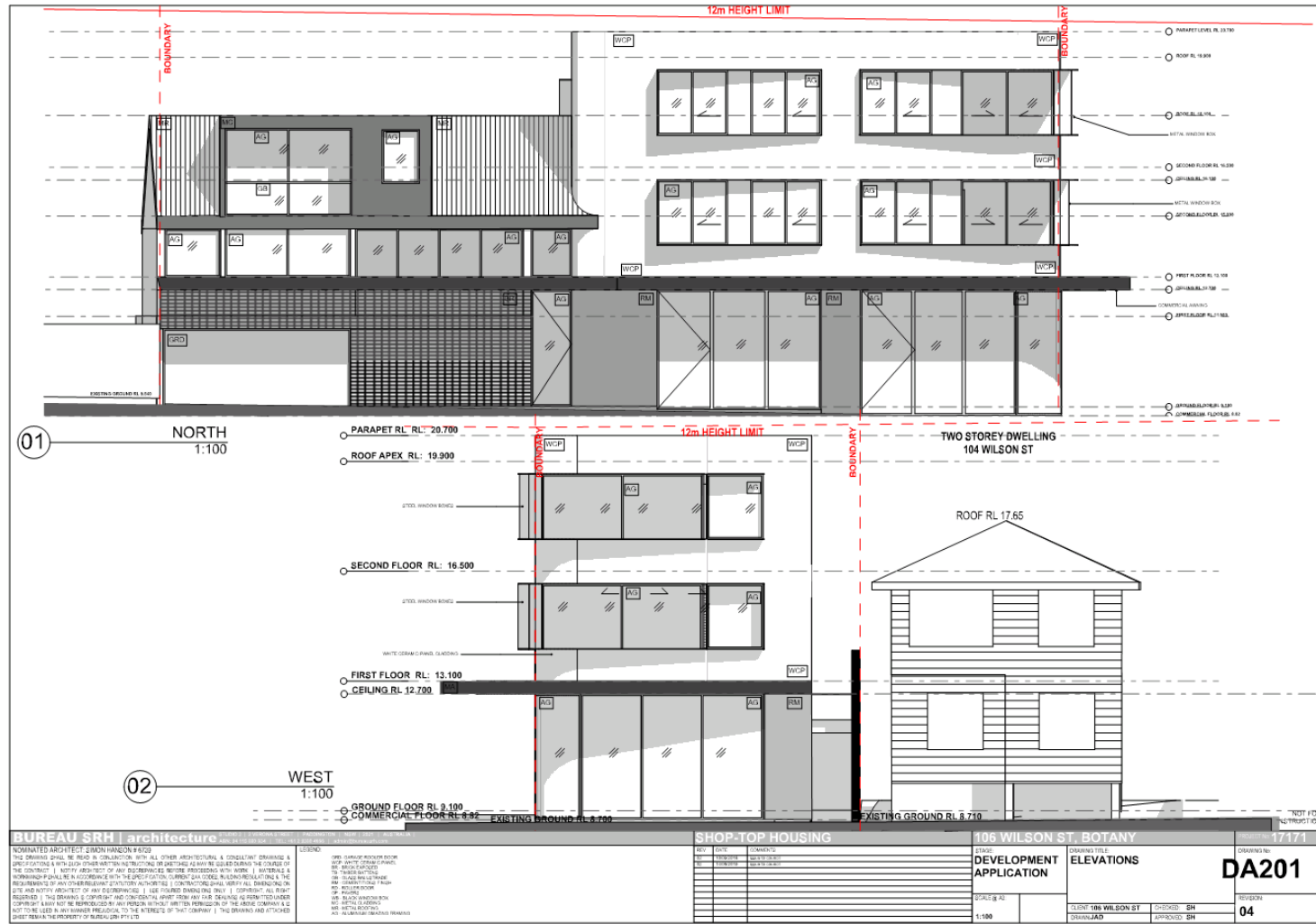
- 101 A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
- 102 The use of the premises shall not give rise to any of the following when measured or assessed at "sensitive" positions within any other property. These "sensitive" positions should be selected to reflect the typical use of a property (ie any outdoor areas for day and evening but closer to the façade at night time), unless other positions can be shown to be more relevant.
- The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
- For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

