

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 18 December 2018 at 6:00 pm**

ON-SITE INSPECTIONS

On-site inspection/s will precede the meeting.

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

2 APOLOGIES

3 DISCLOSURES OF INTEREST

4 MINUTES OF PREVIOUS MEETINGS

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5 REPORTS – PLANNING PROPOSALS

Nil

6 REPORTS – DEVELOPMENT APPLICATIONS

6.1	DA-2018/92 - 17/21-25 Bryant Street, Rockdale	36
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6.5	SF18/2455 - DA-2015/221/02 - 41-45 Rhodes Street, Hillsdale	392
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6.7	SF18/2374 - DA-2017/1189 - 1170-1172 Botany Road, Botany.....	478
6.8	SF18/2589 - DA-2014/235/2 - 109 Baxter Road, Mascot	566

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

18/12/2018

Item No	4.1
Subject	Minutes of the Bayside Local Planning Panel Meeting - 13 November 2018
Report by	Michael McCabe, Director City Futures
File	SF18/2780

Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 13 November 2018 be confirmed as a true record of proceedings.

Present

Jan Murrell, Chairperson
Anthony Reed, Independent Expert Member
Stephen Moore, Independent Expert Member
Christopher Middlemiss, Community Representative

Also Present

Luis Melim, Manager Development Services
Bruce Cooke, Acting Manager Governance & Risk
Marta Gonzalez-Valdes, Coordinator Development Assessment
Angela Lazaridis, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Patrick Nash, Senior Development Assessment Planner
Adam Iskander, Senior Development Assessment Planner
Lauren Thomas, Governance Officer
Bill Niklovski, IT Officer

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

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 23 October 2018

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 23 October 2018 be confirmed as a true record of proceedings.

5 Reports – Planning Proposals

There were no Planning Proposals.

6 Reports – Development Applications

6.1 SF18/2178 - DA-16/150/06- 42 Church Avenue, Mascot

The following person spoke:

- Walter Gordon, Meriton, spoke for the officer's recommendation and responded to the Panel's questions.

The Panel notes that the applicant amended the application to delete the relocation of the mailboxes from this modification application.

Panel Determination

That the Bayside Local Planning Panel **APPROVES** the Section 4.55(1A) Application to modify Development Consent No. 16/150 to increase the size of the terrace to Unit G37 and modifications to conditions at 42 Church Avenue, Mascot, as follows:

- 1 Condition No. 1 is to be modified to reflect the proposed plans that are subject to this application.
- 2 Condition No. 83(n) is to be modified to reflect the timing of providing the public art proposal prior to the issue of any Occupation Certificate.

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

Stephen Moore

Christopher Middlemiss

Reason for the Panel's Determination

- The Panel is satisfied that the above modification will not have any adverse social or environmental impacts.

6.2A DA-2017/1238/03 - 42 Church Avenue, Mascot

- Mr Walter Gordon, Meriton, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

That the Bayside Local Planning Panel has determined that the Section 4.55(1A) Application lodged on 27 August 2018 to modify Development Consent No. 2017/1238/03 for the re-allocation of 18 car-parking spaces from the retail component to the residential units at 42 Church Avenue, Mascot and the application is **REFUSED**.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel is not satisfied that the re-allocation of 18 of the 42 retail car-parking spaces to residential units has been justified by the applicant. The reasons for the modification, given by the applicant, include that the current leases for the retail space would not utilize all the spaces approved and the lack of separation from the residential parking would present a security risk. The Panel is of the view that the retail uses may change over time with a greater demand for retail parking spaces. The permanent allocation of retail spaces to residential units would not allow for this. The argument that the station is in close proximity can also be made for the residential units. Providing units without car parking would also meet a sector of the residential market where the entry price is lower in an inner urban area and the access to public transport is excellent. Furthermore, the security issue is one that could be addressed by internal design changes as to the location of secure entry points in the carpark.

- By way of comment, the panel notes that the originally-approved development was changed by the applicant with a new DA that deleted the childcare centre and replaced it with 29 units (27 approved making the total number of units in the development 367 - December 2017). In May 2018, a DA was approved to increase the retail component from 512 sq m to 1,0375 sq m. The current modification application is for a reduction from 42 to 24 for the retail component, however, it is noted that the plan only provides 22 spaces.

6.2B DA-2017/1238/02 - 42 Church Avenue, Mascot

- Mr Walter Gordon, Meriton, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

That the Bayside Local Planning Panel **APPROVES** the Section 4.55(1A) Application lodged 8 May 2018 to modify Development Consent No. 2017/1238/02 to amend Conditions for the development nearing completion at 42 Church Avenue, Mascot, as follows:

1. Condition No. 36 is approved to be deleted relating to excavation and fill on the site.
2. Condition No. 37 is approved to be deleted relating to contaminated soil being used on site.
3. Condition No. 41 is approved to be deleted relating to vibration during construction.
4. Condition No. 47 is approved to be deleted relating to services within the road reserve to be relocated or adjusted to match the levels of the development.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel is satisfied the modification to conditions are because they have no work to do or no adverse impacts are created.

6.3 DA-2017/190 - DA-2017/190 - 117 Forest Road, Arncliffe

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

The following people spoke:

- Mr Ted Esdaile-Watts, affected neighbour, spoke for the officer's recommendation of refusal.
- Mr Aleksander Bauk, affected neighbour, spoke for the officer's recommendation of refusal.
- Mr Paul Degney, affected neighbour, spoke for the officer's recommendation of refusal.
- Ms Patricia Raquel, affected neighbour, spoke for the officer's recommendation of refusal.
- Ms Genevieve Slattery, applicant, spoke against the officer's recommendation for refusal and responded to the Panel's questions.
- Mr John Kavanagh, applicant, spoke against the officer's recommendation for refusal and responded to the Panel's questions.
- Mrs Kery Saba, applicant, spoke against the officer's recommendation for refusal and responded to the Panel's questions.

Panel Determination

- 1 That the determination of the Development Application No. 2017/190 for alterations and additions to the existing building at 117 Forest Road, Arncliffe be **DEFERRED** to allow the applicant the opportunity to submit an amended plan to Council that holistically considers the amenity of each of the flats.
- 2 That the amended plans shall be submitted to Council within four weeks to allow the Council time to assess the plans and for the matter to be re-submitted to the Panel in a timely manner.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- After a site inspection and hearing submissions, the panel is of the view that there is scope for further development of the site, however, the amenity provided for all the flats must be addressed, in particular the private and communal open space areas.

6.4 DA-2018/138 - DA-2018/138 - 104 Caroline Street, Kingsgrove

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

The following people spoke:

- Mrs Yvonne Thompson, affected neighbour, spoke for the officer's recommendation of refusal.
- Mr Chuan Jian He, applicant, spoke against the officer's recommendation of refusal and responded to the Panel's questions.
- Ms Lin Hou, interpreted for Mr Chuan Jian He.

Panel Determination

- 1 That the Development Application No.2018/138 for demolition of the existing structures and construction of a child care centre with capacity for 133 children operating Monday to Friday 7:00am to 6:00pm with basement car parking is **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons set out in the Officer's report:
 - a. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient and conflicting information has been provided by the applicant to enable a proper and thorough assessment of the proposed development.
 - b. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) and Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, is of a design, form and bulk and scale that is unsatisfactory with respect to the low density residential streetscape and site context of which the property is located within. Consequently, the proposal is inconsistent with the objectives of the R2 Low Density Residential zone within Rockdale LEP 2011, the objectives of Part 4.2 Streetscape and Site Context of Rockdale DCP 2011 and Part 3.3 Building Orientation, Envelope and Design within the Child Care Planning Guideline.
 - c. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is inconsistent with the provisions of the Education and Care Services National Regulations specifically in relation to the design of the outdoor play areas, supervision, natural light and ventilation and the provision of an emergency and evacuation plan.

- d. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, does not comply with the nondiscretionary minimum outdoor play space development standards within Clause 25(b) of State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
- e. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory with respect to Part 3 of the Child Care Planning Guideline as it relates to local character and streetscape, building orientation, envelope and design, visual and acoustic privacy and traffic, parking and pedestrian circulation.
- f. 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 comply with the Floor Space Ratio development standard within Clause 4.4 of the Rockdale Local Environmental Plan 2011. The consent authority is not in a position to grant consent to the development because no request pursuant to Clause 4.6 of the Rockdale Local Environmental Plan 2011 to vary the floor space ratio development standard in Clause 4.4 of the Rockdale Local Environmental Plan 2011 has been submitted.
- g. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the objectives of the Rockdale Development Control Plan 2011 including: Part 4.2 Streetscape and Site Context, Part 4.4.6 Noise impact non-residential, Part 4.5.2 Social equity equitable access, Part 4.6 Parking Rates Child care centres, Part 4.6 Car park location and design and Part 6.1 Child Care Centres in respect of building design, visual and acoustic impact, indoor and outdoor space and parking and pedestrian access.
- h. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk, scale and proposed capacity and would adversely impact upon the amenity of the locality.
- i. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory as it fails to demonstrate acceptable disposal of stormwater from the subject land in accordance with Section 6 of Rockdale Technical Specification Stormwater management.
- j. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in view of the proposed intensity of development and the likely adverse impacts upon the streetscape and the amenity of surrounding properties.
- k. Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act

1979, the proposal results in unacceptable impacts on adjoining /nearby properties.

- I. 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
- 2 That the objector's be advised of the Bayside Local Planning Panel's determination.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- Fundamentally, the subject site is not suitable for a large child care centre of this size because of conflicts in the basement of cars with small children and the adverse amenity impacts of the raised first level play area.

6.5 SF18/1800 - DA-2012/71 - 25-33 Wilson Street, Botany

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

The following people spoke:

- Jamal Salameh, Design Team, spoke for the officer's recommendation and responded to the Panel's questions.
- Alek Salameh, Design Team, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

- 1 That the Bayside Local Planning Panel **APPROVES IN PART ONLY** the Section 4.55(1a) Application to modify Development Consent No. 12/71 for the approved construction of two (2) residential flat buildings (buildings E and F) to allow for modifications to relocate existing balcony balustrades along the southern and eastern elevation to create a larger balcony space to Unit 605 (Lot 97) within building 'E' at 25-33 Wilson Street, Botany.
- 2 That this approval is subject to an amended plan being submitted to Council for the approval of the General Manager, or her nominee that has a minimum setback of 2 metres from the southern edge of the building and a continuation in

line with the current setback of the balustrade on the eastern elevation. The remainder of the roof is to remain non-trafficable and the landscaping is to be deleted from the non-trafficable area.

- 3 That an amended plan must be approved by council and subject to the following conditions.
 - a Amend condition No. 1 to reference the amended plans and documents and to require a new construction certificate for the proposed modification.
 - b Amend condition No. 68(a) to allow for a new occupation certificate for the proposed modification.
 - c Include new condition 3 (e) for the submission of a methodology report for new works relating to the construction of the proposed modifications.
 - d Include condition 3(f) to ensure proposed planting does not form part of the approval.
 - e Include condition 68(c) to ensure owner receives Owners Corporation approval for the occupation of the common area attached to Unit 605.
- 2 That any objectors be notified of the determination made by the Planning Panel.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The panel considers a reduced balcony would be more consistent with the architectural presentation of the building and its context. Furthermore, potential adverse impacts would be ameliorated without the need for privacy screens and additional visual bulk.

6.6 SF18/1791 - DA-2018/1144 - 27 Hambly Street, Botany

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

The following person spoke:

- Mr Paolo Festa, architect, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

1. That the Bayside Local Planning Panel support the variation to the FSR standard, as contained in Clause 4.4 – FSR of Botany Bay LEP 2013, in accordance with the request under clause 4.6 of BBLEP 2013 submitted by the applicant.
2. That the development application DA-2018/1044 for the demolition of existing structures, subdivision of the existing lot into two Torrens title lots and construction of two semi-detached dwellings, one with a detached garage at 27 Hambly Street, Botany, be APPROVED pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel’s Determination

- The proposed development is generally consistent with Council’s guidelines and the emerging character of the area.