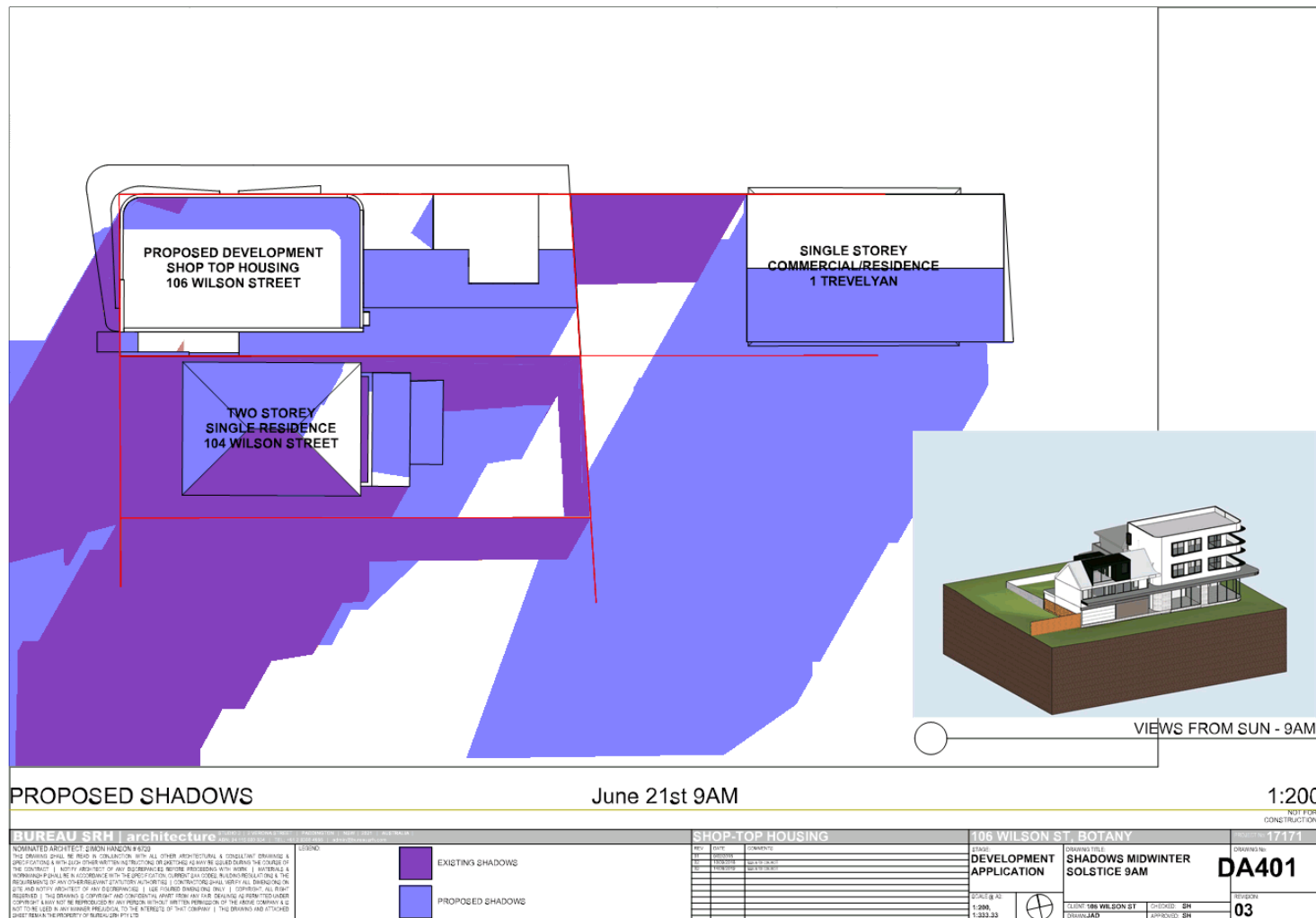










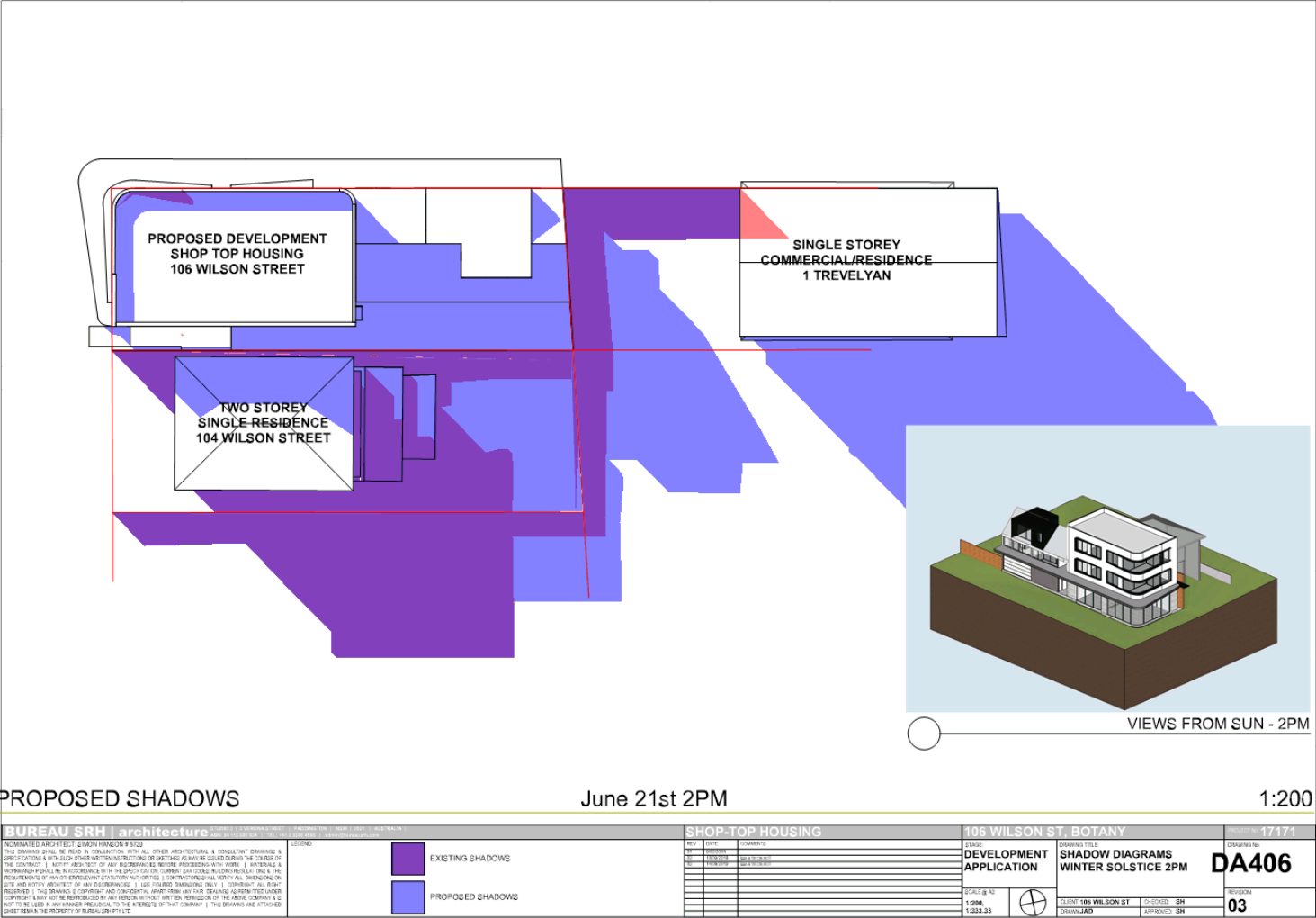


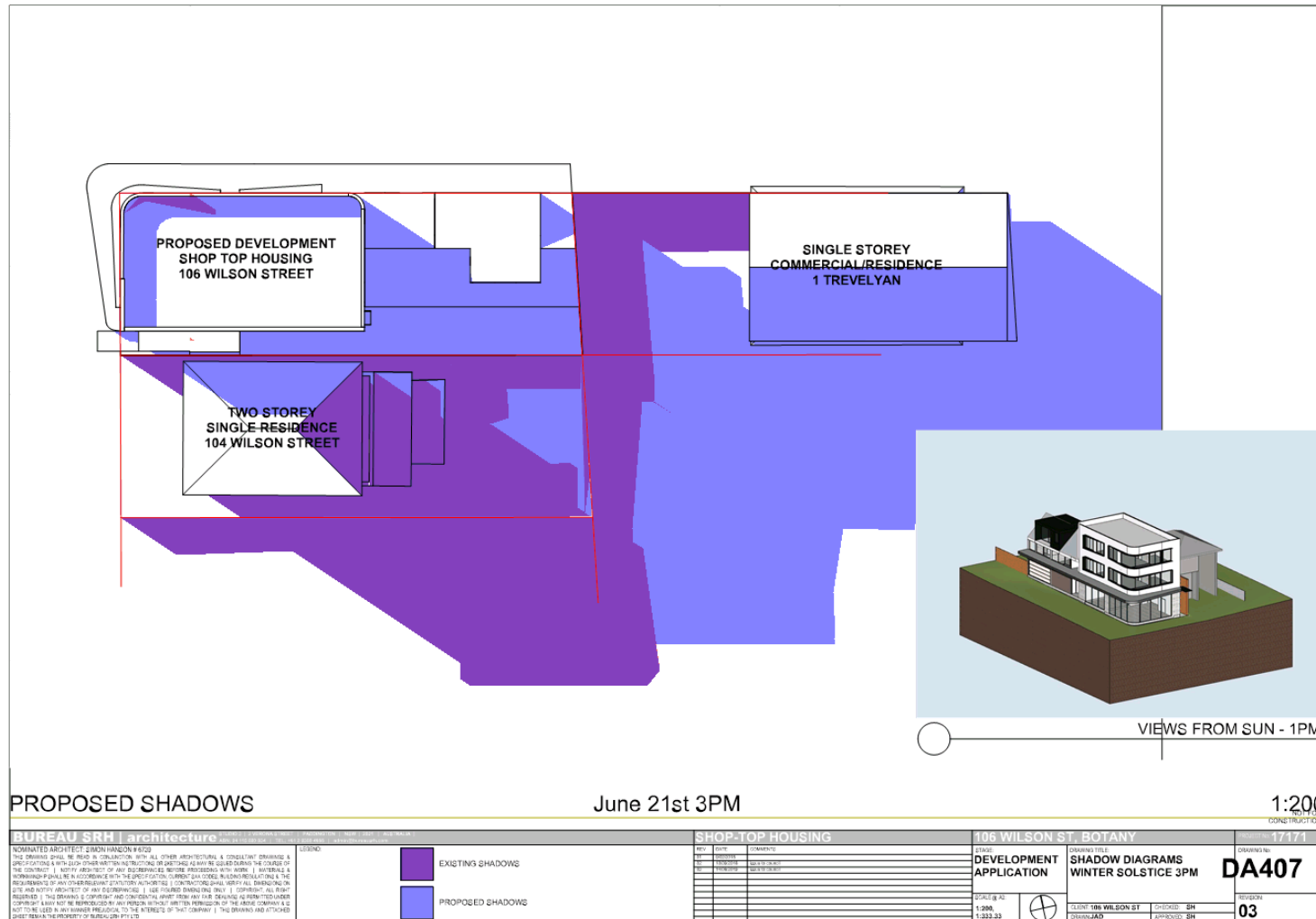














27 August 2019

The General Manager
Bayside Council
PO Box 21, Rockdale NSW 2216

council@bayside.nsw.gov.au

Attention: Angela Lazaridis - Senior Development Assessment Planner

Dear Ms Lazaridis,

RE: AMENDED DEVELOPMENT APPLICATION (DA)
DA 010.2018.00001172.001
106 WILSON STREET BOTANY

1. INTRODUCTION

Please find attached an amended development application (DA) lodged pursuant of Clause 55 of the Environmental Planning and Assessment Regulation 2000 (the Regulations).

The amended DA is in response to the Bayside Local Planning Panel's deferral of this DA at its meeting of 23 July 2019. The Panel's determination was:

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

Determination

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

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

Reason for the Panel's Determination

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

After the Panel meeting, a meeting was held with Karin Targa (Council's Major Projects Director), Julie Gee (Council's Urban Designer) and the applicant's planner (Philip Bull) on the 29 July 2019 where

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D.R. Design (NSW) Pty Limited ABN 35 134 237 540
65-69 Kent Street www.dicksonrothschild.com.au
Millers Point, NSW 2000 Australia +61 2 8540 8720
Nominated Architects: Robert Nigel Dickson (5364)
Fergus William Cumming (7233)

Amended DA Submission
 Property: 106 Wilson Street Botany
 Project No.: 18-079.2
 Date: 27 August 2019

the current urban design plan for the Swinbourne Street Neighbourhood Centre was provided and discussed.

The amended DA provided is a response to the Panel's deferral and Council's urban design requirements for the site.

2. DESCRIPTION OF THE DEVELOPMENT

The lodged scheme provides for:

- demolition of the existing building; and
- construction of a 3-storey shop top housing building with ground floor commercial space and 4 residential units above and 2 garages

The amended DA provides for:

- demolition of the existing building; and
- construction of a 3-storey shop top housing building with ground floor commercial space, 3 residential units above and an at-grade parking area for five (5) vehicles.

2.1 Particulars of the amended DA

The amendments made to the original DA and additional information provided are described below:

- Ground floor commercial and parking layout modified to provide 75.37sqm commercial space, separate commercial waste room (off Wilson Street), combined residential entry for all units off Swinbourne Street and provision of a single double width driveway to a five (5) car at-grade parking area with associated residential storage and waste area.
- First floor layout modified to a single 2-bedroom unit and a single 1-bedroom unit, fenestration and balconies modified to suit;
- Second floor layout modified to a single 2-bedroom unit and the bedroom level for the 1-bedroom unit, fenestration and balconies modified to suit;
- Unit numbers reduced from 4 to 3, see revised unit mix:

Table 1 Unit Type	Current DA	Amended DA
1-bedroom	2x1 bedroom units 50qm each	1 bedroom units 85qm
2-bedroom	2x2 bedroom units 90sqm each	2x2 bedroom units 92sqm each

- Site gross floor area (GFA) and floor space ratio (FSR) has been reduced as follows:

Table 2 GFA and FSR	Current DA	Amended DA
GFA	426.66sqm	400.13sqm
FSR	1.5:1	1.4:1

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- The ground floor, floor to ceiling height for the garage area has been lowered from 3.4m to 2.4m, that allows for a corresponding lowering of the northern ridge of the building from RL 19.17 to 18.10 (1.07m); and
- The integration of Council's current urban design plan for the Swinbourne Street centre into the site plan, a formal public domain plan (plan Nos DA003) and ground floor plan.

The following documents comprise the amended DA:

1. A complete set of architectural plans Nos DA001 Revision 01, DA002 Revisions 03, DA003 Revisions 01, DA101 Revisions 04, DA102 Revisions 04, DA103 Revisions 04, DA104 Revisions 04, DA201 Revisions 04, DA202 Revisions 04, DA301 Revisions 04, DA302 Revisions 04, DA401 Revisions 03, DA402 Revisions 03, DA403 Revisions 03, DA404 Revisions 03, DA405 Revisions 03, DA406 Revisions 03, DA407 Revisions 03, DA501 revision 01 and Material board (dated 3/07/2018) prepared by Bureau SRH architecture dated 14/08/2019 (unless stated otherwise); and
2. This correspondence which is an Amended DA report and addendum to the submitted Statement of Environmental Effects.

3. ASSESSMENT OF AMENDED APPLICATION

The amended plans provided do not alter the core conclusions of the SEE submitted, other than by reducing the bulk and scale and unit density of the proposed building and via increasing on-site parking provision.

The amendments made to the DA are our response to the Bayside Local Planning Panel's deferral of the application and discussions with Council's urban designer. The planning relevance of the amendments are discussed below

3.1 Reduce Floor Space and Unit Numbers

Site GFA and FSR has now been reduced as stated in **Table 1** above.

The site FSR of 1.4:1 is now 6% under the application control of 1.5:1.

Unit numbers have also been reduced from 4 to 3 units in the modified mix shown in **Table 2**.

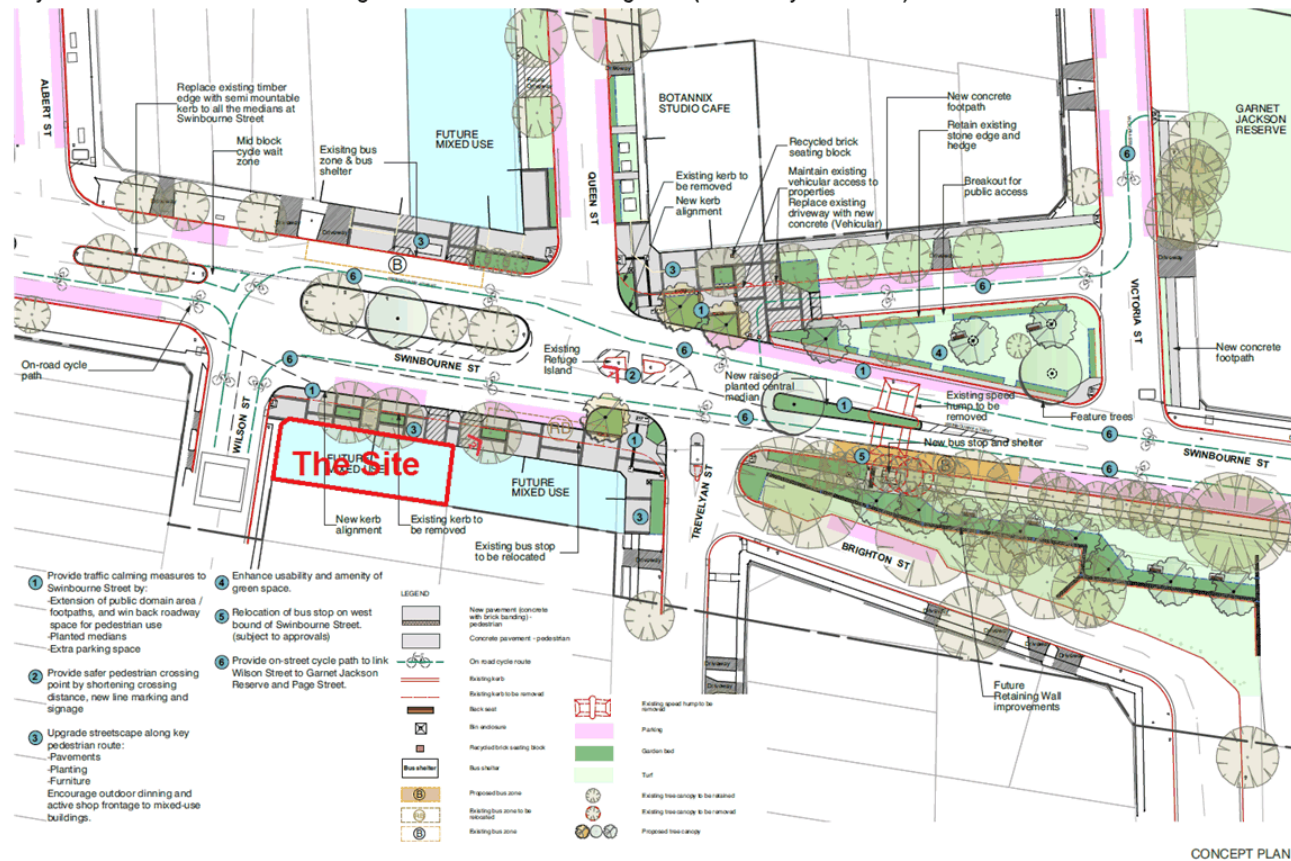
3.2 The Public Domain

The revised car parking arrangement utilises a single driveway that approximates the location of the existing driveway to the site.

This existing driveway was assumed to be retained within the current urban design plan for the Swinbourne Street Neighbourhood Centre provided overleaf.

Amended DA Submission
 Property: 106 Wilson Street Botany
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Bayside Council's Swinbourne Street Neighbourhood Centre Urban Design Plan (source: Bayside Council)



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The provided public domain plan (see DA003) integrates the Swinbourne Street Neighbourhood Centre Urban Design Plan requirements into the ground floor plan of the proposed building.

DA003 includes:

- a corner bubble on the corner of Wilson and Swinbourne Street as recommended by recent Local Area Traffic Study – this requirement was sought at our meeting of 29 July 2019 with Councils urban designers;
- recommended materials to be used, that is brick banding and washed concrete footways;
- extended kerbs; and
- retains existing street trees.

This plan provides for a suitable basis to implement Council's urban design objectives for the site.

The applicant has also provided a photomontage of the new public domain treatment around the vehicular crossing demonstrating compliance with the Swinbourne Street Neighbourhood Centre Urban Design Plan, see image below.



Source: Bureau SRH Architecture

3.3 Car Parking

As noted above, the revised vehicular access is now consistent with the public domain plan for the site.

The amended parking provided is an at-garage garage area for five (5) cars fully integrated into the building. The look and feel of the building will not be dominated by cars.

The car parking is to be allocated as follows:

- Unit 01 – 1 spaces; and
- Units 02 and 03 – 2 tandem spaces each.

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This arrangement allows for DCP compliant car parking provision to the residential component of the development.

The access to the parking is via an oversized 5.8 to 6.4m wide aisle. Manoeuvring is adequate for a small garage area of this scale.

3.4 Solar Impacts

The lowering of the roof ridge of the northern part of the building by approximately 1m has had a corresponding benefit on the rear yard of the neighbouring dwelling at 104 Wilson Street.

The relevant controls for neighbour impact are at Part 5.3.3.3 Solar Access and Shadows of the DCP, provided below:

"Controls

C1 Development must demonstrate:

- (i) *Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; "*

The amended shadow diagrams provided now include views from the sun. The rear yard of 104 Wilson Street now received sun from 9.00am to approximately 1.30pm during mid-winter. The percentage of back yard receiving sun during this period varies; however substantial solar access is provided to both the rear yard and associated windows to the dwelling for over 4 ½ hours during mid-winter which exceeds the requirements of control (2 hours).

The amended DA now provides for a building form that exceeds the solar access requirements for neighbours under the DCP and allows for a building form that reasonably implements the objectives of the site B1 Mixed Use zone.

3.5 Other Benefits of the Amended DA

The reduction in units and floor space on the site has also allowed for:

- More generous unit storage for each unit; and
- Separation of the residential and commercial waste rooms.

3.6 Encroachment on Council Land

The encroachment of the awning and steel window boxes are routine and expected encroachments for a mixed-use building in a B1 zone. These elements of the building are not GFA and perform an architectural and a public amenity function. The building would be poorer without these elements and current DCP provisions for the site encourage trafficable awnings in this centre (which we removed from our scheme on advice from council officer's after the pre-DA meeting).

In terms of the issue of owner's consent, it is standard local government practice that the issuing of development consent is taken as Council's consent for awning and like encroachments. (If we were proposing GFA or a trafficable area over Council's footway, we would expect to have to enter into a lease agreement.)

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Amended DA Submission
Property: 106 Wilson Street Botany
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A street awning and modest façade articulation around street windows are desirable elements of this building and were supported by Council's Design Review Panel.

4. Conclusion

The amended plans and information provided now allow for approval of the proposed mixed-use building as envisaged by the Bayside Local Planning Panel's deferral. In particular;

- Unit numbers have been reduced from 4 to 3 and correspondingly site floor space is now 6% under the relevant control – the design of this building now acknowledges its constrained nature while still implementing the objectives of its B1 Neighbourhood Centre zoning;
- A public domain plan is provided that demonstrates the development can implement the current public domain vision for the Swinbourne Neighbourhood Centre – it is noted that this public domain vision is not funded and relies on redevelopment of this site for implementation of these works;
- The amended plan provides for lowering the northern portion of the building by approximately 1m that provides for solar access to the 104 Wilson Street that exceeds the requirements of the DCP;
- The parking layout now provides for DCP compliant provision to the residential component of the development; and
- The amended building provides for better facilities for the residential and commercial component of the development such as separate waste rooms.

The building is fully compliant with the LEP floor space and building height controls. The objectives of the B1 Neighbourhood Centre zone are:

"Zone B1 Neighbourhood Centre

1 Objectives of zone

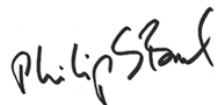
- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape."*

The amended DA now exceeds the objectives of its zone, has impacts well within the expectations of its B1 zoning and warrants approval.

If you require any assistance, have any questions or wish to discuss the matter further, please do not hesitate to contact me on 8540 8720.

Yours faithfully

Dickson Rothschild



Philip Bull
Associate – Urban Planning

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BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2018/1172
Date of Receipt:	17 September 2018
Property:	106 Wilson Street, Botany Lot 25 Sec 1 in DP 1742
Owners:	106 Wilson St Pty Ltd
Applicant:	Julian Dolk- SRH Bureau
Proposal:	Demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces
Recommendation:	Refusal, subject to reasons of refusal in the attached schedule
Value:	\$1,913,239.00
No. of submissions:	Round One: Nine (9) objections Round Two: Nil
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	2 July 2019

Key Issues

Bayside Council received Development Application No. 2018/1172 on 17 September 2018 seeking consent for the demolition of the existing structures on site and construction of a three (3) storey shop top housing development comprising of four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street Botany.

The application was placed on public exhibition for a fourteen (14) day period from 3 October to 17 October 2018. Nine (9) objections were received during the notification period. Amended plans were further renotified for fourteen days between 29 April to 13 May 2019. No objections were received. The issues that were raised in the submissions have been discussed in the report below.

Key issues in the assessment of the development application include car parking departure, overshadowing, deep soil, building separation, storage, consistency with the objectives of the zone and the desired future character.

The development does not comply with a number of the controls prescribed within the apartment design guide. This includes building separation, deep soil, communal open space and storage. Each control has been discussed greater in the report below.

The proposal is also inconsistent with one of the objectives within the B1 Neighbourhood Centre zone with the BBLEP 2013. The objective states that development is not to adversely

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impact onto the residential amenity and is compatible with the existing streetscape. The proposal will provide a significant impact by overshadowing the southern property due to the limited building setbacks and three storey corner element as well as impact onto the existing traffic network by proposing on street car parking. This demonstrates that the site does not provide an economic and sustainable development and consideration of a larger site by amalgamating the site with the southern should be considered.

The proposal is deficient in the number of car parking spaces required for the site. The proposal generates a total of thirteen car spaces. This is broken down to six commercial car spaces, six residential spaces and one visitor space. The proposal provides two car parking space, one for each of the two bedroom units. This is a departure of eleven spaces. It is acknowledged that this is a constrained site and that a basement car park would not work. This is further demonstrated that the proposal seeks to rely on on-street car parking spaces. Council requested that the applicant revisit the car parking to comply with at least the residential component of the development with the recommendation of losing apartments or utilising other car parking methods, such as car stackers. This has not been taken into consideration and considering the impact onto the existing street network, it is not considered appropriate to allow for a large departure in the number of car spaces.

As stated briefly above, the proposal overshadows the southern development at 104 Wilson Street for the majority of the time during mid-winter to both the internal principal living areas as well as to the private rear yard which is unacceptable. This is discussed in greater detail in the report below.

Finally, an assessment against Part 5.2.2.5- Swinbourne Street Neighbourhood Centre has been assessed, in particular to the streetscape and desired future character of the area. The figure provided within this section requires the proposed development to have a maximum two storey built form. The proposal has a three storey element on the corner. While this was discussed in the pre-DA and DRP meetings as being acceptable and similar to development that was approved or under assessment on the northern side of Swinbourne Street, the impacts of the three storey component regarding overshadowing cannot be ignored.

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

Recommendation

1. That development application DA-2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street Botany be REFUSED pursuant to s4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* for the following reasons:
 - a) The proposed development, pursuant to the provisions of Section 4.15(a)(i) of the *Environmental Planning and Assessment Act 1979*, is not consistent with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:

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- i. Part 2F – Building Separation
 - ii. Part 4G – Storage
- b) The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the Design Quality Principles within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment. Additionally, the Design Verification Statement provided does not satisfy clause 50(1B) of the Environmental Planning and Assessment Regulation 2000.
- c) Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of the B1 – Neighbourhood Centre zone within Botany Bay Local Environmental Plan 2013.
- d) Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the following sections of the Botany Bay Development Control Plan 2013 with respect to the following:
- i. Part 3A – Car Parking and Access
 - ii. Part 3E – Subdivision and Amalgamation
 - iii. Part 3N – Waste Management and Minimisation
 - iv. Part 5 – Business Centres. The proposed development does not comply with the objectives and controls of Part 5.2.2.5- Swinbourne Street Neighbourhood Centre of the Botany Bay Development Control Plan 2013
 - v. Part 8 – Character Precincts
- e) The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
- f) Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of traffic and car parking departure, overshadowing, and inconsistent with local character and would adversely impact upon the amenity of the locality.
- g) The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site.
- h) Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

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

Background

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History

There is no relevant town planning history for the site.

A pre-DA was carried out on 2 May 2018 for the current proposal which proposed four units and two car parking spaces over three levels. Slight modifications were carried out on the bulk of the development however car parking continued to be raised as an issue. The letter was sent on 5 June 2018.

Development Application History

The development application has been assessed as follows:

- **17 September 2018** – Development Application was lodged with Council;
- **3 October to 17 October 2018** – The development application was placed on public notification where a number of submissions were received;
- **1 November 2018** – The application was presented to a Design Review Panel meeting and the design was favourably looked at with minor changes to the design of the building;
- **10 January 2019** – An additional information letter was sent out to the applicant to address issues relating to floor space ratio calculations, overshadowing, car parking, insufficient unit sizes, encroachments on council land, materiality, public domain upgrade and drainage;
- **6 March 2019** – Additional information was received by Council including amended architectural plans, stormwater plans, shadow studies, addendum to traffic report and report by planner of the changes;
- **29 April to 13 May 2019** – The amended plans were renotified for fourteen days in which additional submissions were received;
- **19 June 2019** – Informal plans were submitted to Council showing two options in car parking. Both options presented problems with the first option removing the majority of the active street frontage along Swinbourne Street and the second option continuing to have a residential and commercial car parking shortage; and
- **28 June 2019** – Council advised the applicant that the proposal would not be supported due to the outstanding number of issues present including car parking departures and overshadowing.

Proposal

The development application, in its amended form, seeks consent for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces.

The proposed development is described in detail below:

Ground Floor:

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- Commercial tenancy with an area of 134.5sqm is proposed on the corner of Swinbourne Street and Wilson Street. The space includes three separate entries from Swinbourne Street and one bathroom. Two internal ramps are included in the space;
- Residential foyer with access from Swinbourne Street and from the side entrance off Wilson Street;
- Two car parking spaces within a garage are provided with one space for Unit 01 and the second space for Unit 02. Each space has associated storage in close proximity;
- Six bicycle spaces are proposed adjoining the landscaped area and residential lobby;
- An enclosed residential and commercial bin storage area is provided at the south-eastern corner of the site and is accessed through a mesh door;
- A 7sqm of landscaping is provided along the southern boundary adjoining the bicycle parking; and
- A 2.4 metre boundary wall is proposed along the southern boundary of the site between the subject site and 104 Wilson Street.

First Floor:

- The first floor contains the ground floor level of the four units proposed within the development. The proposal provides two x two unit bedrooms and two x one bedroom units;
- The two bedroom units contain an open plan living, kitchen and dining area with access to a 10sqm north-facing balcony, powder room and stairs leading up to the floor above;
- The one bedroom units contain an open plan living, kitchen and dining room with access to an 8sqm north-facing balcony, laundry room and stairs to the level above.

First Floor:

- The second floor contains the upper level of the four units within the development.
- The two bedroom units comprise of two bedrooms with one containing a walk in robe and ensuite, separate bathroom, laundry area and stair landing with void for services;
- The one bedroom units are encompassed within an attic style roof with dormer windows fronting the street. The level contains one bedroom with robe and ensuite and the stair landing.

The following figures demonstrate the proposed development as amended:

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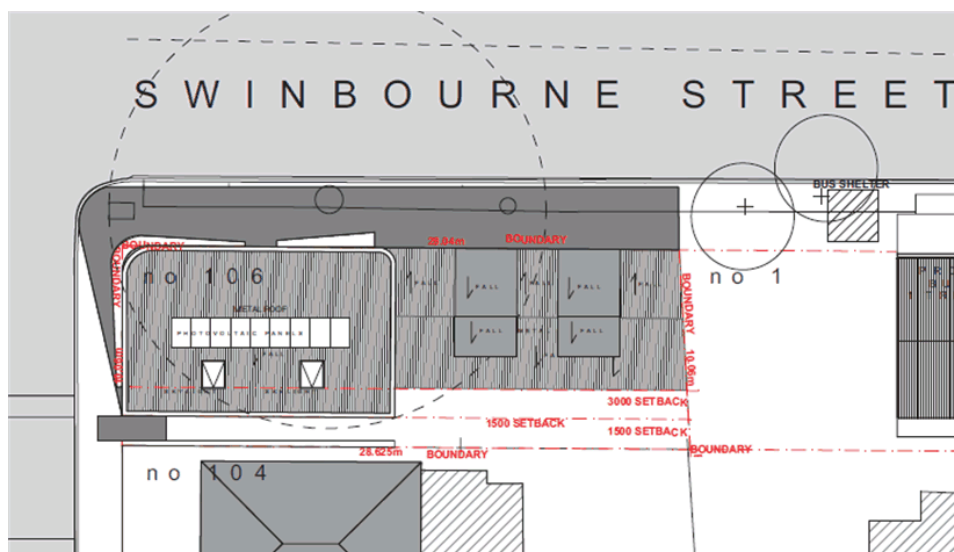