6.7 DA-2007/23/2/E - DA-2007/23/2/E - 30-32 Guess Avenue & 4 Lusty Street Wolli Creek

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

The following people spoke:

- Mr O’Donovan, architect, spoke for the officer’s recommendation and responded to the Panel’s questions.
- Stephen Kerr, planner for the applicant, spoke for the officer’s recommendation and responded to the Panel’s questions.

Panel Determination

That Development Application No. DA-2007/23/2/E, being a Section 4.55(1A) application to amend Development Consent Number DA-2007/23, for modifications to the materials and finishes of external facades at 30 - 32 Guess Avenue & 4 Lusty Street, WOLLI CREEK be **APPROVED** and the consent amended in the following manner:

- A. By amending conditions 2 & 3 to read as follows:

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

Plan / Dwg No.	Drawn by	Dated	Received by Council
Site / Roof Plan DA1.01	Jones Sonter	July 2008	6 February 2009
Basement Plan DA2.101	Jones Sonter	March 2008	6 February 2009
Ground Floor Plan DA2.102	Jones Sonter	March 2008	6 February 2009
Level 1 Plan DA2.103	Jones Sonter	March 2008	6 February 2009
Level 2 Plan DA2.104	Jones Sonter	March 2008	6 February 2009
Level 3 - 6 Plan DA2.105	Jones Sonter	March 2008	6 February 2009
Level 7 Plan DA2.106	Jones Sonter	March 2008	6 February 2009
Sections A-A and B-B DA4.101	Jones Sonter	March 2008	6 February 2009
Section C-C DA4.102	Jones Sonter	March 2008	6 February 2009
<i>North Elevation A1020-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>East Elevation A1021-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>South Elevation A1022-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>West Elevation A1023-A Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>North Elevation A2022-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>East Elevation A2023-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>South Elevation A2024-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>
<i>West Elevation A2025-B Revision B</i>	<i>Level 33 Architectural Division</i>	-	<i>11/10/2018</i>

Unit Layouts Building A & Unit Layouts Building A Penthouse Level DA3.101, DA3.105	Jones Sonter	January 2009	6 February 2009
Unit Layouts Building A & Unit Layouts Building A Penthouse Level DA3.101, DA3.105	Jones Sonter	January 2009	6 February 2009
Unit Layouts Building B - sheet 1-3 to sheet 3-3, DA3.102, DA3.103, DA3.104	Jones Sonter	January 2009	6 February 2009
Unit Layouts Building B penthouse level DA3.106	Jones Sonter	January 2009	6 February 2009
Drainage plans HDA01/P1, HDA02/P1, HDA03/P1, HDA04/P1, HDA05/P1, HDA06/P1, HDA07/P1, HDA08/P1, HDA09/P1	Whipps-Wood Consulting	August 2008	10 October 2008,
Landscape plans DA-LI	CAB Consulting Pty Ltd	5 February 2009	6 February 2009
Pedestrian & vehicle access plan (basement) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (ground floor) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 1) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 2) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 3 - 6) Rev A	Dyldam	-	13/12/2013
Pedestrian & vehicle access plan (level 7) Rev A	Dyldam	-	13/12/2013
Staged Landscape Works Plan	CAB Consulting Pty Ltd	September 2013	13/12/2013
Construction management plan phase 1 Rev A	Dyldam	-	27/09/2013
Construction management plan phase 2 Rev A	Dyldam	-	27/09/2013
Construction management plan phase 2 (basement) Rev A	Dyldam	-	27/09/2013
Subdivision staging and section plan Rev D	Dyldam	11/09/13	27/09/2013

[Amendment A— Section 96(1A) amended on 3 November 2009]

[Amendment B — Section 96(2) amended on 17 May 2012]

[Amendment D — Section 96(1A) amended on 8 January 2014]

[Amendment E — Section 4.55(1A) amended on 13 November 2018]

3. *The development must be implemented substantially in accordance with the Finishes & Sample board A1080, prepared by Level 33 Architectural Division.*

[Amendment E — Section 4.55(1A) amended on 13 November 2018]

Name	For	Against
Jan Murrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anthony Reed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stephen Moore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Christopher Middlemiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for the Panel's Determination

- The Panel is satisfied that the revised materials will provide an improved presentation and are in keeping with the character of the area.
- The Panel noted the retention of the green wall vertical garden adjoining the communal open space within the site.

The Chairperson closed the meeting at 10:10 pm.

Certified as true and correct.

Jan Murrell
Chairperson

Bayside Local Planning Panel

18/12/2018

Item No	4.2
Subject	Minutes of the Bayside Local Planning Panel Meeting - 27 November 2018
Report by	Michael McCabe, Director City Futures
File	SF18/2780

Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 27 November 2018 be confirmed as a true record of proceedings.

Present

Robert Montgomery, Chairperson and Independent Expert Member
Marcia Doheny, Independent Expert Member
Helen Deegan, Independent Expert Member
Amber O'Connell, Community Representative

Also Present

Luis Melim, Manager Development Services
Fausto Sut, Manager Governance & Risk
Ben Latta, Coordinator Development Assessment
Christopher Mackey, Coordinator Development Assessment
Michael Maloof, Senior Development Assessment Planner
Andrew Ison, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Sumeet Badhesha, Development Assessment Planner
Ben Tesoriero, Director – Creative Planning Solutions
Brendon Clendenning, Principal Planner – Creative Planning Solutions
Ian Vong, IT Officer
Lauren Thomas, Governance Officer

The Chairperson opened the meeting in the Botany Town Hall Committee Room at 6:03 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 13 November 2018

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 13 November 2018 be deferred until the next meeting of the Panel.

5 Reports – Planning Proposals

There were no planning proposals.

6 Reports – Development Applications

6.1 DA-2017/107 - DA-2017/107 - 1-3 Oriental Street, Bexley

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

The following person spoke:

- Mr Carlos Hafouri, Architect, spoke for the officer's recommendation and responded to the Panel's questions.

Panel Determination

1. That Development Application DA-2017/107 for demolition of existing structures and construction of a four (4) storey residential flat building comprising 14 residential units, roof terrace and basement car parking at 1-3 Oriental Street, Bexley, be APPROVED pursuant to Section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979* subject to the conditions set out in the Council report.
2. An additional condition be included requiring the applicant to remove their interest in the right-of-way over the rear laneway which is redundant for this development. This condition is to be satisfied prior to the issue of occupation certificate.
3. That the objectors be notified of the Bayside Local Planning Panel's decision.

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

Reason for the Panel's Determination

- While the proposal still presents some shortfalls in terms of best practice for setbacks and solar access, the application now complies with the maximum building height and maximum floor space ratio for the site.
- The proposed development is a reasonable response to what is a fairly constrained small site within the zone, which adjoins an existing development to the south which is built to the boundary.

6.2 DA-2018/89 - DA-2017/50 - 43 Crawford Road, Brighton Le Sands (Brighton Memorial Playing Field)

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

The following people spoke:

- Mr Rod McGoogan, President of Dolls Point Football Club, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Sal Torrisi, Secretary of Dolls Point Football Club, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

1. That Development Application (DA-2017/50) is **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions attached to this report with the deletion of conditions 7 and 28.
2. That the objectors be advised of Council's determination.

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

Reason for the Panel's Determination

- The Panel acknowledges that the applicant is prepared to work with Council to ensure that any future impacts in relation to the use of the fields are minimised. The conditions which have not been imposed i.e. conditions 7 and 28, relate to the use of the playing fields as distinct from the approval of two additional lights.
- The matters relating to the use of the playing fields are best dealt with through a licensing agreement entered to between the Council and any user of the sporting fields.

6.3 DA-2018/209 - DA-2018/209 - 4 Prospect Street, Carlton

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

The following people spoke:

- Mr Simon Wilson, affected neighbour, spoke against the officer's recommendation.
- Ms Anne Qin, affected neighbour, spoke against the officer's recommendation.
- Ms Liz Barlow, Councillor for this Ward and interested resident, spoke against the officer's recommendation.
- Mr Joseph Rinaldi, affected neighbour, spoke against the officer's recommendation.
- Mr Howell Chen, affected neighbour, spoke against the officer's recommendation.
- Mr David Benson, Director of Benson McCormack Architecture, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Hassan, applicant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That Development Application No. 2018/209 for the proposed demolition of all structures and the construction of a ten (10) room boarding house development at 4 Prospect Street, Carlton be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the conditions of consent attached to this report.
- 2 That an additional condition be included requiring the provision of an accessible path of travel from the adaptable unit at the rear to Prospect Street. Alternatively, if this provision has already been made, the applicant is required to provide a report from an accredited access consultant which confirms that the access is provided.
- 3 That the objectors be advised of the Bayside Local Planning Panel's decision.

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

Reason for the Panel's Determination

- The application is compliant with all relevant requirements of the Rockdale LEP and the affordale housing SEPP.
- The Panel considers that the design of the buildings is an appropriate response to the low density residential zone. In particular, the building presents as a two storey building to Prospect Street and single storey to the rear lane which is consistent with the established character in the locality.
- The site is considered to be particularly well suited to the development due to the close proximity to public transport, town centre facilities and medical facilities.

6.4 DA-2012/226/03 - 1084-1088 Botany Road, Botany

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

Determination

That the Section 4.55(1A) application for the Modification of the stormwater management design including the deletion of the onsite detention tank is **REFUSED** as insufficient justification has been provided by the applicant for its deletion.

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

Reason for the Panel's Determination

- The applicant has failed to demonstrate the need for the modification to the consent.

- Council officers have confirmed that on-site stormwater detention is required for this development.

6.5 DA-2018/92 - 17/21-25 Bryant Street, Rockdale

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

The following person spoke:

- Mr Darko Vojkovic, affected neighbour, spoke against the officer's recommendation.

Determination

That Development Application No.DA-2018/92 for alterations and additions to Unit 17 be DEFERRED pending Council being satisfied in relation to integrity of the unauthorised works and the subsequent issue of a building information certificate.

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

Reason for the Panel's Deferral

- Inadequate information has been provided in respect of the structural integrity of the unauthorised works. In particular, it is unclear whether the works are likely to have any adverse impact in terms of the structural integrity of the building or otherwise.

6.6 DA-2018/111 - 18/21-25 Bryant Street Rockdale

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

The following people spoke:

- Mr Darko Vojkovic, affected neighbour, spoke against the officer's recommendation.
- Mr Roman Bicioc, owner, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Development Application No.DA2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be DEFERRED pending Council being satisfied in relation to integrity of the unauthorised works and the subsequent issue of a building information certificate.
- 2 That the objector be advised of the Bayside Planning Panel's decision.

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

Reason for the Panel's Deferral

- Inadequate information has been provided in respect of the structural integrity of the unauthorised works. In particular, it is unclear whether the works are likely to have any adverse impact in terms of the structural integrity of the building or otherwise.

6.7 DA-2017/168/A - DA-2017/168/A - 356-368 Forest Road, Bexley

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

Determination

- 1 That development application DA-2017/168/A - 356-368 Forest Road, Bexley for the construction of a six (6) storey mixed use development comprising 22 residential units, 2 ground floor commercial tenancies, basement car parking, demolition of existing structures and strata subdivision be subject to a DEFERRED COMMENCEMENT consent, pursuant to Section 4.55(1)(A) of the Environmental Planning and Assessment Act 1979, subject to the conditions of consent attached to this report and satisfaction of the following matters:
 - i Submission of a Wind Report confirming wind amelioration measures required on-site.
 - ii Submission of revised architectural plans, which illustrate:

- a All required wind amelioration measures for the development.
 - b Unit 5 - Highlight or fixed obscure windows (not film) to both bedrooms and the living room with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screen to the eastern end of the balcony.
 - c Units 4 / 9 / 14 / 19 - Highlight or fixed obscure windows (not film) to living rooms with a minimum sill height of 1.7m. Fixed 1.8m high angled privacy screens to the eastern end of balconies.
 - d Integration of fire booster / hydrant within the building envelope.
 - e Provision of security access details to the driveway, loading / unloading area and basement level.
 - f Details of air conditioning units to residential units.
 - g Toilet and shower facilities provided to commercial tenancies.
- iii Submission of a revised Landscape Plan which illustrates:
- a Additional screen planting along the common boundary with 4 Harrow Road in lieu of a pedestrian walkway.
 - b Relocation of accessible ramp away from the common boundary with 4 Harrow Road.
 - c Details of fencing to delineate between communal open space and the adjoining outdoor area to retail space 1 at ground level.
 - d Productive gardens shall be incorporated into the deep soil area on site.
 - e Vegetation and proposed landscaping/fencing must not hinder driver sightlines to/from the driveway to road users on Forest Road.
- 2 The period of the Deferred Commencement is twelve (12) months from the date of determination.

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

Reason for the Panel's Determination

- The applicant has indicated that they are not able to satisfy all the deferred commencement matters within six months
- The Panel is satisfied that the development, as modified, is substantially the same as that originally approved.
- The Panel considers that the extension from six months to twelve months is reasonable in the circumstances.

The Chairperson closed the meeting at 8:01 pm.

Certified as true and correct.

Robert Montgomery
Chairperson

Bayside Local Planning Panel

18/12/2018

Item No	4.3
Subject	Minutes of the Bayside Local Planning Panel Meeting - 11 December 2018
Report by	Michael McCabe, Director City Futures
File	SF18/2780

Recommendation

That the Minutes of the Bayside Local Planning Panel meeting held on 11 December 2018 be confirmed as a true record of proceedings.

Present

Jan Murrell, Chairperson
Ross Bonthorne, Independent Expert Member
Lindsey Dey, 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
Pascal Van De Walle, Coordinator Development Assessment
Angela Lazaridis, Senior Development Assessment Planner
Fiona Prodromou, Senior Development Assessment Planner
Sumeet Badhesha, Development Assessment Planner
Ana Trifunovska, Development Assessment Planner
Petra Blumkaitis, Development Assessment Planner
Kimberley Bautista, Student Planner
Ayse Kiziltekin, Student Planner
James Arnold, Consultant Planner from Arnold Urban
Anne Suann, Governance Officer

The Chairperson opened the meeting in the Committee Room, Botany Town Hall
Corner of Edward Street and Botany Road, Botany at 6.05 pm.

1 Acknowledgement of Traditional Owners

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

2 Apologies

There were no apologies received.

3 Disclosures of Interest

Lindsey Dey declared a Less than Significant Non-Pecuniary Interest in Item 6.2 on the basis that when the application was assessed she was a contractor at Council and provided planning and heritage comments. The Chairperson agreed in the circumstances this does not disqualify her to consider the matters.

4 Minutes of Previous Meetings

4.1 Minutes of the Bayside Local Planning Panel Meeting - 13 November 2018

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 13 November 2018 be deferred until the next meeting of the Panel.

4.2 Minutes of the Bayside Local Planning Panel Meeting - 27 November 2018

Decision

That the Minutes of the Bayside Local Planning Panel meeting held on 27 November 2018 be deferred until the next meeting of the Panel.

5 Reports – Planning Proposals

Nil

6 Reports – Development Applications

6.1 SF18/1908 - DA-2018/1083 - 921-925 Botany Road and 28 Lever Street, Rosebery

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

Determination

- 1 That development application DA-2018/1083 for the demolition of a former scout hall, commercial building and light poles located within and adjacent to Lever Street Reserve at 921 and 925 Botany Road and 28 Lever Street, Rosebery is APPROVED subject to conditions and pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979.

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

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

Reason for Determination

The Panel is satisfied the demolition will allow for the implementation of the Master Plan for this open space area.

6.2 SF18/2447 - DA-2015/94/05 - 1559-1563 Botany Road, Botany

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

Determination

That the Bayside Local Planning Panel approves the Section 4.55(1) Modification Application to modify Development Consent No. DA-2015/94/05 at 1559-1563 Botany Road, Botany and delete Condition No 105.

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

Reason for Determination

The Panel is satisfied the proposed modification to delete the condition is appropriate given that it was imposed incorrectly.

6.3 DA-2017/199/A - 205-207 President Avenue, Monterey

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

Determination

That Development Application No DA-2017/199/A, being a Section 4.55(1A) application to amend Development Consent Number 2017/199, for the construction of

a four (4) storey residential flat building development, comprising 16 residential units, basement parking, front fence and demolition of existing structures at 205-207 President Avenue, Monterey is APPROVED and the consent amended in the following manner. The effect is to allow 12 months from today for the deferred commencement conditions to be satisfied.

A. By amending the deferred commencement condition to read as follows:

The consent shall not operate until you satisfy Council about the following matters:

- 1 Confirmation from Sydney Water that the proposal to encase the existing sewer pipe is adequate and further increase to the building height is not required.
- 2 The submission of a roof plan indicating the maximum RL for the stairs and lift overrun.
- 3 The submission of an amended landscape plan addressing the following:
 - (1) Frontage setback
 - a Allow at least one (1) large native canopy tree in an area of minimum three by three metres (3x3m).
The tree shall be an *Angophora costata* or a native tree endemic to the area, to be supplied and planted at 200 Litre pot size, with three (3) stakes.
 - b All turf area proposed in the front setback shall be replaced with trees and shrubs. If absorption trench is present replace turf with groundcovers, sedges and grasses.
 - (2) Roof Terrace
Planter boxes on roof terrace shall comply with the ADG part 4P Planting in Structures, to ensure success of proposed planting. Minimum width shall be 700mm. Include *Raphiolepis indica*, or similar shrub with small dense leaves to reach a minimum 1 metre high in the roof planter box to provide visual and acoustic privacy.
 - (3) All planter boxes shall have the depth and width recommended by the ADG part 4P Planting in Structures, to ensure success of proposed planting.
 - (4) All landscape areas shall be automatic irrigated. Irrigation system shall be connected to rainwater tank as a water sensitive urban design principle.
 - (5) Rear landscaped area
The two advanced *Jacaranda mimosifolia* trees shall be planted, one in each corner, a minimum of 3 metres from any boundary of the site. In addition one (1) *Angophora costata*, or native tree endemic to the area, shall be included in the rear landscape area, at a minimum distance of 2.5 metres from adjoining boundaries. The trees are to be supplied at minimum pot size of 200 litres, (height above container 3.5 metres, calliper at 300mm greater than 60mm, with a clear trunk height of 1.5 metres).
 - (6) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months.

- (7) Public Domain
The street tree shall be Eucalyptus sideroxylon `Rosea', (Red Iron Bark) as specified in Rockdale Street Tree Master Plan. Being a State Road the street tree shall be supplied at 400 litre pot size.
- (8) Details of the proposed entry porticos in plan and elevation.
- (9) Fire booster details.

*The period of the Deferred Commencement is **twelve (12) months** from the date of determination.*

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

Reason for Determination

The Panel considered that it is a reasonable request to extend the Deferred Commencement time period.

6.4 SF18/2375 - DA-2017/1022/04 - 130-150 Bunnerong Road, Eastgardens

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

Determination

That the Bayside Local Planning Panel approves the Section 4.55(1A) Application to modify Development Consent No. 2017/1022 as follows:

- i amend Condition No. 44(e) relating to tree preservation bond from \$7,500.00 to \$9,000.00 to achieve consistency with Condition No. 65;
- ii amend Condition No. 65 to modify the period of the bond from 24 months to 12 months;
- iii modify Condition No. 115 relating to replacement of the existing kerb, gutter and road pavement;
- iv delete Condition Nos. 44(f) and (g) which relate to tree preservation/maintenance bonds; and
- v delete Condition Nos. 66 and 67 which relate to tree preservation/maintenance bonds.

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

Reason for Determination

The Panel considers that the amendments will have no impact on the built outcome of the project.

6.5 SF18/2445 - DA-2016/150 - 42 Church Avenue, Mascot

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

The following person spoke:

- Mr Walter Gordon, Head of Planning and Development, Meriton Group, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

That the Bayside Local Planning Panel approves Section 4.55(1A) Application to modify Development Consent No. 16/150 to amend various conditions relating to public domain works, landscaping and timing of bonds at 42 Church Avenue, Mascot, as follows:

- 1 That Condition No. 116 be modified to reflect the timing of carrying out public domain works on Church Avenue, Bourke Street and Galloway Street prior to the issue of the final Occupation Certificate for the last residential flat building.
- 2 That Condition No. 117 be modified to reflect the timing of inspection reports for the works on the road reserve to be obtained prior to the issue of the final Occupation Certificate for the last residential flat building.
- 3 That Condition No. 118 be modified to reflect the timing of the restriction on Use of Land and Positive Covenant(s) to be imposed prior to the issue of the Strata Subdivision Certificate.
- 4 That Condition No. 119 be modified to reflect the timing of the land dedication works to be carried out prior to the issue of the final Occupation Certificate for the last residential flat building.
- 5 That Condition No. 133 be modified to reflect the timing of landscaping works on the property and public domain to be installed prior to the issue of the final

Occupation Certificate for the last residential flat building.

- 6 That Condition No. 135 be modified to reflect the reduction in the timing of the landscaping works bond from 5 years to 12 months.
- 7 That Condition No. 136 be modified to reflect the timing of the Certificate of Compliance with the approved landscape plan to be obtained prior to the issue of the final Occupation Certificate for the last residential flat building.
- 8 That Condition No. 137 be modified to reflect the timing of the installation of public domain works prior to the issue of the final Occupation Certificate for the last residential flat building.
- 9 That Condition No 152 be deleted as it is not relevant.

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

Reason for Determination

The Panel is satisfied the modifications do not impact on the final built outcome and provide for a more efficient delivery.

6.6 DA-18/1044 - 21 Bay Street, Botany

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

The following people spoke:

- Mr Richard Browne, affected neighbour, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr David Waghorn, Principal Planner from Planning Ingenuity, speaking on behalf of the applicant, spoke against 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 is not satisfied that the applicant's written request to vary the height standard adequately addresses the matters required to be demonstrated. The objectives of the standard below and as prescribed by cl4.3 of the Rockdale Local Environmental Plan 2013 are not met by the request:

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

The Panel finds the variation is inconsistent with all the above objectives and as such the threshold question to exceed the height limit is not well founded.

- 2 On a merits assessment, the development application DA18/1044 for the addition of a rooftop terrace to an approved four (4) storey commercial building, including lift and stairwell access at 21 Bay Street Botany is refused for the following reasons:
 - a It is considered that the proposed development does not satisfy Clause 4.3 Height of Buildings of the Botany Bay Local Environmental Plan 2013 relating to the proposed height of the parapet / balustrade, elevator and stair access to the roof top terrace.
 - b It is considered that the proposed development is not sympathetic to the heritage items in close proximity of the site and would have adverse impacts on the streetscape.
 - c It is considered that the proposed development does not satisfy the provisions for promoting neighbourhood amenity or enhance the character of the area. Furthermore, the proposed height increase for the parapet / balustrade, elevator and stairwell access to the roof top terrace will reduce solar access to surrounding properties and will decrease existing views.
 - d The proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
- 3 That the objectors be advised of the Bayside Local Planning Panel decision.