Figure 1. Proposed Site Plan



Figure 2. Proposed Northern Elevation

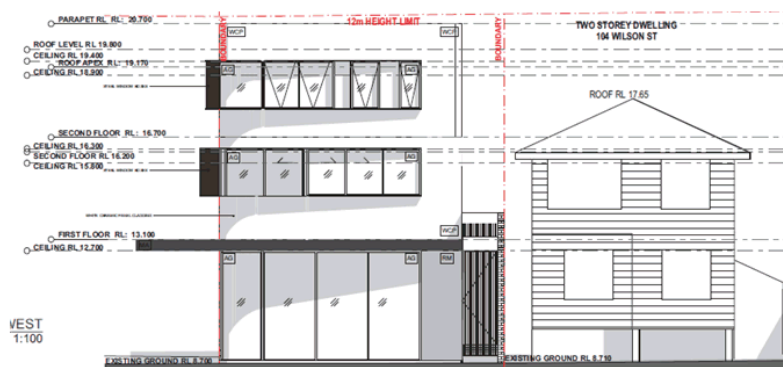


Figure 3. Proposed Western Elevation

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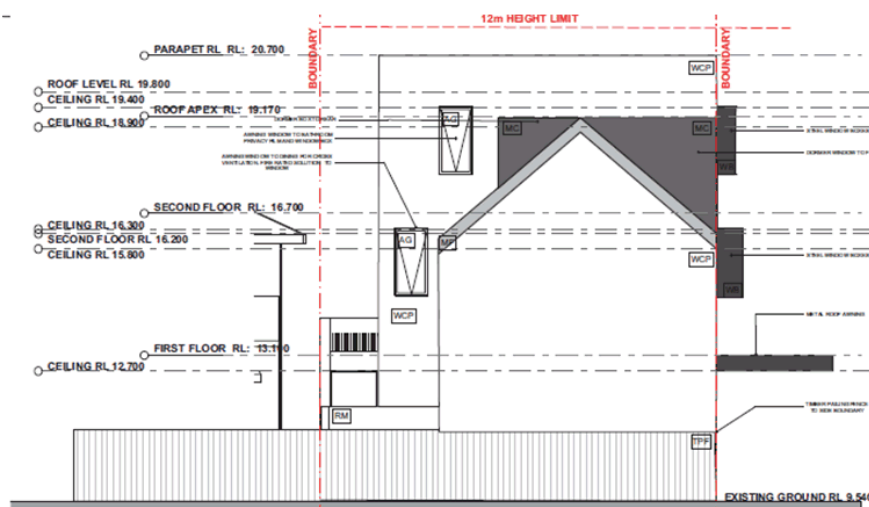


Figure 4. Proposed Eastern Elevation

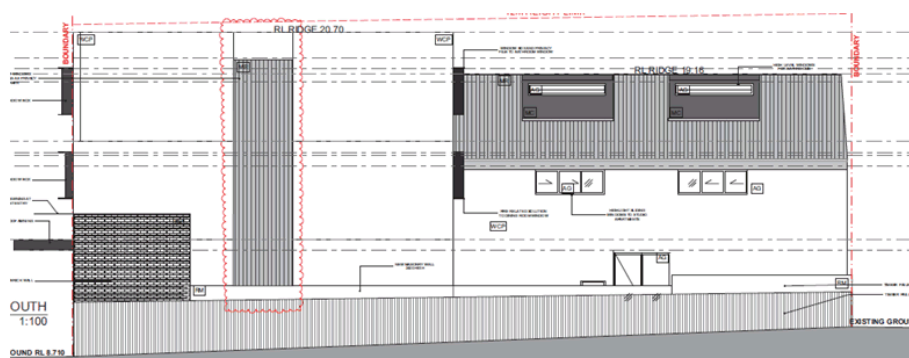


Figure 5. Proposed Southern Elevation

Site Description

The subject site is legally known as Lot 25 Sec 1 in DP 1742 and is identified as 106 Wilson Street Botany. The site is located on the south-eastern corner of the intersection of Swinbourne Street and Wilson Street. The site has an east-west orientation with west being the front of the site and east being the rear of the site.

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Figure 6. Site Locality



Figure 7. Aerial Map of the site

The subject site is rectangular in shape and has a site area of 284.7sqm. The site has a street frontage width along Swinbourne Street of 28.04 metres, a street frontage width along Wilson Street of 10.06 metres, an eastern boundary width of 10.06 metres and a southern boundary length of 28.625 metres. The site has a slight fall of 700mm from the eastern side of the site to the western side of the site.

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The site currently comprises of a single storey rendered brick building that was originally a shop front however has been utilised as a dwelling for years. The rear of the dwelling contains a garden area which includes a garage, carport and two metal sheds. There are two street trees located along Swinbourne Street outside the site.



Figure 8. Existing building on the site with street trees along Swinbourne Street

Development surrounding the site includes a mix of low density residential development in addition to shop fronts along Swinbourne Avenue. The adjoining site to the south at 104 Wilson Street contains a detached two storey dwelling house with rear garage. The development to the east at 1 Trevelyan Street comprises of a single storey shop and residence however approval has been granted for shop top housing development with two units. Opposite the site on the other side of Swinbourne Street contains two single storey shop fronts with residences behind at 19 and 23 Swinbourne Street. Approval has been granted at 23 Swinbourne Street for a three storey shop top housing development with six units.

The site is located within the B1- Neighbourhood Centre zone as well as the Swinbourne Street Neighbourhood Centre. The site is in close proximity to a heritage item (Item 158 'Streetscape- Verge Plantings Canary Island Date Palm') which is adjacent to the site to the north. Additionally the site is located within a 15-20 ANEF Contour. A bus stop is located outside the site along Swinbourne Street.

Statutory Considerations

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

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

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

The following Environmental Planning Instruments are relevant to this application:

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

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The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent and applies to the Sydney and Newcastle metropolitan areas. The aims of the policy are (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the Standard Instrument - Principal Local Environmental Plan and substantially reproduces the effect of these clauses in the Vegetation SEPP. Council will continue to regulate the clearing of vegetation (including native vegetation below the BOS thresholds through the DCP.

The proposal seeks to retain the two pepper street trees that are located along Swinbourne Street however the plans demonstrate an awning to be proposed which may impact onto the canopy of the trees. The application was referred to Council's Landscape Architect, Tree Management Officer as well as to the major project landscape architect within the public domain team. Council's landscape officer has no objection to the proposal however no response has been provided by Council's public domain team and tree management officer.

State Environmental Planning Policy (Infrastructure) 2007

The site falls within land that is adjacent to a pipeline corridor therefore Division 12A Pipelines and pipeline corridors applies to the site. The development does not propose significant excavation however as there are four dwellings located on the site, the application was referred to the APA Group. No response has been received as of yet.

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

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. 941309M dated 4 July 2018 prepared by Sustainability-Z Pty Ltd. As the proposal is recommended for refusal, the BASIX Certificate is not conditioned.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP No. 55 have been considered in the assessment of the development application, as the proposed development. Clause 7 of State Environmental Planning Policy 55 requires Council to be satisfied that the site is or can be made suitable for its intended use at the time of determination of an application.

The application was referred to Council's Environmental Scientist who provided the following commentary:

"The Statement of Environmental Effects advised that there is a long history of residential use and no known historical contaminating uses. There is no significant excavation with the building to be constructed at ground level, there will be no interception of groundwater or acid sulfate soils. Therefore there is no objection to the proposed development."

Based on the information provided above and the limited amount of excavation provided with the proposal, the site is suitable for development in relation to SEPP No. 55.

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

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

During the development application process, the applicant submitted the proposal to the DRP for consideration. The meeting was held on 1 November 2018. The Design Review Panel supported the design in principle with minimal changes proposed such as location of mail boxes and air conditioning units, additional ESD measures, ceiling heights within the bedrooms on the second floor, separation of residential and commercial waste collection, location of internal laundry, provision of ducting for commercial tenancies and option of separate tenancies with own bathrooms.

Apartment Design Guide

A Design Verification Statement has been prepared by Bureau SRH Architecture and was submitted with the development application.

The applicant has submitted an assessment against Part 3 and 4 of the ADG and has not demonstrated that adequate regard has been given to the design quality principles and objectives specified in the ADG for the relevant design criteria. An assessment against the significant non-compliances is provided in detail below.

Clause 30(1) of SEPP 65 states that if a development application satisfies the following design criteria, the consent authority cannot refuse an application because of those matters. These are deep soil, communal open space, overshadowing, storage and building separation.

The key points of non-compliance with the ADG are discussed below:

SEPP 65 – ADG			
Control	Requirement	Proposed	Complies
Dwelling Size	Minimum internal areas as follows: Studio: 35sqm 1 bed unit: 50sqm 2 bed unit: 70sqm 2 bed unit with 2 nd bathroom: 75sqm 3 bed unit: 90sqm 3 bed unit with 2 nd bathroom: 95sqm	1 bedroom units: 50sqm 2 bedroom units: 90sqm	Yes Yes
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor	Habitable rooms: 2.7 metres Ground floor commercial: 3.4 metres to 3.88 metres	Yes Yes

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Deep Soil	Objective 3E-1 requires 7% of the site (for sites less than 650sqm) as deep soil area (requires 20sqm)	7.1sqm (2.5%)	No – Refer to Note 1 below
Communal Open Space	25% of site (71.2sqm)	No communal open space provided	No – Refer to Note 2 below
Solar Access	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter Note: Part 4C requires that COS receives 3 hours in winter.	The application does not provide any COS.	No – Refer to Note 2
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	All units are north-facing therefore 100% receive minimum 2 hours of sunlight	Yes
Building Depth	Use a range of appropriate maximum apartment depths of 12-18 metres	The building/apartments has a depth between less than 12 metres	Yes
Building Separation	Up to 4 storeys (approx. 12m): 3m from non-habitable rooms to site boundary 6m from habitable rooms/balconies to site boundary	<u>Northern Setback:</u> Nil (Ground to level 2) <u>Southern Setback:</u> 1.25m- Ground floor 1.5m- Level 1 1.5m- Level 2 <u>Eastern Setback:</u> Nil- Ground Floor and Level 1 2.7m- Level 2 <u>Western Setback:</u> Nil (Ground to Level 2)	No – Refer to Note 3 below
Balcony Sizes	Studios: 6sqm 1 bed: 8sqm 2 bed: 10sqm 3 bed: 12sqm Ground Floor: 15sqm	1 bedroom units: 8sqm 2 bedroom units: 10sqm	Yes Yes
Cross Ventilation	60%	4 out of 4 (100%)	Yes

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Storage	Studio: 4m3 1 bed: 6m3 2 bed: 8m3 3 bed: 10m3	1 bed unit: Not shown 2 bed unit: 1.75m3 for Units 1 and 2 in car parking area Internal storage for the two bedroom units has not been shown	No – Refer to Note 4 below

Note 1 – Deep Soil

Part 3E of the ADG requires development to have a minimum of 7% deep soil area. This equates to a minimum amount 20sqm to be provided on the site. The proposal provides a total of 7.1sqm of deep soil which equates to 2.5% of the site. This is a non-compliance to the control.

The size of the site limits additional landscaping to be provided within the rear setbacks without comprising the path of entry from the side door. The landscaping proposed is not considered to provide appropriate landscape buffer to the southern property however as the proposal is relying on a 2.4 metre high boundary wall to provide privacy, the justification for a landscaped buffer is unjustified. However the ADG states that should a site be located within a high density area or within a business centre, the likelihood of achieving compliance with the required amount of deep soil may not be possible. Therefore the departure in this instance is substantiated.

Note 2 – Communal Open Space

Part 3D of the ADG requires development to have a minimum of 25% communal open space. The communal open space is required to achieve 50% of its area at least 2 hours of sunlight between 9am to 3pm in mid-winter. The development does not provide any communal open space area. This was originally raised at the pre-DA meeting for the proposal and the applicant had stated that due to the size of the site and the number of units proposed being 4, the requirement in providing a separate area is unreasonable.

When assessing the controls within the ADG, there is a design guidance control which states that where development is unable to achieve the design criteria, such as on small lots, sites within a business zones, or in a dense urban area, they should provide communal spaces elsewhere such as landscaped roof terrace or common room, provide larger balconies or increased private open space for apartments or demonstrate good proximity to open space and facilities and/or provide contributions to public open space. The development does not provide a communal room or terrace and does not provide balconies that are greater than the ADG minimum requirement. The only benefit of the developments' location is that the site is located within 200 metres of Garnet Jackson Reserve which is located to the north-east of the site. It can be argued that in this case, the lack of communal open space is accepted.