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

Reason for Determination

The Panel considers that the proposed development will have a negative impact on the desired and future character of the area and does not warrant approval.

6.7 DA-2016/68 - 19 Dowling Street, Arncliffe

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

The following people spoke:

- Mr Peter Ellerington, affected neighbour, spoke against the officer's recommendation.
- Mr Ben Irawan, Senior Pastor, Life Centre International, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Rachid Andary, Director, Fuse, architect, spoke for the officer's recommendation and responded to the Panel's questions.
- Mr Brett Maynard, GTA Consultants, traffic consultant, spoke for the officer's recommendation and responded to the Panel's questions.

Determination

- 1 That the Panel considers the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 is consistent with the objectives of the height standard contained in Clause 4.3 and the objectives of the R2 Low Density Residential zone and it is in the public interest to vary the control.
- 2 That the Panel considers the Clause 4.6 request to vary the floor space ratio (FSR) standard contained in Clause 4.4 of the RLEP 2011 is consistent with the objectives of the FSR standard contained in Clause 4.4 and the objectives of the R2 Low Density Residential zone and it is in the public interest to vary the control.
- 3 That the Bayside Local Planning Panel approves the proposal for demolition of the existing small hall, retention of the existing auditorium and heritage dwelling, and addition of a new two storey school building for a maximum of 200 children to the existing school and continued use of the church at 19 Dowling Street, Arncliffe, subject to recommended conditions and as modified by the Panel. The General Manager (or her nominee) is delegated the authority to amend the conditions consistent with the following:
 - Condition 14 to include (iii) noise monitoring every two years post operation.
 - Condition 17 to include (d) the Plan of Management is to be reviewed every two years post operation and necessary amendments made with Council approval to mitigate issues that have been raised during the

period.

- Condition 42 is to have an additional Part (a) requiring the construction management plan to address management and operation of the school and church during the construction period.
- Plan 1 and Plan 2 of Option B in Appendix A of the Traffic Management Plan dated 28 November 2018 to be updated to include measures detailed in Figure 2 of the Traffic Management Plan.
- The plan must provide for a minimum of 20 bicycle spaces / racks on-site and disabled parking.
- The basement walls and ceiling are to be painted white, with appropriate lighting, and generally made more attractive for users.
- Signage and graphics shall be provided to define the circulation and zones and all parents and carers educated to ensure the effective functioning of the basement.

4 The Panel has determined that Option B for the basement traffic management / pick up / drop off area and parking layout be implemented as part of the approved plans and that the conditions in Appendix A of the supplementary report be adopted.

5 That the objectors 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"/>
Lindsey Dey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Patrick Ryan	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reason for Determination

The Panel is satisfied that with the conditions imposed this will allow the development to co-exist in this residential area without unreasonable adverse impacts.

6.8 DA-2007/23/2/F - 30-32 Guess Avenue & 4 Lusty Street, Wolli Creek

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

Determination

1 That the matter be deferred and the following information be submitted to Council for review and assessment:

- a detailed design stormwater plans, demonstrating compliance with Rockdale Technical Specifications – Stormwater Management;
 - b a Revised Water Sensitive Urban Design (WSUD) Report;
 - c a Revised MUSIC Model, including information on the overland flow and development changes in the area since the original application was approved in 2007;
 - d an analysis regarding rainwater harvesting and water recycling for the development, indicating that the minimum 50,000 litre capacity as proposed is sufficient for the site’s development, and the applicant is to identify how and the quantity of water for the purposes of laundry, toilet flushing and landscaping.
- 2 That a supplementary assessment on the above is to be reported back to the Panel for determination.
- 3 That the objector be notified of the Bayside Local Planning Panel decision.

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

Reason for Determination

The Panel considers that the modification application does not provide sufficient information for a proper assessment.

The Chairperson closed the meeting at 9.00 pm.

Certified as true and correct.

Jan Murrell
Chairperson

Bayside Local Planning Panel

18/12/2018

Item No	6.1
Application Type	Development Application
Application No	DA-2018/92
Lodgement Date	23/04/2018
Property	17/21-25 Bryant Street, Rockdale
Ward	Rockdale
Owner	Mrs F Hsu
Applicant	Mrs F Hsu
Proposal	Alterations and additions to Unit 17
No. of Submissions	Nil
Cost of Development	\$3,000
Report by	Michael McCabe, Director City Futures

Officer Recommendation

That the Development Application No. DA-2018/92 for alterations and additions to Unit 17 be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Location Plan



Attachments

- 1 Supplementary Planning Assessment Report [↓](#)
- 2 Draft Notice of Determination [↓](#)
- 3 Engineering Certificate [↓](#)
- 4 Previous Planning Assessment Report [↓](#)
- 5 Site and Roof Plan [↓](#)
- 6 Existing Top Floor Plan [↓](#)
- 7 Existing Elevation Plan [↓](#)

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Type	Development Application
Application No	DA-2018/92
Lodgement Date	23/04/2018
Property	17/21-25 Bryant Street Rockdale
Ward	Rockdale
Owner	Mrs F Hsu
Applicant	Mrs F Hsu
Proposal	Alterations and additions to Unit 17
No. of Submissions	Nil
Cost of Development	\$3,000
Report by	Michael Maloof, Senior Development Assessment Planner

Key Issue

This application has one key issue being consideration of a new Engineering Certificate submitted to Council.

Officer Recommendation

That the Development Application No.DA-2018/92 for alterations and additions to Unit 17 be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Background

On 27 November 2018, the Bayside Planning Panel (the Panel) considered this development application and resolved:

- 1 *That the Development Application No.DA2018/92 for the alterations and additions to Unit 17 at 21-25 Bryant Street Rockdale be DEFERRED pending Council being satisfied in relation to integrity of the unauthorised works and the subsequent issue of a building information certificate.*
- 2 *That the objector be advised of the Bayside Planning Panel's decision.*

The Panel provided the following reason for the above recommendation:

Inadequate information has been provided in respect of the structural integrity of the unauthorised works. In particular, it is unclear whether the works are likely to have any adverse impact in terms of the structural integrity of the building or otherwise.

At this point the Panel indicated that the applications for both units 17 and 18 were being determined together as they may have implications for the structural integrity of the same building.

Assessment of the Panel's Deferment

On 15 December 2017 a Building Information Certificate (BC-2017/68) was lodged with Council in respect to the unauthorised works on the subject site. Council reviewed the information submitted with the application and found that the engineering certificate submitted referred to the loading from the light weight walls, structural adequacy of the walls themselves and adequacy of the related waterproofing. In this regard, the certificate submitted did not specifically address the loading from any new 'topping' RC slab or flooring provided as part of the unauthorised building works.

On 29 November 2018, the applicant was requested to provide a new engineering certificate in respect to any new 'topping' reinforced concrete slab or timber flooring that has raised the internal floor level of unit 18.

On 3 December 2018 the applicant of unit 17 submitted a new engineering certificate prepared by Sydney Wide Engineers in accordance with the previous directions of the Panel. (Please refer to the attached engineering certificate by a qualified and certified structural engineer). The engineering certificate submitted by the owner of unit 17 was referred to Council's Building Certification Team who advised that the updated structural Engineers certificate dated 30/11/18 is satisfactory in terms of verifying the structural adequacy of the existing reinforced concrete (RC) slab for unit 17.

Council's Building Certification Team also confirmed that the certificate did not allude to the existence of a retrospectively built 'topping' slab as suggested to the Bayside Planning Panel.

Conclusion

The issues raised by the Panel at their meeting of 27 November 2018 have been addressed by the applicant. The unauthorised building works carried out on the site have now been certified by a qualified engineer and accordingly, the matter raised by the Panel has been considered and addressed.

Based on the above, it is recommended that the Panel consider and determine the application in accordance with the recommendation provided.

Our Ref: DA-2018/92
 Contact: Michael Maloof 9562 1666

Mrs Fang-Yu Hsu
 17/21-25 Bryant St
 ROCKDALE NSW 2216

NOTICE OF DETERMINATION

Issued in accordance with section 4.18(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2018/92
Property: 17 / 21 - 25 Bryant Street, ROCKDALE (Lot 17 SP 73839)
Proposal: Alterations and additions to Unit 17
Authority: Delegated to Council Staff

Determination:

Date of determination:

Date consent commences:

Date consent lapses:

DRAFT

The above development is approved subject to the following conditions:

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 maintained 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
Project No. 2174, Drawing No. A-04, Issue 01, Existing Top Floor Plan As Built,	IQ Homes	30/06/17	23/04/18
Project No. 2174, Drawing No. A-02, Issue 01, Existing Site & Roof Plan As Built,	IQ Homes	30/06/17	23/04/18

Project No. 2174, Drawing No. A-05, Issue 01, Existing Elevations As Built,	IQ Homes	30/06/17	23/04/18
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3. 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.
4. The dwelling shall be used as a single occupancy only.

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. 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.
6. A Smoke Detector and Alarm being installed at level 6 of Unit 17 complying with the requirements of Part E2 of the Building Code of Australia. A certificate issued by a licensed electrician for the installation being submitted to Council on completion of the installation.
7. A Building Information Certificate shall be submitted to Council in relation to the unapproved building works carried out on the subject site.
8. A Section 7.11 contribution of \$4,653.50 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 for the unauthorised building works which includes an additional bedroom. Payment of the contribution is required within 2 months of the granting of this development consent for the unauthorised building works carried out on the site.

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.

Development consent advice

- a. 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.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date

of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.

- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 8.7 and 8.10 of the Act, applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Michael Maloof on 9562 1666

Pascal Van de Walle
Coordinator - Development Assessment

SYDNEY WIDE ENGINEERS**CONSULTING STRUCTURAL & CIVIL ENGINEERS**

11 GOLDSMITH AVENUE WINSTON HILLS NSW 2153

TELEPHONE 02 9686 9664

Email: s.w.e@optusnet.com.au

DATE: 30 November 2018

OUR REFERENCE: S03698/2

TO WHOM IT MAY CONCERN**RE: UNAUTHORISED ADDITIONS AND ALTERATIONS
AT UNIT 17 No 21 BRYANT STREET, ROCKDALE****STRUCTURAL CERTIFICATE**

An inspection of unit 17 at the above building was made on 30 November 2018 by myself the undersigned structural engineer.

Unit 17 is two levels and it is located on level 5 and level 6 of a 6 storey full brick construction building with concrete floor slabs.

Part of unit 17 upper level (level 6) balcony had been enclosed and converted into a living area.

The work that had been carried out consists of the installation of floating timber floor, the erection of light weight internal partition walls and the installation of external glazing walls on top of the existing level 6 balcony concrete slab.

This is to certify that the following building components are adequate:

- 1) The existing balcony concrete slab of level 6 at unit 17 is structurally adequate to support the additional imposed loads of the installed floating timber floor, the erected light weight internal partition walls and the installed external glazing walls and.
- 2) The erected light weight internal partition walls and the installed external glazing walls of level 6 at unit 17 are structurally adequate.
- 3) All the works that were carried out will not have any adverse impact on the structural integrity of the building.

Yours faithfully

**NABIL GHOSN**

BE MIEAust

CPEng NPER # 910768

Colleges: Civil, Structural

Accredited Certifier # BPB0135

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/92
Date of Receipt:	23 April 2018
Property:	17 / 21 - 25 Bryant Street, ROCKDALE (Lot 17 SP 73839)
Owner:	Mrs Fang-Yu Hsu
Applicant:	Mrs Fang-Yu Hsu
Proposal:	Alterations and additions to Unit 17
Recommendation:	Approved
No. of submissions:	Nil
Author:	Michael Maloof
Date of Report:	6 November 2018

Key Issues

The key issues related to this application are:

- Unapproved building works
- Car parking

The above matters have been addressed later in this report.

Recommendation

1. That the Development Application No. DA-2018/92 for the alterations and additions to Unit 17 at 21-25 Bryant Street, Rockdale, be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Background

History

Council's records show that the following applications were previously lodged with Council that are related to the subject dwelling:

- DA-2002/660 - Mixed Use Development - 20 X 2 Bedroom Units, Two Commercial Suites and Associated Parking - Approved on 16 December 2002
- DA-2002/660/A, B and C - Several minor Section 96 Amendments made to the scheme all of

which were Approved by Council

- BC-2018/2, Unapproved Development - Internal partitioning at Level 6 - Lodged on 09/01/18 and still being assessed

On 4 October 2017 a complaint was received by Council which stated the roof top terrace had been enclosed (18m²) and converted to habitable floor space. The Building Information Certificate (BC) above was lodged on 9 January 2018 and it was found that the development was within the existing walls although development consent was required for the conversion to a bedroom with ensuite. The current application was submitted to Council on 23 April 2018 for Council's consideration.

Proposal

Council is in receipt of a development application DA-2018/92 at 17/21-25 Bryant Street, Rockdale, which seeks consent for alterations and additions to Unit 17 including the provision of a bedroom and ensuite on the upper level adjacent to the roof top terrace. This application seeks to legitimise the alterations and additions which have already been carried out on the site (i.e. they are unauthorised).

Specifically, the proposal consists of:

- The existing habitable room on the roof top terrace level being converted into a bedroom with ensuite being 18m² in area;
- The existing habitable room be provided with a door at the top of the stairs to the bedroom; and
- The building works includes one additional window opening in the southern external wall (measuring 0.8m x 0.8m) of the existing building for bathroom ventilation.

The above works are within the existing building envelope on the roof top terrace level and do not involve the addition of any new external walls. The works have already been completed and a Building Information Certificate has been submitted for these unauthorised works.

Site location and context

The subject site is known as Lot 17 in SP 73839, at unit 17/21-25 Bryant Street, Rockdale. The site is a rectangular shape with front and rear boundary widths of 24.38 metres and the side boundaries are 36.6m deep. The total site area is 891.9 sq.m and contains a seven storey mixed use development containing 18 residential apartments. The top floor of the building is the roof top terrace with direct access from units 17 and 18. The topography of the site is such that it is relatively flat.

The site is located on the southern side of Bryant Street between Market and George Streets. Adjoining development to the sides includes a ten storey multi unit development to the west on the corner with Market Street and a single storey dwelling house to the east which is soon to be redeveloped with the adjoining dwellings houses to the corner of George Street. A one storey dwelling house is situated on the adjoining property to the rear which also fronts George Street and is soon to be redeveloped. There is a mix of one storey dwelling houses and multi storey mixed use developments within close proximity to the subject property.

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 No 65—Design Quality of Residential Apartment Development

The proposal is for minor alterations and additions to an existing mixed use development including the conversion of the existing room at level one of Unit 17 to a bedroom with ensuite. It does not involve any additional dwellings or an extension of the unit on the subject site. As such, the proposal does not require referral to the Design Review Panel and is acceptable in this regard.

The proposal will not increase the size of unit 17 but will involve the conversion of floor space on the roof top terrace level into a third bedroom with ensuite. In this regard, the proposal will not increase the size of the unit which has a gross floor area (GFA) of 75m² as previously approved. The existing apartment includes a ground floor of 58m² and upper level of 17m² having a total of 75m² which was a common size for a two bedroom unit at the time of the previous development approval. The unit also includes a 20m² balcony at the lower floor level and the generous roof terrace area at the upper floor level. The proposal will not reduce any setbacks for the upper floor of the existing building as it currently exists on the site, nor include any changes to the design of the unit apart from the addition of a window in the ensuite external wall.

The proposal will, however, result in a three (3) bedroom plus two bathroom unit which does not comply with the minimum 95m² required under the Apartment Design Guide (ADG). While the proposal does not comply with the minimum size required under the ADG, the unit has a high level of amenity as it benefits from cross-ventilation and a northerly aspect to the unit and its 20m² balcony at the lower level. Given that the modification relates to the upper level and does not detract from the existing internal amenity provided at the lower level, and given that the building was approved under previously controls, the proposed variation is acceptable in this regard.

With regards to car parking, the proposal provides one on site car parking space for the unit and does not comply with the relevant provision of the ADG (clause 3J) which refers to the RMS Guide for Traffic Generating Developments which requires 1.4 spaces to be provided for each 3 bedroom unit. The existing unit has been allocated one (1) car space and there is no ability to provide additional parking on site. The variation is supported for reasons discussed in response to clause 4.6 of the Rockdale DCP 2011 which relates to car parking.

Based on the above, the proposal is consistent with the objectives of the SEPP and ADG and is acceptable in this case.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B2 Local Centre	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
6.3 On 25 ANEF (2033) contour	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes

2.3 Zone B2 Local Centre

The subject site is zoned B2 - Local Centre under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as alterations and additions to an existing mixed use development which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To accommodate population growth through high density mixed use development that complements the role of retail, commercial, civic and cultural premises in the Rockdale town centre.
- To create a lively Rockdale town centre with an amenable and pedestrian focused public domain activated by building uses that engage with the street.

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

4.3 Height of buildings

The proposal will involve the conversion of a room into a bedroom within the existing building envelope and will not increase the height of the existing building on the site. As such, the proposal does not exceed the maximum 28m height shown for the land on the Height of Buildings Map. Further, the proposed development will not challenge the existing building, maintain satisfactory sky exposure and daylight to buildings 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.

6.3 On 25 ANEF (2033) contour

The development is on land that is not located near the Sydney (Kingsford-Smith) Airport, however the land is located on the 20 ANEF (2033) contour. In this regard, the development will not result in an increase in the number of dwellings or people affected by aircraft noise. Therefore, it is considered that the proposed development does not require additional noise mitigation measures.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 50 metres to Australian Height Datum (AHD). The proposed building works will retain the existing building height which is at 39.7 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves retaining the existing on site stormwater detention system to manage stormwater. The retention of the existing roof top structure and conversion to habitable floor space is not likely to increase the impervious area on the site. In this regard, the existing stormwater system which was previously approved by Council's development engineers is capable of servicing the site and therefore the proposal is consistent with the requirements of 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	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion

4.1.1 Views and Vista

The conversion of the room on the roof top terrace will not involve any new walls and will not add any external structures to the existing roof top terrace. As such, the proposal will not result in any reduction of existing views out over or across the subject site. Accordingly, the proposal will retain the existing views and complies with the requirements of this clause in respect to views.

4.1.3 Water Management

The conversion of floor space to a bedroom with ensuite is located underneath an existing roof and will not increase the building footprint of the existing development on the site. As such, the proposal will not increase the requirement for stormwater drainage on the site or require additional water management on the site. Accordingly, the proposal complies with the requirements of this clause.

4.2 Streetscape and Site Context - General

The proposed development is located on the seventh floor of a mixed use development, underneath an

existing roof line, located behind a parapet wall and setback from the street. As such, the proposed enclosure and conversion to a bedroom with ensuite is not visible from the street and will not visually add to the bulk of the building. As such, the proposal is likely to have little or no impact on the existing streetscape along Bryant Street. In this regard, the proposal is not likely to result in any adverse impacts on the existing streetscape along Bryant Street and complies with the requirements of this clause.

4.3.2 Private Open Space - Residential Flat Building/Shoptop housing

The proposal provides adequate private open space on the roof top terrace in accordance with Council's DCP 2011. The proposal will retain this private open space and has not reduced it on the roof top terrace. The private open space is appropriate and is usable, accessible, clearly defined and will meet occupants requirements of privacy, solar access, outdoor activities and landscaping. Accordingly, the proposal is acceptable in this regard.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The proposed development will involve conversion of existing floor space on the roof top terrace to a bedroom with ensuite. As such, the proposal will not increase the height of the building or reduce any existing setbacks. The proposal will not increase the level of overshadowing from the existing building and therefore will have minimal impact on the level of sunlight currently received by adjoining properties and within the development site. Accordingly, the proposal is acceptable in respect to the requirements of this clause.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating a minimum floor to ceiling height of 2.59m. While this is 11 mm less than the standard of 2.7m under Council's DCP, the existing roof form includes 100 mm for services and will allow substantial light and ventilation into the dwelling given the number of openings. As such, the proposal is consistent with the objectives of this clause and acceptable in this regard.

4.4.5 Visual privacy

The proposal will include the conversion of the existing enclosed room on the roof top level which is adjacent to the roof top terrace. This room was previously approved as an open floor area (habitable space) but was not a designated bedroom or water closet. The proposal includes one additional opening in an external wall for the bathroom. As such, the proposal will retain the same building setbacks as previously approved and will not result in any additional overlooking or privacy impacts than the previous approval on the site. As such, the proposal will retain adequate privacy for the existing dwelling and those adjoining it in the residential flat development. Accordingly, the proposal is consistent with the requirements of this clause.

4.4.5 Acoustic privacy

The proposal does not increase the size or dimensions of the existing roof top terrace or any balconies for the existing building. As such, it is not likely to increase the level of noise likely to be generated from the existing dwelling. The proposal will result in a bedroom being adjacent to the roof top terrace rather than a living area/room. Notwithstanding this, the proposal is not likely to result in any additional noise impacts on the dwelling and those adjoining it within the residential flat building on the site. Accordingly, the proposal is consistent with the requirements of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

The previous approval granted development consent for the construction of 18 x 2 bedroom residential

units and two retail shops for the mixed use development on the site. The current proposal will improve the housing mix by making unit 17 a three bedroom unit instead of a 2 bedroom unit as previously approved on the site. While the current proposal will increase the number of three bedroom dwellings on the site, it will help in seeking to satisfy the requirements of this clause. The current proposal and the application for the adjoining unit 18 would both result in 2 x 3 bedroom units which would provide a minimum of 10% of the units. As such the proposal would satisfy the provisions of this clause being 10% of the total of all dwellings. Accordingly, the current proposal is acceptable in this regard.

4.6 Parking Rates Residential Flat Buildings

The existing mixed use development on the site was approved on 16 December 2002 and contained all two bedroom units each with one car parking space within the ground and basement car parking levels. Unit 17 was also approved with an open habitable floor area on the upper level which provides access to the roof top terrace. The current proposal converts this existing internal space into a third bedroom with an ensuite in the existing unit. Council's DCP 2011 ordinarily requires the provision of two on site car parking spaces for a three bedroom unit. The original development approval on the site (DA-2002/660) considered unit 17 to be a two bedroom unit despite the upper floor area as it did not have a separate door above the stairs and was open floor space.

The existing building on the site contains ground and basement parking levels containing one car parking space for each unit, commercial parking spaces and visitor car parking for the building. The design and layout of the basement levels do not make provision for any additional on site car parking for the current application. As such, an additional car parking space cannot be provided on the site and the proposal does not comply with the minimum car parking requirement.

Information has been submitted by the applicant which confirms the above scenario and requests the additional car parking space be waived in light of the limitation of the existing building. Notwithstanding this, the subject site is located within the Rockdale Town Centre and is approximately 300m away from Rockdale Railway Station. In respect to the provision of on site car parking requirements, the Apartment Design Guide refers to the Guide to Traffic Generating Development (Guide) or Council's DCP 2011 and states that the control to be used is that for which car parking is the lesser. In this regard, the Guide states the following requirement for high density residential flat buildings:

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.

Based on the car parking rates above, the Guide would require less parking for the proposal which would amount to an increase in parking for the unit from 1 space to 1.4 spaces, that is 0.4 of a space to be provided on the site.