Note 3 – Building Separation

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Part 2F of the ADG requires development to have minimum separation distances from neighbouring properties. The proposal seeks the following building separation distances from the side, front and rear boundaries for a height of up to 4 storeys:

- Northern (Front) setback: Nil (Ground to level 2)
- Southern (Rear) setback: 1.25m- Ground floor, 1.5m- Level 1 and 1.5m- Level 2
- Eastern (Side) setback: Nil- Ground Floor and Level 1 and 2.7m- Level 2
- Nil (Ground to Level 2)

It is also key to note that the site borders an R2 Low Density Residential zone which requires a greater transitional setback of 9 metres from the boundary. As stated above, the setbacks proposed are significantly less than the setbacks required on the site. The setbacks that are stipulated within the ADG are also further supported within Part 5.2.2.5 of the BBDCP 2013 which requires the upper levels to be set away from the rear boundary.

The reduced setbacks create issues in regards to bulk when viewed from the street and the neighbouring site as well as significant overshadowing. The rear setbacks proposed to the three storey component on the western corner are considered insufficient and are predominantly the cause of the overshadowing and bulk presented along the streetscape. Should the applicant consider consolidating the site with the adjoining property, this will allow for the practical development of the land

Note 4 - Storage

Part 4G of the ADG requires the units to provide storage based on 4sqm for studios, 6sqm for one bedroom units, 8sqm for two bedroom units and 10sqm for three bedroom units. The proposal has not demonstrated any storage within the units and the only location where storage has been accommodated is within the garage for Units 1 and 2. The amount of storage that has been provided is 3.5m³ for these two units. The one bedroom unit has not been provided with storage. Storage is to be provided for each unit and is to comply with the minimum requirements under the ADG. In addition to the deficient parking, deficient storage is indicative that the number and/or size of units, needs reduction in order for appropriate provision being made for each unit.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned B1 Neighbourhood Centre zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as shop top housing development is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Does the proposed use/works meet the objectives of the zone?	No – Refer to Note 5 below	<p>The proposed development is not consistent with the following objectives of the B1 Neighbourhood Centre:</p> <ul style="list-style-type: none"> To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood. To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.
<p>What is the height of the building?</p> <p>Does the height of the building comply with the maximum building height?</p>	<p>-</p> <p>Yes</p>	<p>A maximum height of 12 metres applies to the subject site.</p> <p>Top of the parapet: 11.99 metres</p> <p>The distance of the building was measured between the existing ground level (RL 8.71) and the proposed top of the parapet (RL 20.7)</p> <p>The maximum building height of the development complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.</p>
<p>What is the proposed Floor Space Ratio?</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p>	<p>-</p> <p>Yes</p>	<p>A maximum FSR of 1.5:1 applies to the subject site.</p> <p>The site has a total area of 284.7sqm.</p> <p><u>Applicants calculations:</u></p> <p>GFA: 426.76sqm FSR: 1.5:1</p> <p>(This calculation included part of the stair landing on the two bedroom cross over units but excluded the garbage holding rooms)</p> <p><u>Council's calculations:</u></p> <p>GFA: 428.6sqm FSR: 1.5:1</p> <p>(This calculation included the garbage holding room however did not include the upper floor stair landing in the cross over units)</p>

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		The maximum FSR of the development complies with the requirements under the Botany Bay Local Environmental Plan 2013.
Is the site within land marked "Area 3" on the Floor Space Ratio Map? If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A	The site is not located in an Area 3 zone.
Is the land affected by road widening?	N/A	The land is not impacted by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The subject site is not a heritage item and is not located within a heritage conservation area however the site is in close proximity to Item 158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site to the north. The proposed development is not considered to impact onto the heritage items.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply– • 6.1 – Acid Sulfate Soils • 6.2 – Earthworks • 6.3 – Stormwater Management • 6.9 – Development in areas subject to aircraft noise	Yes Yes Yes Yes	The site is located within a Class 4 ASS zone. The proposed development does not seek to excavate greater than 2 metres below ground as the development is proposed on slab. Minimal excavation and fill are proposed to level the development however this is minimal and not considered to be impactful. The proposal provides for an below ground OSD which is located underneath the rear footpath adjoining the residential lobby. Additionally the proposal provides for a 10,000L rainwater tank that is located underneath the two ground floor car parking spaces on the eastern side of the site. The site is located within a 15-20 ANEF Contour. The applicant provided an acoustic report with the development application which is considered appropriate and conditional

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> 6.15 – Active Street frontage 	Yes	<p>however as the report is recommended for refusal, this is not applicable.</p> <p>The site requires active street frontage to be provided along Swinbourne Street. The proposal provides activation along the northern ground floor elevation with commercial tenancy proposed for the majority of the length and residential entry directly adjoining to the east.</p>

Note 5 – Consistency with the objectives of the zone

The B1 Neighbourhood Centre zoning has two objectives within the land use table of the Botany Bay Local Environmental Plan 2013. These two objectives are:

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To ensure that development does not adversely impact on residential amenity and is compatible with the existing streetscape.

While the development complies and is consistent with the first point relating to providing small scale retail/commercial business for the surrounding neighbourhood, the proposal is not consistent with the second point. The proposed development demonstrates significant impact onto the surrounding low density residential surroundings around the Swinbourne Street Neighbourhood Centre. Firstly, the non-compliance in car parking provided on the site will create greater stress onto the existing on-street car parking found in close proximity to the site, in particular along Wilson Street. Additionally, the scale and size of the site and development will have significant impact onto the dwelling to the south regarding to overshadowing. Finally, it may be construed that the site is too small to accommodate the number of units that are proposed and that the proposal does not provide an economic and sustainable development for the site. Further discussion relating to each point presented is further elaborated on in the report below.

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

There are no current Draft EPIs applicable to this development

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

Botany Bay Development Control Plan 2013

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

Part 3A –Parking and Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	<p><u>Residential</u></p> <p>1 space/studio and 1 bedroom= 2 spaces</p> <p>2 space/ 2 + bedrooms = 4 spaces</p> <p>1 visitor space/ 5 units = 1 space</p> <p>Total: 7 car spaces required</p> <p><u>Commercial (shop)</u></p> <p>1 space / 25sqm (6 req.)</p> <p>Total car parking required: 13 car parking spaces</p>	<p>The proposal provides a total of two car parking spaces within a garage. One space is allocated for each of the two bedroom units. Therefore there is a departure of 11 car spaces.</p>	No – See Note 6 below
3A.3.1 – Car Park Design	<p>C13 Pedestrian entrances and exits shall be separated from vehicular access paths.</p>	The pedestrian and vehicle access points are separated.	Yes
	<p>C15 Vehicle access points of the property should not be located:</p> <ul style="list-style-type: none"> a) In places with high traffic volumes, such as classified or arterial roads; b) Close to intersections as outlined in Section 3.2.3 of AS2890.1; c) Where there is heavy or constant pedestrian movements along the footpath; d) Opposite to other traffic generating developments; e) Where traffic using the driveways interferes with or blocks the operations of bus stops, taxi ranks, loading zones or pedestrian crossings; f) Adjacent to or at the sag point of the street; and g) In places where sight distance requirements outlined in Section 3.2.4 of AS2890.1 cannot be complied with. 	<p>The vehicle access point is located on the eastern side of the site. Due to the width of the site, it is likely that the vehicles will enter in a forward direction and leave in a reverse direction. This will have implications on the safety of pedestrians which would access the commercial space. Additionally, the car parking area and driveway is located in close proximity to a bus stop which is to the east of the site therefore not acceptable.</p>	No – See Note 6 below

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Part	Control	Proposed	Complies
	C28 The minimum width of the access driveway at the property boundary shall be:- <ul style="list-style-type: none"> For other residential developments: 5.5 metres (two way); The width must be extended for at least the first 6 metres of the circulation roadway within the property boundary. 	The width of the driveway provided is at least 5.5 metres.	Yes
	C40 The waste collection point shall be designed to: <ul style="list-style-type: none"> (i) Allow waste loading operations to occur on a level surface away from parking areas, turning areas, aisles, internal roadways and ramps; and (ii) Provide sufficient side and vertical clearance to allow the lifting arc for automated bin lifters to remain clear of any walls or ceilings and all service ducts, pipes and the like. 	Waste collection is proposed from the street. All waste is stored in separate waste collection rooms on the south eastern side of the site.	Yes
3A.3.2 Bicycle Parking	C1-C5 To comply with AS2890.3 and AUSTROADS (i.e. 10% of the required amount of car parking = 1 req.)	The proposal provides for 6 bicycle spaces.	Yes
3A.3.4 On-site Loading and Unloading	C1-C11 1 service bay/50 dwellings	As the proposal has less than 20 units, on site loading and unloading for residential is not required. There is no space for loading or unloading provided for the commercial component.	No – See Note 6 below

Note 6 – Car Parking and Loading Bay Departure

Table 1 of Part 3A.2 of the BBDCP 2013 requires that the development provide six car parking spaces for the residential component, one visitor space and six commercial spaces which equates to a total of 13 spaces within the site. The proposed development provides two car parking spaces within a garage located on the eastern side of the site. Each space is allocated to one of the two bedroom units. This results in a car parking departure of 11 spaces.

The applicant had submitted a traffic report prepared by TEF Consulting which assessed the existing traffic network in the area and the impact of the proposed development. However the report did not provide sufficient information regarding to the justification in the large non-complying number of spaces. The report relied on results from a parking accumulation survey

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which demonstrated that there is an abundance of vacant parking during the peak periods of parking demand from the proposed development. Additionally, the report has stated that due to the size of the site, it is impractical to provide more car parking within the development. The report further elaborates that there are two bus stops that are located in very close proximity to the site and provide access to high frequency services to the Sydney CBD and to major shopping centre, reducing the need to travel by private car for work and shopping.

Council was not satisfied with the above justification and required the applicant to provide greater justification for the shortfall in car parking spaces. The applicant provided an addendum to the report to demonstrate greater emphasis on the peak period of traffic and car parking usage of the subject site and surrounding commercial premises. The following excerpt is provided from this addendum:

"A further traffic study has been undertaken for Saturday 26th January and Sunday 27th January 2019 and is attached to this correspondence. The study confirms that on Saturday and Sunday there are at least 41 and 57 vacant kerbside spaces within 150m of the site, respectively.

It should also be noted that the adjoining zoning pattern provides for limited B1 land surrounded by R2 Low Density Residential. While there is currently excess kerbside capacity for any overflow parking demand from this development, there is also limited development capacity in the adjoining land to significantly erode that capacity.

The 13 on-site car spaces considered full compliance with the applicable controls would not be physically able to be accommodated on this site. The B1 zoned land on this side of Swinbourne Street is 2 narrow sites. It is a reasonable consequence of this zoning pattern that development in accordance with the zone on these sites will provide for development with nil or low car parking provision.

The proposed building is a small mixed-use building and the modest under provisions of car parking has no real parking impacts. The level of car parking provision (2 spaces, 1 for each 2-bedroom unit) is reasonable on traffic planning and zoning grounds."

Further to the addendum report, the applicants planner has provided a response to the car parking departure as follows:

"A further traffic study has been undertaken for Saturday 26th January and Sunday 27th January 2019 and is attached to this correspondence.

The study confirms that on Saturday and Sunday there are at least 41 and 57 vacant kerbside spaces within 150m of the site, respectively.

It should also be noted that the adjoining zoning pattern provides for limited B1 land surrounded by R2 Low Density Residential.

While there is currently excess kerbside capacity for any overflow parking demand from this development, there is also limited development capacity in the adjoining land to significantly erode that capacity.

The 13 on-site car spaces considered full compliance with the applicable controls would not be physically able to be accommodated on this site. The B1 zoned land on this side of

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Swinbourne Street is 2 narrow sites. It is a reasonable consequence of this zoning pattern that development in accordance with the zone on these sites will provide for development with nil or low car parking provision.

The proposed building is a small mixed-use building and the modest under provisions of car parking has no real parking impacts.

The level of car parking provision (2 spaces, 1 for each 2-bedroom unit) is reasonable on traffic planning and zoning grounds."

Council has considered both report and addendum and continue to not support the departure in car parking, in particular the shortfall in the number of residential spaces which are required to comply. The approach in complying with the residential component has been carried out in the other surrounding developments which have been approved in recent years to the east and north therefore compliance has been consistently applied. Additionally, there are safety concerns relating to movements of cars to and from the spaces, particularly as it is anticipated that the vehicles would be entering the spaces in a forward direction and exiting in reverse. This will have implications on the safety of pedestrian movements along the commercial active street frontage as well as onto the bus stop which is located directly to the east along Swinbourne Street. It is acknowledged that the site is constrained in nature and as the width of the site is less than 11 metres, the practicality in having a basement provided would not work particularly when considering ramping. The site is too small to contain all spaces required for the development as proposed.