Council's Section 94 Contributions Plan is not applied to the provision of car parking spaces for residential units and as such, a levy under the Contribution Plan for a deficiency of on car parking space cannot be applied to the current proposal.

Strict compliance with the on site car parking requirement under section 4.6 of Council's DCP 2011 and the ADG is not possible on the subject site. The current proposal does not involve any changes to the existing ground and basement level car park. Notwithstanding this, the subject site has proximity to Rockdale Railway Station and the unauthorised building works are not visible from the street and do not result in any significant or detrimental adverse impacts on the amenity of the site or adjoining

properties.

In the circumstances of the case, the proposal is not considered likely to set an undesirable precedent and strict compliance with the standard is unreasonable and unnecessary.

Given the above, the application is recommended for approval subject to the imposition of conditions of development consent.

4.7 Laundry Facilities and Drying Areas

The proposal will not alter the existing provision of an internal laundry within the residential unit. Nor will the proposal affect the existing letterboxes, storage areas, air conditioning system or hot water system on the site. Accordingly, the provisions of this clause are satisfied.

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 the building works have already been carried out and a condition of consent is not necessary to be imposed in this regard.

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

Fire Safety & Other Considerations - Clause 93 EP&A Regulation 2000

A Building Information Certificate is required to be submitted to Council to address all matters under the EP&A Regulation 2000 and ensure the building works complies with the requirements of the Building Code of Australia (BCA). This includes amending the plans to comply with the BCA in respect to the door at the top of the stairs and the fire safety measures used in the existing building. Accordingly, subject to the imposition of the recommended conditions of development consent, the proposal is acceptable in respect to the Regulations.

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:

General

The building works have been assessed against relevant controls in regard to potential impacts on the environment and neighbouring properties. The development is satisfactory and not likely to result in any significant adverse amenity impacts on the site or adjoining dwellings. Appropriate conditions of consent have been included in the draft consent to further minimise impacts. Accordingly, the building works, as conditioned, are acceptable in this instance.

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 proposed development did not require notification in accordance with the provisions of Rockdale DCP 2011.

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

The application was referred to Council's Section 7.11 Planner who advised that a Section 7.11 Contribution Payment of \$4,653.50 is payable in accordance with Council's Policy. Accordingly, a condition has been imposed on the draft Notice of Determination in this regard.

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 proposal will not alter the existing building height (previously approved) at 20.2m which 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 maintained in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

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3. 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.
4. The dwelling shall be used as a single occupancy only.

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. 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.
6. A Smoke Detector and Alarm being installed at level 6 of Unit 17 complying with the requirements of Part E2 of the Building Code of Australia. A certificate issued by a licensed electrician for the installation being submitted to Council on completion of the installation.
7. A Building Information Certificate shall be submitted to Council in relation to the unapproved building works carried out on the subject site.
8. A Section 7.11 contribution of \$4,653.50 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 for the unauthorised building works which includes an additional bedroom. Payment of the contribution is required within 2 months of the granting of this development consent for the unauthorised building works carried out on the site.

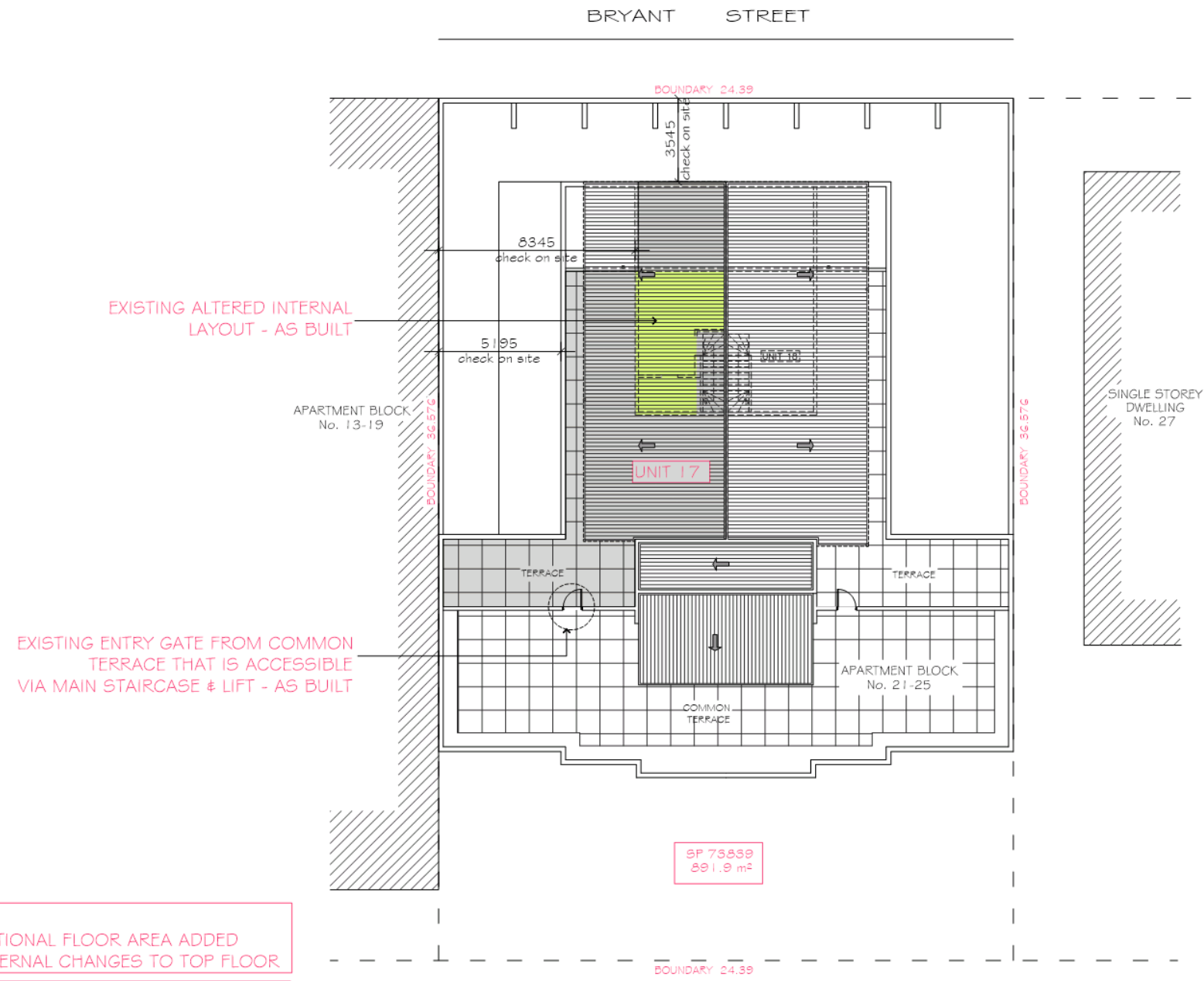
Copies of Council's Section 94 (Section 7.11) Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

Development consent advice

- a. 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.

*Do not scale off drawings.
 *All dimensions, levels & existing site conditions shall be checked & verified by the contractor/s prior to the commencement of works



AS BUILT SITE CALCULATIONS

APPROVED SITE CALCULATIONS :

SITE AREA TOTAL:	891.9 sqm
UNIT 17 AREA:	87.0 sqm
APPROVED BUILDING AREA:	1783.4 sqm
APPROVED FSR:	2:1

NO CHANGES TO APPROVED SITE CALCULATION

NOTE:

- NO ADDITIONAL FLOOR AREA ADDED
- ONLY INTERNAL CHANGES TO TOP FLOOR

NO CHANGE TO STORMWATER SYSTEM DUE TO AS BUILT ALTERATION TO INTERNAL LAYOUT.

EXISTING SITE & ROOF PLAN - AS BUILT



	UNIT 17
	AS BUILT

Description	By	Date
Issue for AS BUILT	IQH	30.06.17

Drawn By:
 Architectural Design and Drafting
IQ HOMES
 Ph: 9553 4049 Mob: 0415 417 137
 mirella@iqhomes.net.au

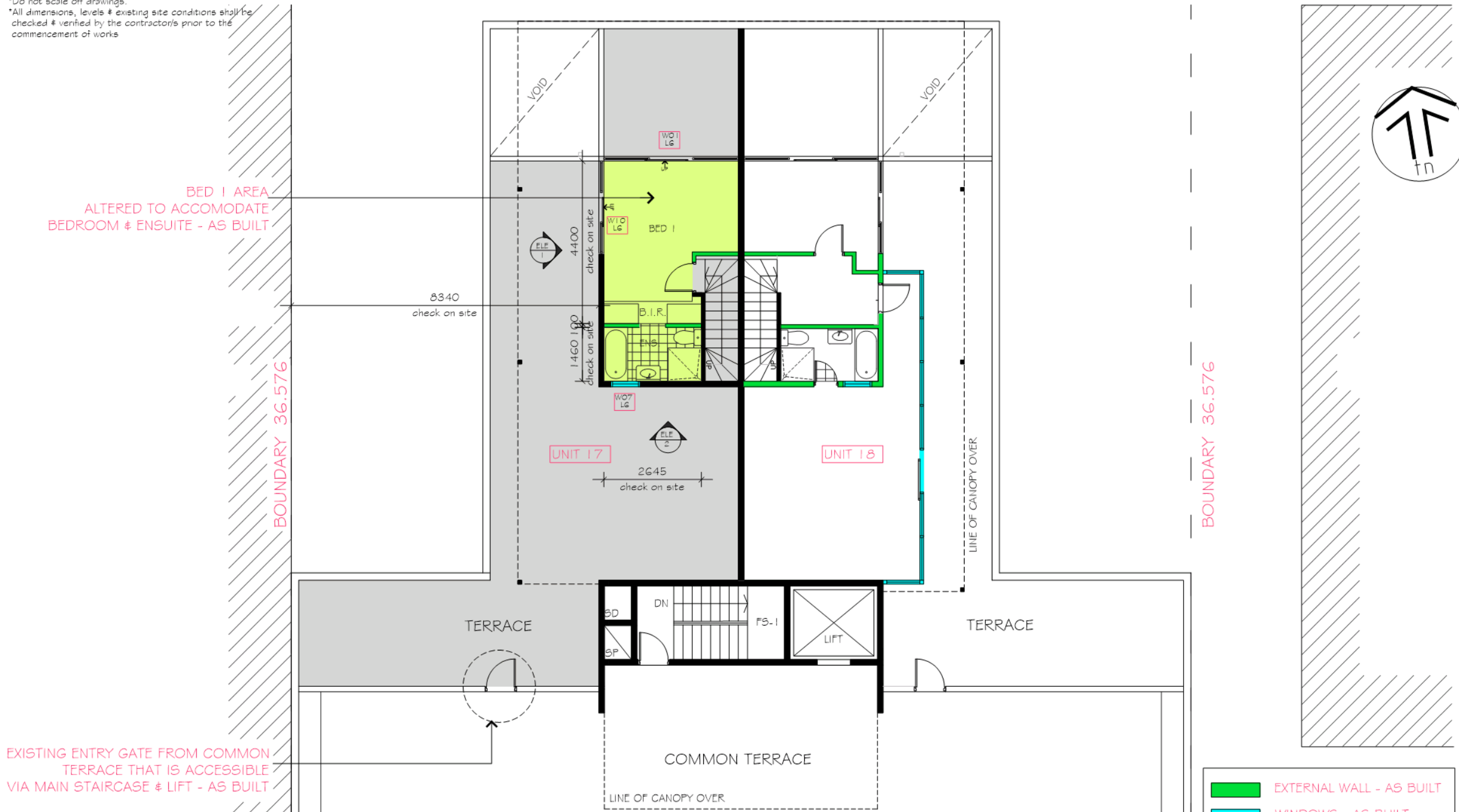
EXISTING SITE PLAN & ROOF PLAN - AS BUILT

Owners/ Property:
 Mr. Fang-Yu Hsu
 17/ 21-25 Bryant Street
 Rockdale, NSW 2216

Title:
 AS BUILT

DATE	30.06.2017	PROJECT NUMBER	2174
DRAWN	IQ HOMES	DRAWING NUMBER	A - 02
CHKD	MA		
SCALE	1:200 @A3		

*Do not scale off drawings.
 *All dimensions, levels & existing site conditions shall be checked & verified by the contractor's prior to the commencement of works



BED 1 AREA
 ALTERED TO ACCOMMODATE
 BEDROOM & ENSUITE - AS BUILT

EXISTING ENTRY GATE FROM COMMON
 TERRACE THAT IS ACCESSIBLE
 VIA MAIN STAIRCASE & LIFT - AS BUILT

EXISTING TOP FLOOR PLAN - AS BUILT

NOTE:
 • NO ADDITIONAL FLOOR AREA ADDED
 • ONLY INTERNAL CHANGES TO TOP FLOOR

AS BUILT TOP FLOOR AREA - NO CHANGES TO
 APPROVED FLOOR AREA ; 18.5 sq.m.

- EXTERNAL WALL - AS BUILT
- WINDOWS - AS BUILT
- ALTERED LAYOUT - AS BUILT
- UNIT 17



Description	By	Date
Issue for AS BUILT	IQH	30.06.17

Drawn By:
 Architectural Design and Drafting
IQ HOMES
 Ph: 9553 4049 Mob: 0415 417 137
 mirella@iqhomes.net.au



EXISTING TOP FLOOR PLAN
 AS BUILT

Owners/ Property:
 Mr. Fang-Yu Hsu
 17/ 21-25 Bryant Street
 Rockdale, NSW 2216

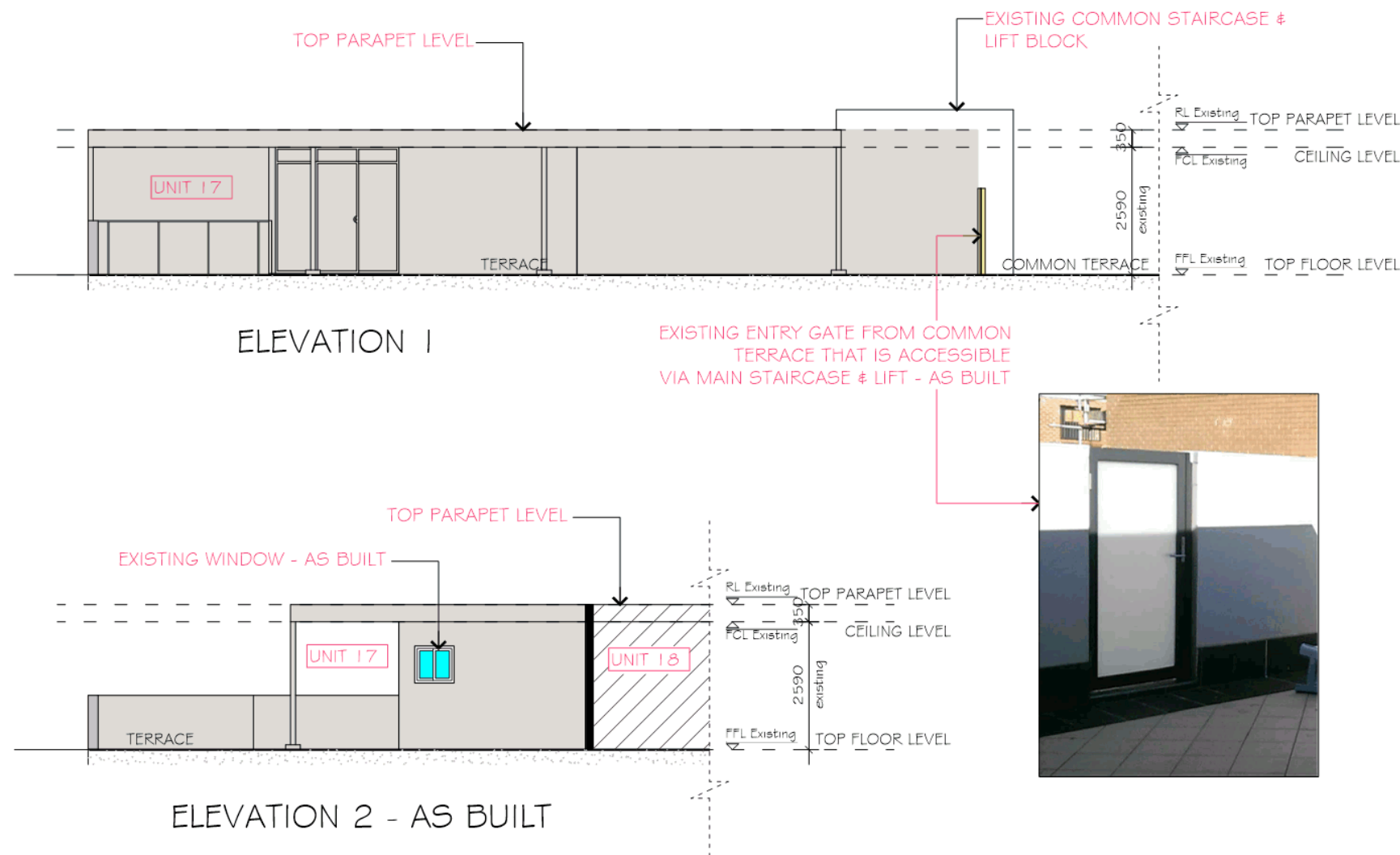
Title:
 AS BUILT

DATE: 30.06.2017
 DRAWN: IQ HOMES
 CKD: MA
 SCALE: 1:100 @A3

PROJECT NUMBER:
 2174

DRAWING NUMBER:
 A - 04

*Do not scale off drawings.
 *All dimensions, levels & existing site conditions shall be checked & verified by the contractor/s prior to the commencement of works



	WINDOWS - AS BUILT
	ALTERED LAYOUT - AS BUILT
	ENTRY GATE - AS BUILT
	UNIT 17



Description	By	Date
1 Issue for AS BUILT	IQH	30.06.17

Drawn By:
 Architectural Design and Drafting
IQ HOMES
 Ph: 9553 4049 Mob: 0415 417 137
 mirella@iqhomes.net.au

EXISTING ELEVATIONS
 AS BUILT

Owners/ Property:
 Mr. Fang-Yu Hsu
 17/ 21-25 Bryant Street
 Rockdale, NSW 2216

Title:
 AS BUILT

DATE	30.06.2017	PROJECT NUMBER	2174
DRAWN	IQ HOMES	DRAWING NUMBER	A - 05
CHKD	MA		
SCALE	1:100 @ A3		

Bayside Local Planning Panel

18/12/2018

Item No	6.2
Application Type	Development Application
Application No	DA-2018/111
Lodgement Date	08/05/2018
Property	18/21-25 Bryant Street, Rockdale
Ward	Rockdale
Owner	Mr Roman Bicioc
Applicant	Mr Roman Bicioc
Proposal	Alterations and additions to Unit 18
No. of Submissions	One (1)
Cost of Development	\$9,000
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Development Application No. DA-2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 2 That the objector be advised of the Bayside Local Planning Panel's decision.

Location Plan



Attachments

- 1 Supplementary Planning Assessment Report [↓](#)
- 2 Draft Notice of Determination [↓](#)
- 3 Engineering Certificate [↓](#)
- 4 Previous Planning Assessment Report [↓](#)
- 5 Site and Roof Plan [↓](#)
- 6 Existing Top Floor Plan [↓](#)
- 7 Existing Elevation Plan [↓](#)

BAYSIDE COUNCIL

Supplementary Planning Assessment Report

Application Details

Application Type	Development Application
Application No	DA-2018/111
Lodgement Date	08/05/2018
Property	18/21-25 Bryant Street Rockdale
Ward	Rockdale
Owner	Mr Roman Bicioc
Applicant	Mr Roman Bicioc
Proposal	Alterations and additions to Unit 18
No. of Submissions	One (1)
Cost of Development	\$9,000
Report by	Michael Maloof, Senior Development Assessment Planner

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Key Issues

This application has one key issue being consideration of a new Engineering Certificate submitted to Council.

Officer Recommendation

1. That the Development Application No.DA2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
2. That the objector be advised of the Bayside Planning Panel's decision.

Background

On 27 November 2018, the Bayside Planning Panel (the Panel) considered this development application and resolved:

- 1 *That the Development Application No.DA2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be DEFERRED pending Council being satisfied in relation to integrity of the unauthorised works and the subsequent issue of a building information certificate.*
- 2 *That the objector be advised of the Bayside Planning Panel's decision.*

The Panel provided the following reason for the above recommendation:

Inadequate information has been provided in respect of the structural integrity of the unauthorised works. In particular, it is unclear whether the works are likely to have any adverse impact in terms of the structural integrity of the building or otherwise.

At this point the Panel indicated that the applications for both units 17 and 18 were being determined together as they may have implications for the structural integrity of the same building.

Assessment of the Panel's Deferment

On 15 December 2017 a Building Information Certificate (BC-2017/68) was lodged with Council in respect to the unauthorised works on the subject site. Council reviewed the information submitted with the application and found that the engineering certificate submitted referred to the loading from the light weight walls, structural adequacy of the walls themselves and adequacy of the related waterproofing. In this regard, the certificate submitted did not specifically address the loading from any new 'topping' RC slab or flooring provided as part of the unauthorised building works.

On 29 November 2018, the applicant was requested to provide a new engineering certificate in respect to any new 'topping' reinforced concrete slab or timber flooring that has raised the internal floor level of unit 18.

On 3 December 2018 the applicant submitted a new engineering certificate prepared by Sydney Wide Engineers in accordance with the previous directions of the Panel. (Please refer to the attached engineering certificate by a qualified and certified structural engineer). The engineering certificate submitted by the owner of 18 was referred to Council's Building Certification Team who have advised that the updated structural Engineers certificate dated 30/11/18 is satisfactory in terms of verifying the structural adequacy of the existing reinforced concrete (RC) slab for unit 18.

Council's Building Certification Team also confirmed that the certificate did not allude to the existence of a retrospectively built 'topping' slab as suggested to the Bayside Planning Panel.

Conclusion

The issues raised by the Panel at their meeting of 27 November 2018 have been addressed by the applicant. The unauthorised building works carried out on the site have now been certified by a qualified engineer and accordingly, the matter raised by the Panel has been considered and addressed.

Based on the above, it is recommended that the Panel consider and determine the application in accordance with the recommendation provided.

Our Ref: DA-2018/111
 Contact: Michael Maloof 9562 1666

Mr Roman Bicioc
 18/21 Bryant St
 ROCKDALE NSW 2216

NOTICE OF DETERMINATION

Issued in accordance with section 4.18(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2018/111
Property: 18 / 21 - 25 Bryant Street, ROCKDALE (Lot 18 SP 73839)
Proposal: Alterations and additions to Unit 18
Authority: Delegated to Bayside Planning Panel

Determination:

Date of determination:

Date consent commences:

Date consent lapses:

DRAFT

The above development is approved subject to the following conditions:

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 maintained 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
Project No. 2174, Drawing No. A-04, Issue 01, Existing Top Floor Plan As Built,	IQ Homes	30/06/17	8/5/2018
Project No. 2174, Drawing No. A-02, Issue 01, Existing Site & Roof Plan As Built,	IQ Homes	30/06/17	8/5/2018

Project No. 2174, Drawing No. A-05, Issue 01, Existing Elevations As Built,	IQ Homes	30/06/17	8/5/2018
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3. 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.
4. The dwelling shall be used as a single occupancy only.