The applicant provided Council with two draft options showing how more car parking spaces could be provided on the site. Option A had six car parking spaces provided side by side within the garage with access off Swinbourne Street. This would considerably reduce the amount of active street frontage provided along Swinbourne Street and would not meet the objectives and controls of the BBLEP and BBDCP 2013. While this provided compliance with the number of residential car parking spaces required on site, it presented more issues with the development. Option B presented four car parking spaces provided side by side with access off Swinbourne Street. The allowed for one car parking space provided for each unit. This also resulted in a departure of one space within the two bedroom units and continued to not comply with the car parking required for the residential spaces. Both options were unsuitable for the site. Council had made recommendations that the applicant amend their plans to reduce the number of units provided on the site or change the unit or alternatively consider car stacker arrangements. Neither option was accepted by Council and are not relied upon for assessment in this report.

In regards to loading and unloading bays, the development provides four units therefore there is no requirement for a space to be provided for the residential component. However one space is required for the commercial component of the development. As stated above, the site is constrained, without the capacity to provide on-site loading areas. Consequently loading and unloading would be carried out from the street which is unacceptable and not supported.

Part 3B – Heritage

The subject site is not a heritage item and is not located within a heritage conservation area however the site is in close proximity to Item 158 'Streetscape- Verge Plantings Canary Island Date Palm' is adjacent to the site to the north. The application was referred to Council's Heritage Advisor who had no objections to the proposal from a heritage point of view.

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Part 3C – Access and Mobility

The proposal was accompanied by an access report prepared by Accessible Public Domain which demonstrated that the outcomes for accessibility. The proposal provides level entry from both street frontages into the commercial tenancy. Internal to the commercial tenancy there are two ramps which run with the slope of the land. In regards to access to the residential component above, there is no disabled access to these areas with the only method of access through stairs. Additionally, there is no disabled car parking space provided for either the residential or the commercial component to the development. As the development provides less than 10 units, there is no requirement for the development to provide adaptable housing as required in Table within Part 3C.2 of the BBDCP 2013.

Part 3E – Subdivision and Amalgamation

The proposed development does not propose Torrens Title Subdivision or stratum title subdivision at this current stage however it is key to note that the size of the subject site is small in nature and present constraints to the development particularly relating to car parking provisions and manoeuvring in and out of the site. It is considered that for the economic and sustainable development of the site, the applicant consider to consolidate with the site to the south at 104 Wilson Street in providing a larger site which would present a more appropriate development which would comply with the controls of the ADG, BBLEP and BBDCP 2013. This has not been considered by the applicant.

Part 3G- Stormwater Management

The development application was accompanied by amended stormwater plans prepared by ING Consulting Engineers Pty Ltd. The plans demonstrated that the development provides for an below ground OSD which is located underneath the rear footpath adjoining the residential lobby. Additionally the proposal provides for a 10,000L rainwater tank that is located underneath the two ground floor car parking spaces on the eastern side of the site. Originally the application was reviewed by Council's Development Engineer for comment which raised concerns relating to the proposal however no issues have been raised from the amended plans. Appropriate conditions of consent have been provided however as the proposal is recommended for refusal, the conditions do not apply.

Part 3J – Aircraft Noise and OLS

The provisions of Australian Standard AS2021-2000 have been considered in the assessment of the development application, as the subject site is located within the 25-30 ANEF contour. Residential development in these areas is considered acceptable under Table 2.1 of Australian Standard AS2021-2000. Regardless, the applicant submitted an acoustic report prepared by Acoustic Logic which has addressed both aircraft and traffic noise. Appropriate conditions would generally have been imposed in the consent however as the report is recommended for refusal, the conditions do not apply.

Part 3K – Contamination

Refer to SEPP No. 55 discussion above for further information relating to the suitability of the site.

Part 3L – Landscaping and Tree Management

The proposal provides 7.1sqm of landscaped area along the rear of the site. Additionally the proposal states that the existing pepper trees that are located on the Swinbourne Street street

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verge are to be retained. It is not sure how the trees are to be retained should an awning be incorporated as part of the design and what kind of impact that would have on the existing trees. The application was referred to Council's Landscape Architect who considered the size of the development and the amount of deep soil provided on the site and found the proposal to be appropriate in regards to landscaping.

Part 3N – Waste Minimisation and Management

The development proposes on-street garbage collection for both the residential and commercial component. As the development proposes less than 20 units, on street garbage collection is acceptable for the residences. In regards to the commercial component, it is required that off-street garbage collection be carried out. As discussed in Part 3A above, the site does not provide a loading/unloading space on the site therefore the proposal does not comply.

Part 4C – High Density Residential

The subject development is identified as a high density development with residential and commercial proposed. Part 5 of the BBDCP 2013 is more applicable to the development however there are some controls which relate to the site which are not included within Part 5 but rather in Part 4C. This is predominantly around family friendly controls as identified below.

4C.4.1 Dwelling Mix and Layout		
C2 For developments with 10 or more units, the combined total number of one-bedroom dwellings shall not exceed 25% of the total number of dwellings within any single site area in residential zones.	The proposal provides four units therefore this control is not applicable. Regardless, the proposal provides 50% one bedroom units and 50% two bedroom units.	N/A
All 2 and 3 bedroom apartments are to satisfy the family friendly controls.	Similarly to the above, the family friendly controls do not apply in this instance as the number of units is considerably less than 10.	

Part 5 – Business Centre

The site is located within the Swinbourne Street Neighbourhood Centre. The objectives of the Centre that apply to the site under Part 5.2.2.5 of the BBDCP is as follows:

Objective	Response
O1 To promote a viable and attractive Neighbourhood Centre with an improved and safer public domain	The design is contemporary in nature and provides for an active street frontage along Swinbourne Street.
O2 To ensure that development recognises predominant streetscape qualities (i.e. setbacks & design features);	The proposal provides for a nil boundary street setback which is consistent with the zone however is inconsistent with the number of stories envisaged for the southern side of Swinbourne Street.
O3 To ensure development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character;	The development is not consistent with the number of stories within the desired future character of the area which is two. The proposal provides a maximum of three stories.

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O4 To retain existing heritage trees and supplement existing landscaping within the streetscape;	The heritage trees are not to be impacted as part of this proposal.
O5 To allow reasonable redevelopment and to improve the architectural quality of building stock;	The materials and colour scheme proposed for this contemporary building is appropriate and consistent with the materials approved in the surrounding developments.
O6 To retain a coherent streetscape with a consistent street wall and parapet line	Street wall differs from the desired future character and the setbacks and number of stories approved at 1 Trevelyan Street to the east.
O7 To ensure that access driveways do not dominate the streetscape; and	The driveway does not dominate the streetscape.
O8 To ensure that shop top housing provides passive surveillance, resident interaction and addresses the street. To encourage development of awnings as balconies for residential and commercial units above (to improve amenity for unit dwellers and promote passive surveillance of streets).	All balconies front onto Swinbourne Street and provide passive surveillance.

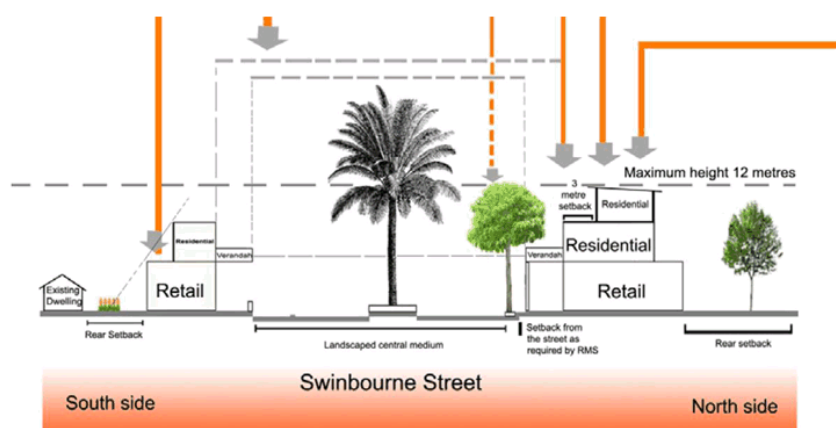


Figure 9. Reproduction of Figure 20 from Part 5 of the BBDP 2013

The following controls apply to the Swinbourne Street Neighbourhood Centre and are as follows:

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Control	Proposed	Complies
5.2.2.5 Swinbourne Street Neighbourhood Centre		
C1 Development must provide landscaping, street trees, lighting, public seating, paving and other public domain improvements identified by Council, generally in accordance with Figure 20 .	Council's major project department has stated that public domain improvements are to be carried out along Swinbourne Street. The proposal does not seek to provide any seating however seeks to retain street trees and landscaping along the street verge.	Yes
C2 Pedestrian amenity and connectivity must be enhanced in conjunction with new development.	The active street frontage would allow for appropriate pedestrianisation however concerns are raised in regards to the safety of pedestrians with vehicles entering and exiting the site.	No – Refer to Note 6 above
C3 Redevelopment is encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and unreasonably restrict redevelopment on a single lot.	The proposed development does not seek to consolidate lots and is only subject to the current lot which has an area less than 300sqm. It is considered that the site is too small to accommodate four units, commercial and car parking compliance. The applicant has not considered or assessed possible consolidation with the southern site.	No – Refer to Part 3E above
C4 The design of development must be generally consistent with the Desired Future Character of the centre identified in Figure 20	The design is inconsistent with the figure which requires developments on the southern side of Swinbourne Street to have a two storey built form.	No – Refer to Note 7 below
C5 A maximum height of 12 metres applies under BBLEP 2013. Notwithstanding the 12 metre height limit, a maximum height of two stories applies along the street frontage with a third level permitted which is setback from the street frontages and the rear. The setback from the rear is to be determined following a detailed site analysis at development application stage and must satisfy Council that the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access, privacy and visual amenity. Applicants must therefore demonstrate at development application stage that impacts on the residential area are minimised.	The development proposes a height of 11.99 metres which complies with the BBLEP 2013 requirement.	Yes
C6 With redevelopment of the shops, landscape planting must be provided along the rear boundary where a site adjoins a residential property, to provide a visual	The proposal provides 7.1sqm of landscaped area to a portion of the southern boundary however the landscaping proposed does not extend for the full length of the boundary due to the side access path as well as the landscaping	No – Refer to Note 1 above

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separation between the shops and the residential area.	proposed will not provide an adequate landscape buffer between the two sites.	
C7 New development is to take into account and respond sympathetically to an established streetscape with strong architectural features and identity. New buildings are to reinforce these features and contribute to its character.	The proposal has been designed to incorporate elements that have been approved in the shop top housing developments on the eastern and northern side of the site. This includes dormer windows and attic style roof form which was approved at 1 Trevelyan Street and similar colour and materials used at 13-17 Swinbourne Street. While the existing streetscape is of single storey shops and dwellings, the emerging character is of a two and three storey form.	Yes
C8 Alterations and additions are to reflect the architectural design of the existing building. Materials and finishes are to be compatible with the existing building.	No alterations and additions are proposed.	N/A
C9 Contemporary architectural design solutions are encouraged, however designs will need to demonstrate that they will not lead to a replacement or diminution of a street's existing character. Council encourages diversity in building designs provided that development outcomes complement the existing character of the suburb.	The proposal provides a three storey corner element on the western corner of the site. Additionally the proposal is of a contemporary nature with box windows, curved edges and balconies facing the street. As stated above, there is an emerging character in the street with the recent approvals of the adjoining sites.	See Note 7 below
C10 Shop top housing must be provided in any redevelopment of the existing shops.	Shop top housing is proposed.	Yes
C11 The design must improve the residential amenity for the housing above the shops by providing direct access to balconies and private open space; and provide for passive surveillance of the surrounding streets and pedestrian walkways.	The units above ground level are north facing and provide balconies that look onto Swinbourne Street. The corner unit also has large windows to provide surveillance onto Wilson Street. All units would receive appropriate sunlight.	Yes
C12 All development must address the street frontage	The proposal addresses both street frontages.	Yes

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C13 All designs must provide awnings above the footpath on the Swinbourne Street frontage	The proposal demonstrates a street awning.	Yes
C14 Awnings above the footpath are encouraged as trafficable verandahs for the use of residents on the first floor. If the verandah is built over the street then a lease fee is payable to Council. The fee is set out in Council's Fees and Charges .	No trafficable verandahs are proposed with all private open space provided within the site.	Yes
C16 The design must encourage active street life while providing a high residential amenity and provide for small scale shops that will serve the local community.	The proposal provides a commercial tenancy at ground level and is considered to activate the street frontage.	Yes
C17 A street number for the property is to be clearly identifiable from the street.	Street numbering has been provided.	Yes
C18 Awnings must be provided continuously and at the same height along the shop frontages to provide weather protection for pedestrians.	An awning has been provided on the development.	Yes
C19 Air conditioners must not be installed on street awnings or the front façade of buildings.	The plans do not demonstrate the location of air conditioning units.	N/A
C20 Development must comply with Council's sustainable development requirements as identified in Part 3H - Sustainable Design .	The proposal provides a 10,000L rainwater tank.	Yes
C21 Development must comply with Part 3A - Car Parking .	The development proposes two car parking spaces. This is a shortfall of 11 car spaces.	No – Refer to Note 5 above
C22 Maintain limited advertisements and business signage to minimise visual impact on the surrounding residential area.	Signage is not proposed as part of this proposal.	N//A
C23 Restrict signage to the awning fascia, under the awning or behind the shop window at street level	Signage is not proposed as part of this proposal.	N//A
C24 Development must comply with Part 3D - Signage	Signage is not proposed as part of this proposal.	N/A

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C25 A Stormwater Management System is to be provided in accordance with Part 3G - Stormwater Management .		A below ground OSD in addition to a 10,000L rainwater tank has been proposed within the development.	Yes
5.3 General Controls			
5.3.1.1 Floor Space Ratio	C2 In determining an appropriate FSR, applicants must demonstrate to Council that the bulk and scale of development is acceptable and will not result in adverse impacts on adjoining dwellings or the streetscape in terms of loss of privacy, overshadowing, loss of views, visual amenity and increased traffic generation.	The development proposes an FSR of 1.5:1 which complies with the BBLEP 2013. However based on the control, while the proposal is compliant the bulk of the development contributes to adverse impacts to the southern property in regards to overshadowing.	See Note 8 below
5.3.1.2 Height	C1 The maximum height of buildings must comply with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	The development proposes a height of 11.99 metres which is compliant with the BBLEP 2013.	Yes
	C2 & C3 In addition to C1, new buildings must also consider and respond to the predominant and characteristic height of buildings within the Centre; and consider the topography and shape of the site. In this regard, the maximum number of storeys must not exceed the maximum number of storeys identified in the relevant character statement for each Business Centre as set out in Part 5.2 - Character Statements for the Business Centres. If the maximum number of storeys is not identified in the Character Precinct, the maximum number of storeys must be consistent with the characteristic building height.	The proposal provides a three storey corner element which departs from the desired future character which is demonstrated in Figure 20 of Part 5.2.2.5. The figure requires the development to have a two storey built form.	No – See Note 7 below
5.3.1.3 Street Setbacks	C1 Buildings are to be aligned along the street frontage to create a consistent street wall no higher than two storeys. A variation to the two storey street wall height along the	The proposal has a nil setback along the streetscape. The proposal has a three storey street wall along the corner.	No- Refer to Note 7 below

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	street frontage will only be permitted in certain circumstances where the height of adjoining buildings on the street exceeds two storeys. In this instance, the applicant is to submit a written justification to Council for this variation and will be considered by Council on its merits.		
5.3.1.4 Side and Rear Setbacks and Building Separation	C1 Where a site adjoins residential development appropriate rear or side setbacks must be provided to ensure that potential impacts on adjoining or surrounding residential properties are minimised in terms of loss of privacy, sunlight and daylight access and visual amenity.	The proposal proposes a setback of 1.5 metres to 4.5 metres along the rear setback, The site adjoins a low density residential zone therefore the bulk of the development does provide unacceptable overshadowing onto 104 Wilson Street.	No – Refer to Note 8 below
	C2 Development to which SEPP 65 applies are to adhere to the Apartment Design Guide for building separation.	A SEPP No 65 verification has been provided with the application. An assessment of the ADG has been carried out in the report above.	Refer to ADG section above
5.3.1.5 Built Form and Streetscape	C2 Building must have a consistent street wall height and provide a continuous street frontage and awning height along the street frontage where appropriate.	The proposal has a three storey street wall height on the corner with the eastern part of the site containing a two storey street wall with dormers for the third floor.	No – Refer to Note 7 below
5.3.2.1 Design Excellence	C2 The Development Application must identify how design excellence will be achieved in the proposed development.	The proposal was presented to a DRP meeting where the Panel had no objections to the proposal subject to minor design amendments.	Yes
5.3.2.2 Building Design	C2 All development applications that contain residential development or are adjacent to residential development must provide a design statement addressing privacy and overshadowing of residential dwellings from the business component.	A design statement has been provided with the development application.	Yes
	C4 If residential dwellings are proposed as part of a mixed use development, balconies, private open space area and communal open space areas must be screened to address any	All private open space areas are orientated to the north away from adjoining low density residential properties.	Yes

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	privacy impacts on adjoining residential properties.		
	C7 A schedule of external finishes and materials must be submitted at development application stage to articulate the building's design complements the Business Centre.	A schedule of colours, finishes and materials has been provided with the development application. The materials and colours shown are consistent with approved developments to the north and east of the site.	Yes
5.3.2.3 Reflectivity	C3 The solar reflectance value of building materials must not exceed 20%.	The proposal does not provide materials that are reflective.	N/A
5.3.2.4 Awnings and Verandahs	C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.	Awnings are proposed along the street frontages.	Yes
5.3.2.5 Public Domain Interface at Ground Level	C1 Development must comply with the Desired Future Character objectives and controls identified in Part 5.2 - Character Statements for the Business Centres.	The proposal does not comply with the desired future character controls in the Swinbourne Street Neighbourhood Centre.	No – Refer to Note 7 below
	C2 Development must be designed so that it has a clearly definable entry and addresses the street.	The residential and commercial entries are clearly definable.	Yes
	C3 For mixed use development which contains residential dwellings, the primary area of outdoor private open space must not be located on the street frontage, unless it is on the first floor or above.	There is no ground floor private open space areas. All POS are in the form of first floor balconies.	Yes
	C4 The visual and physical connection between the building frontage and the public domain must be considered in all development applications to ensure that the interface at ground level promotes a high level of pedestrian amenity.	This has been considered as part of the proposal.	Yes
5.3.2.6 Active Street Frontages	C1 Development is to provide active street frontages in accordance with the Active Street Frontages Map and Clause 6.15 Active Street	Active street frontage has been provided along Swinbourne and Wilson Streets.	Yes

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	Frontages under BBLEP 2013.		
5.3.2.8 Interface between Business Zones and Adjoining Landuses	C1 Clear boundaries between the public and private domain must be created to enhance security, privacy and safety.	This has been demonstrated within the plans particularly along Swinbourne Street.	Yes
	C2 Shadow diagrams must be provided for all development proposals for the summer and winter solstices. Shadow diagrams must show shadow impacts at 9am, 12 noon and 3pm for both solstices. Additional building setbacks may be required where internal site shadow impacts or impacts on adjoining properties are considered by Council to be unreasonable.	Shadow diagrams have been provided with the development application. The plans demonstrate significant overshadowing onto the southern property at 104 Wilson Street.	No – Refer to Note 8 below
5.3.2.9 Landscaped Area	C1 Residential setbacks from streets and parks are to support planting, at a scale that allows passive surveillance of the public domain. This requirement may vary with each block	There is no landscaping proposed along the street frontage however this is acceptable in this case.	Yes
	C3 Provide a sufficient depth of soil on podium areas in accordance with the Councils Technical Guideline for Landscape in Development Sites.	No podiums are proposed as part of this application.	N/A
5.3.2.10 Private Open Space and Communal Open Space	C1 The primary area of outdoor private open space must not be located at grade on the street frontage.	All private open space areas are located on first floor balconies.	Yes
	C2 Communal open space can be provided at grade or on podiums and roof tops. The space must be appropriately landscaped and provided with a recreational facilities or features, for example BBQ area, seating, children's play area, landscape features or the like and must include pedestrian scale lighting, to be shown in the detailed landscape plan.	There is no communal open space proposed.	Refer to Note 2 above.

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	C3 More than 70% of the communal open space area must be capable of growing plants, grasses and trees.	As above.	N/A
5.3.2.11 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade is to accompany all Development Applications involving building works	A schedule of colours and finishes has been provided with the development application and the colours and materials proposed are acceptable.	Yes
5.3.2.12 Servicing	C1 New commercial or mixed use buildings must provide a loading dock on-site. Where this is not viable loading and unloading may be permitted from to a rear lane or side street subject to Council's engineer approval.	There is no loading dock or space proposed within the development for the loading and unloading associated with the commercial tenancy.	No – Refer to Note 6 above
5.3.2.14 Access and Mobility	<p>C1 Development must comply with Part 3C – Access and Mobility</p> <ul style="list-style-type: none"> ▪ Residential flat buildings (RFB), conversion of non-residential buildings into RFBs, shop top housing, multi dwelling housing and live/work buildings – Statement of consistency lodged. ▪ In developments containing 10 or more dwellings, a minimum of 20% of the dwellings are to be adaptable dwellings designed in accordance with Adaptable Housing Australian Standard 4299 Class B. Refer to AS4299 Class B. ▪ Appropriate access for all persons through the principal entrance of a building and access to all common facilities. Refer to BCA and AS1428.1. ▪ In developments containing 10 or more dwellings, accessible resident parking is required at 10% to be allocated to adaptable dwellings with a preference for AS4299 designs for at least 80% of the accessible spaces and a maximum of 20% of 	Refer to Part 3C above.	Yes

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	spaces complying with AS2890.6.		
5.3.3.1 Acoustic Privacy	C1 Dwellings close to high noise sources such as busy roads, railway lines and airports must be designed to locate noise sensitive rooms and secluded private open spaces away from noise sources and be protected by appropriate noise shielding techniques.	An acoustic report prepared by Acoustic Logic has been provided with the development application and assesses traffic and aircraft noise.	Yes
5.3.3.2 Visual Privacy	C1 In some cases potential visual privacy impacts can be mitigated by incorporation of one or more of the following design measures: (i) Fixed screens of a reasonable density (min 75% block out); (ii) Fixed windows with translucent glazing (providing natural ventilation is not compromised); (iii) Appropriate screen planting or planter boxes.	The majority of window are fronting with the western and northern elevations with limited windows proposed along the southern elevation to prevent any direct overlooking of the southern property.	Yes
5.3.3.5 Solar Access & Shadow	C1 Development must demonstrate: (i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; and (ii) 30% of any common open space will obtain at least two hours of direct sunlight between 9am and 3pm on 21 June.	The application provided a solar study on the impact of the development onto the southern property. The adjoining site will be completely overshadowed in mid-winter to both the principal living areas and rear yard.	No – Refer to Note 8 below

Note 7 – Desired Future Character

The site is located within the Swinbourne Street Neighbourhood Centre which is characterised by nine sites that are centralised near intersections and contain, until recently, a number of single storey shops that would cater for the everyday needs of residents.

Part 5.2.2.5 of the BBDCP 2013 provides controls and objectives for this area which have been addressed in the tables above. Figure 20 within this section outlines the desired future character that was envisaged by Council when the BBDCP 2013 was being written. The

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subject site has been designed to incorporate a two storey street wall with nil street boundary setback and large rear setbacks with a greater setback proposed on the upper level so that an appropriate transition between the business zone and residential zone is provided.

The development proposes a two and three storey built form with the eastern portion of the site containing a two storey built form with a third storey attic bedroom with dormer windows while the western side of the site has a three storey built form. The three storey built form is built to the northern and western boundary however has a setback of 1.5 metres from the southern boundary for its entire height. The two storey plus attic built form has a three metre to 4.5 metre setback with the upper level set in further away from the rear setback.

The proposal was discussed at a pre-DA in particular to the three storey nature of the corner element. Council would consider a slight departure to the desired future character as long as the additional bulk was within the height limit and did not contribute to any adverse impact to the residential amenity of the neighbouring site to the south. The three storey element was proposed to reflect the approved developments and developments under assessment on the northern side of the street. While it is acknowledged that there is a different character envisaged for the development opposite the site, the proposal was designed to encapsulate the materials and colour schemes previously approved. The two storey plus attic portion of the site is consistent with the built form that was approved at 1 Trevelyan Street.

Further assessment of the proposal as a whole has resulted in a number of issues arising particularly relating to car parking and overshadowing. As will be further discussed below, the three storey component creates significant overshadowing onto the southern neighbour. While from a visual perspective, the proposal is consistent and appropriate for the neighbourhood centre as it aligns with the adjoining approved development, the impact onto the residential amenity of the neighbouring properties results in inconsistencies with the objectives of the B1 Neighbourhood Centre zone as well as numerous ADG and DCP controls.

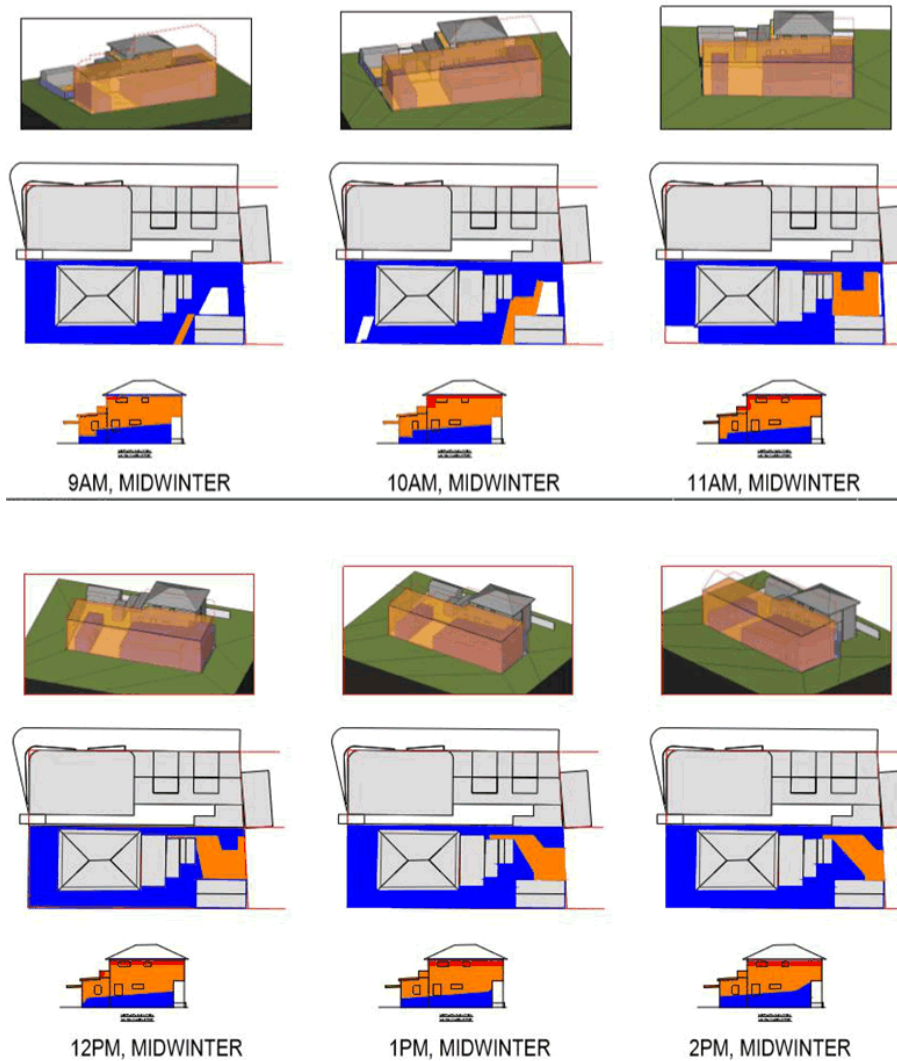
Note 8 – Overshadowing/Solar Assessment

Part 5.3.3.3- *Solar Access and Shadow* of the BBDCP 2013 requires neighbouring developments to receive at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms as well as the subject site receiving 2 hours of sunlight to 30% of its communal open space as required within the apartment design guide. It has been established above that there is no communal open space provided on the site therefore the proposal does not comply with the amount of sunlight to this space.

The site has an east-west orientation therefore any overshadowing would fall onto the south. The applicant has provided shadow diagrams, both aerial and elevational, with the development application. Further solar studies were requested by Council to demonstrate the impact onto the southern property at 104 Wilson Street. In assessing the shadow diagrams, it is demonstrated that during mid-winter, the northern elevation of the southern adjoining neighbour would be completely overshadowed. This applies to the rear yard as well as limited amount of sunlight is provided. The below figures demonstrate the amount of sunlight existing and received by the neighbouring site:

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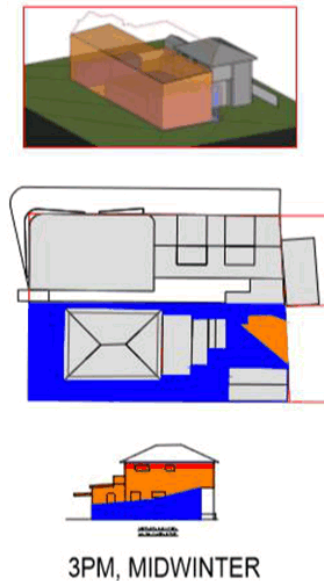


Figure 10. Solar studies provided demonstrating existing shadow (blue), proposed two storey envelope (orange) and proposed overshadowing from the development (red)

The applicant provided the following justification for the solar impact onto the southern property:

"The proposed development has the following impacts on this site:

- *at mid-winter the rear yard of 104 Wilson Street receives approximately 1.5 hours solar access between 9.00am to 11.00am;*
- *at equinox the rear yard and elevation of 104 Wilson Street receive 50% + solar access from 9.00am to 3.00pm; and*
- *the 3-storey element of the building has solar impacts on roof forms and the street.*

The relevant controls for neighbour impact are at Part 5.3.3.3 Solar Access and Shadows of the DCP, provided below:

"Controls

C1 Development must demonstrate:

(i) Neighbouring developments will obtain at least two hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms; "

The relevant neighbour impact standard makes a general, no date specified, requirement for neighbouring development to receive 2 hours direct sun to 50% of the primary private open space and 50% of windows to habitable rooms.

The impacts on the rear yard and elevation of 104 Wilson Street are well within this standard – noting that from equinox (Autumn to Spring) well over 50% of the rear yards and

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likely more of the rear elevation (noting its 2-storey) receives full sun and during mid-winter approximately 20% of the rear yard receives 1.5 hours sun and again more of the rear elevation. Over the course of the year this dwelling receives considerably more than 2 hours solar access with a slight dip in solar access over the midwinter period (which is in reality a few weeks only).

The north facing side windows to 104 Wilson Street fail the 50% test. The east (rear) facing windows to 104 Wilson Street would comply. The impact on the side windows is a reasonable and expected impact, given the setback of this dwelling from B1 Neighbourhood Centre zoned land. These windows are also likely secondary windows or to corridor/bathroom areas. This impact is also driven by zoning and urban design considerations, that require the bulkier parts of this building in the established building zone on Wilson Street and on the corner. The less bulky part of this building is located adjacent to the rear yard of 104 Wilson Street. The area where solar access should be maintained, and compliance achieved is to the rear yard of 104 Wilson Street. The proposal achieves this.

It should also be noted that the proposed building is compliant with the LEP FSR control and well under the 12m building height control. The maximum height of the proposed building is 11.5m to the 3-storey element and to the 2-storey and attic element 9.77m. The proposed building's compliance with the core LEP bulk and scale controls, supports the planning argument that its solar impacts are a reasonable consequence of undertaking development in accordance with the intent of the zoning.

The solar impacts of the proposed building reasonably comply with relevant controls and provide for expected and reasonable impacts."

A detailed assessment is provided against the Land and Environment Court planning principle on the impact on solar access of neighbours (Parsonage V Ku-ring-gai (2004) NSWLEC 347) and (The Benevolent Society V Waverley Council (2010) NSWLEC 1082) as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed). At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

Comment: The site has an east-west orientation therefore the property to the south will be directly impacted by the proposal. The site falls within the B1 Neighbourhood Centre which allows for a greater height however the site is bound to the rear by the R2 Low Density Residential zone. Therefore the site should provide a transitioning bulk and scale down to the low density area as well as greater setbacks. Additionally the site forms part of the Swinbourne Street Neighbourhood Centre which has provided a figure demonstrating the desired future character of the area. The site requires a two storey street form with the upper level setback further away from the rear setback. The proposed development proposes a part three storey built form with the remainder of the building contained within a two storey plus attic form. The height of the development is slightly less than the maximum LEP height of 12 metres however the desired future character figure makes provisions that buildings may not achieve 12 metre height limit due to overshadowing or privacy impacts on the residential properties.

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

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Comment: The two storey component with attic space which are bedrooms are an appropriate built form as it restricts the height of the development and is predominantly consistent with Figure 20. The built form is also consistent with the development approved at 1 Trevelyan Street to the east. The three storey built form on the western side of the site is inconsistent with the desired future character for the southern side of the street and while it has been well designed, would contribute to additional bulk and overshadowing onto 104 Wilson Street, particularly in the afternoon.

- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

Comment: The elevation shadow diagrams demonstrate that at mid-winter, all windows on the northern elevation of 104 Wilson Street will be overshadowed by the proposal. The applicant has provided a solar analysis of the existing shadow, a compliant two storey development and the subject proposal. It is evident that there is no glazed area that will receive sunlight during mid-winter. The applicant has also provided shadow diagrams for spring equinox which show a small portion of the first floor windows receive some sunlight however it is considered that the impact is still considerable.

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*

Comment: The private open space area of the neighbouring site is located on the eastern side of the site which adjoins the two storey plus attic portion of the development. It is demonstrated within the aerial plans that the development will completely overshadow the neighbouring POS. The spring equinox drawings show that there is some portions of the rear yard receiving sunlight however this is inappropriate.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

Comment: The development proposes a 2.4 metre high boundary fence which would contribute to additional overshadowing to the ground floor windows and rear yard. There is no existing vegetation within the subject site or significant vegetation in the adjoining properties rear yard which would create further solar obstruction.

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as existing development.*

Comment: It is not considered that the R2 zone to the south be changed and is likely to be retained as low density. While it is acknowledged that the B1 zone is undergoing transition, the controls within Part 5.2.2.5 of the BBDCP have restricted development to a two storey

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height with larger rear setbacks. It is considered that the site is too small to accommodate the proposed development and therefore the resultant overshadowing issues are evident.

Considering the above, the proposal has been assessed accordingly in regards to solar amenity and is not acceptable in this instance.

Part 8 – Botany Character Precinct

While Part 8 contains general objectives for the future character of the Botany Area, Part 5 of the BBDCP contained specific controls and objectives for the desired future character of the Swinbourne Street Neighbourhood Centre which has been addressed in detail above.

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

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

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

As outlined in the assessment above, the proposed development will have significant adverse environmental, social or economic impacts in the locality.

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

The site is not impacted by aircraft noise, flooding or contamination.

In regards to the size of the site, the proposed development is considered to be significant and is not an economic and sustainable development of the land. As stated throughout the report, the proposal contributes to a negative impact on the residential amenity of the neighbouring properties. Additionally, the proposal is inconsistent with the objectives of the B1 Neighbourhood Centre zone and is therefore not suitable for the site.

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

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising, the application was placed on public exhibition for a fourteen (14) day period from 3 October to 17 October 2018. Nine (9) objections were received during this period. The amended plans were re-notified for a fourteen (14) day period between 29 April to 13 May 2019. Nil submissions were received and a summary of the issues is as below:

- Visual Privacy and overlooking
- Adverse impact due to the bulk and scale of the development
- Overshadowing
- Overdevelopment
- Not in character with the area
- Unnecessary commercial premises
- Traffic danger due to visual obstruction
- Departure in car parking and increased traffic to the area
- Lack of landscaping
- Inconsistent building height

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- Site too small

The proposed issues raised within the submissions have been summarised in different notes in the report above. Council agrees with the submissions received and recommends refusal based on the majority of these issues.

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

It is considered that granting approval to the proposed development will have significant adverse impact on the public interest.

Section 7.11 Contributions

The proposed development would generate Section 7.11 Contributions however as the proposal is recommended for refusal, the contributions have not been calculated.

Conclusion

Development Application No. 2018/1172 for the demolition of existing structures and construction of a three (3) storey shop top housing development comprising four (4) residential units, one commercial tenancy and two (2) car parking spaces at 106 Wilson Street, Botany, has been assessed against the requirements of the Environmental Planning and Assessment Act 1979.

The non-compliances as listed above relating to SEPP No. 65 and the BBDCP 2013, specifically car parking, overshadowing, building separation and the economic development of the land are not supported and it is considered that the proposed development is not suitable for the site due to its size and incapability to comply with the controls.

The number of submissions that were received with the development application demonstrate that the proposal is not in the public interest and will create significant impacts onto the surrounding environment. Therefore, the proposed development is recommended for refusal subject to the reasons in the attached schedule.

Attachment

Schedule 1 – Reasons for refusal

Premises: 106 Wilson Street Botany

Da No.: DA-2018/1172

REASONS FOR REFUSAL

1. The proposed development, pursuant to the provisions of Section 4.15(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the

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design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:

- a) Part 2F – Building Separation
 - b) Part 4G – Storage
2. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the Design Quality Principles within State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment. Additionally, the Design Verification Statement provided does not satisfy clause 50(1B) of the Environmental Planning and Assessment Regulation 2000.
 3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of the B1 – Neighbourhood Centre zone within Botany Bay Local Environmental Plan 2013.
 4. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the following sections of the Botany Bay Development Control Plan 2013 with respect to the following:
 - a) Part 3A – Car Parking and Access
 - b) Part 3E – Subdivision and Amalgamation
 - c) Part 3N – Waste Management and Minimisation
 - d) Part 5 – Business Centres. The proposed development does not comply with the objectives and controls of Part 5.2.2.5- Swinbourne Street Neighbourhood Centre of the Botany Bay Development Control Plan 2013;
 - e) Part 8 – Character Precincts
 5. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
 6. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of traffic and car parking departure, overshadowing, and inconsistent with local character and would adversely impact upon the amenity of the locality.
 7. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site.
 8. Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

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