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. 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.
6. A smoke detection and alarm being installed at level 6 of Unit 18 complying with the requirements of Part E2 of the Building Code of Australia. A certificate issued by a licensed electrician for the installation being submitted to Council on completion of the installation.
7. A Building Information Certificate shall be submitted to Council in relation to the unapproved building works carried out on the subject site.
8. A Section 7.11 contribution of \$4,653.50 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 for the unauthorised building works which includes an additional bedroom. Payment of the contribution is required within 2 months of the granting of this development consent for the unauthorised building works carried out on the site.

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.

9. The Strata Plan applying to the subject site shall be amended in accordance with the approved changes detailed in Development Consent No. DA-2018/111 and any subsequent Section 4.55 modifications.

Prior to issue of subdivision certificate

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

10. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
11. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying

Authority for the revised Strata Plan, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.

The revised Strata Plan shall be registered with the Land and Property Information Office within six (6) months from the date of this development approval. Details of the registration are to be submitted to Council.

Development consent advice

- a. 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.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Under Section 8.7 and 8.10 of the Act, applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Michael Maloof on 9562 1666

Pascal Van de Walle
Coordinator - Development Assessment

SYDNEY WIDE ENGINEERS

CONSULTING STRUCTURAL & CIVIL ENGINEERS

11 GOLDSMITH AVENUE WINSTON HILLS NSW 2153

TELEPHONE 02 9686 9664

Email: s.w.e@optusnet.com.au

DATE: 30 November 2018

OUR REFERENCE: S03699/2

TO WHOM IT MAY CONCERN

**RE: UNAUTHORISED ADDITIONS AND ALTERATIONS
AT UNIT 18 No 21 BRYANT STREET, ROCKDALE**

STRUCTURAL CERTIFICATE

An inspection of unit 18 at the above building was made on 30 November 2018 by myself the undersigned structural engineer.

Unit 18 is two levels and it is located on level 5 and level 6 of a 6 storey full brick construction building with concrete floor slabs.

Part of unit 18 upper level (level 6) balcony had been enclosed and converted into a living area.

The work that had been carried out consists of the erection of light weight internal partition walls and the installation of external glazing walls on top of the existing level 6 balcony concrete slab.

No additional topping reinforced concrete slab or floating timber floor was installed above the original concrete slab of level 6 balcony.

Also there was no step on the roof top terrace level that was removed.

This is to certify that the following building components are adequate:

- 1) The existing balcony concrete slab of level 6 at unit 18 is structurally adequate to support the additional imposed loads of the erected light weight internal partition walls and the installed external glazing walls.
- 2) The erected light weight internal partition walls and the installed external glazing walls of level 6 at unit 18 are structurally adequate.

- 3) The waterproofing method that was used around the perimeter of the external glazing base is adequate to prevent the water and damp penetration from entering the newly enclosed area of level 6 at unit 18.
- 4) All the works that were carried out will not have any adverse impact on the structural integrity of the building.

Yours faithfully



NABIL GHOSN
BE MIEAust
CPEng NPER # 910768
Colleges: Civil, Structural
Accredited Certifier # BPB0135

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/111
Date of Receipt:	8 May 2018
Property:	18 / 21 - 25 Bryant Street, ROCKDALE (Lot 18 SP 73839)
Owner:	Mr Roman Bicioc
Applicant:	Mr Roman Bicioc
Proposal:	Alterations and additions to Unit 18
Recommendation:	Approved
No. of submissions:	One (1) submission
Author:	Michael Maloof
Date of Report:	6 November 2018

Key Issues

The key issues related to this application are:

- Unapproved building works
- Car parking

The above matters have been addressed later in this report.

Recommendation

1. That the Development Application No.DA-2018/111 for the alterations and additions to Unit 18 at 21-25 Bryant Street Rockdale be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
2. That the objector be advised of the Bayside Planning Panel's decision.

Background

History

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

- DA-2002/660 - Mixed Use Development - 20 X 2 Bedroom Units, Two Commercial Suites and Associated Parking - Approved on 16 December 2002
- DA-2002/660/A, B and C - Several minor Section 96 Amendments made to the scheme all of which

were Approved by Council

• BC-2017/68, Unapproved Development - alterations to dividing wall and enclosure of awning to roof terrace of Unit 18 - Lodged on 15/12/17 and still being assessed

On 23 December 2015 a complaint was received by Council which stated the two bedroom unit had been converted into a three bedroom unit with additional floor space on the roof top terrace which had been enclosed (additional 26m²) and converted to habitable floor space. The compliance officer of Council had found that works had been carried out that ordinarily required a formal development application. Since that time discussions had been held with the then owner and the property was sold to a new owner. The current development application was submitted to Council on 8 May 2018 for Council's consideration.

Proposal

Council is in receipt of a development application DA-2018/111 at 18/21-25 Bryant Street, Rockdale, which seeks consent for alterations and additions to Unit 18 including the enclosure of the upper level adjacent to the roof top terrace and conversion into a bedroom and bathroom. This application seeks to legitimise the alterations and additions which have already been carried out on the site (i.e. they are unauthorised).

Specifically, the proposal consists of:

- The existing room on the roof top terrace level being converted into a bedroom resulting in 18m² of previously approved habitable floor space,
- Construction of a new attached room with an outer enclosing wall resulting in 26m² additional gross floor area,
- The enclosure includes one new bedroom with a new internal wall to a study and a bathroom, and,
- The enclosure also includes one additional internal window opening in the southern external wall (measuring 0.8m x 0.8m) of the existing building for bathroom ventilation and one new sliding door and windows facing east to the main bedroom area (26m²).

The above works include an extension with the addition of several walls on the roof top terrace increasing the floor space by 26m² resulting in a total unit size of 101m². The bedroom is marked as a storage room on the plans submitted with the application, however this is classified as a bedroom for future use. The building works remain under the existing roof and setback from the previously approved building envelope for the floors below. The works have already been completed and a Building Information Certificate has been submitted for these unauthorised works.

Site location and context

The subject site is known as Lot 18 in SP 73839, at unit 18/21-25 Bryant Street, Rockdale. The site is a rectangular shape with front and rear boundary widths of 24.38 metres and the side boundaries are 36.6m deep. The total site area is 891.9 sq.m and contains a seven storey mixed use development containing 18 residential apartments. The top floor of the building is the roof top terrace with direct access from units 17 and 18. The topography of the site is such that it is relatively flat.

The site is located on the southern side of Bryant Street between Market and George Streets. Adjoining development to the sides includes a ten storey multi unit development to the west on the corner with Market Street and a single storey dwelling house to the east which is soon to be redeveloped with the

adjoining dwellings houses to the corner of George Street. A one storey dwelling house is situated on the adjoining property to the rear which also fronts George Street and is soon to be redeveloped. There is a mix of one storey dwelling houses and multi storey mixed use developments within close proximity to the subject property.

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 No 65—Design Quality of Residential Apartment Development

The proposal is for minor alterations and additions to an existing mixed use development including one additional bedroom with ensuite and does not involve any additional dwellings on the subject site. The unit will be increased in size above 95m² and the private open space area on the roof level for the unit is 58m² (12m² + 46m²) which complies with the minimum private open space requirement of 12m² for a 3 bedroom unit in the Apartment Design Guide (ADG). However, the proposal provides one on site car parking space for the unit and does not comply with the relevant provision of the ADG (clause 3J) which refers to the RMS Guide for Traffic Generating Developments which requires 1.4 spaces to be provided for each 3 bedroom unit. The existing unit has been allocated one (1) car space and there is no ability to provide additional parking on site. The variation is supported for reasons discussed in response to clause 4.6 of the Rockdale DCP 2011 which relates to car parking.

The proposal will increase the size of unit 18 by 26m² resulting in a total unit size of 101m² with the additional floor space on the roof top terrace level as a third bedroom with ensuite. In this regard, the proposal will increase the size of the unit from 75m² to a total gross floor area (GFA) of 101m². The previously approved apartment included a ground floor of 58m² and upper level of 17m² having a total size of 75m² which was a common size for a two bedroom unit at the time of the previous development approval. Finally, the proposal includes changes to the design of the unit such as the addition of a window in the ensuite external wall and new enclosing wall on the roof top terrace level.

The proposal exceeds the minimum internal area required by the ADG for a 3 bedroom unit with two bathrooms being 95m². The proposal makes a better use of space within the existing unit and confirms that it is a 3 bedroom unit rather than a 2 bedroom with additional floor space on the roof top terrace level. In this regard, the proposal is not unreasonable given the 3 bedroom unit will have access to a large roof top terrace and affords increased amenity to the third bedroom. As such, the proposal is acceptable in relation to gross floor area in this instance. Accordingly, the proposal is acceptable in respect to unit size and consistent with the objectives of this control.

Based on the above, the proposal does not require referral to the Design Review Panel, is not inconsistent with any provisions of the SEPP and is acceptable in this regard.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B2 Local Centre	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Rockdale Town Centre	Yes - see discussion	Yes - see discussion
6.3 On 25 ANEF (2033) contour	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes

2.3 Zone B2 Local Centre

The subject site is zoned B2 - Local Centre under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as alterations and additions to an existing mixed use development which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To accommodate population growth through high density mixed use development that complements the role of retail, commercial, civic and cultural premises in the Rockdale town centre.
- To create a lively Rockdale town centre with an amenable and pedestrian focused public domain activated by building uses that engage with the street.

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

4.3 Height of buildings

The proposal will involve the extension of an existing room on the roof top terrace for use as a bedroom and ensuite. The proposal will not increase the height of the existing mixed use building on the site. As such, the proposal does not exceed the maximum 28m height shown for the land on the Height of Buildings Map. Further, the proposed development will not challenge the existing building, maintain satisfactory sky exposure and daylight to buildings 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 - Rockdale Town Centre

The gross floor area (GFA) of the proposed alterations and additions have been calculated as 26m². While this is a small increase in GFA, the site is located within the Rockdale Town Centre. In this regard, the floor space ratio (FSR) control no longer applies to the site as it has been removed from the Town Centre. In this regard, the Floor Space Ratio Map does not have any FSR control applying to the site. Accordingly, the development is acceptable in respect to FSR.

6.3 On 25 ANEF (2033) contour

The development is on land that is not located near the Sydney (Kingsford-Smith) Airport, however the land is located on the 20 ANEF (2033) contour. In this regard, the development will not result in an increase in the number of dwellings or people affected by aircraft noise. Therefore, it is considered that the proposed development does not require noise mitigation measures.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 50 metres to Australian Height Datum (AHD). The proposed building works will retain the existing building height which is at 39.7 metres to AHD and in this regard, it is considered that the proposed development will have minimal adverse impact on the OLS and hence is acceptable with regards to this Clause.

6.7 Stormwater

The proposal involves retaining the existing on site stormwater detention system to manage stormwater on the site. The retention of the existing roof top structure and addition of habitable floor space is not likely to increase the impervious area on the site. In this regard, the existing stormwater system which was previously approved by Council's development engineers is capable of servicing the site and therefore the proposal is consistent with the requirements of 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	Yes - see discussion
4.1.3 Water Management	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	Yes	No - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates Residential Flat Buildings	Yes	Yes - see discussion
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion

4.1.1 Views and Vista

The extension of the gross floor area and conversion to a storage area (bedroom) on the roof top terrace involved a new wall which is limited to underneath the existing awning on the roof top terrace. As such, the new room will be located within the existing footprint and underneath an existing structure. As such, the proposal will not result in any reduction of existing views out over or across the subject site. Accordingly, the proposal will retain the existing views and complies with the requirements of this clause in respect to views.

4.1.3 Water Management

The construction of new floor space and use as a bedroom with ensuite is located underneath an existing roof and will not increase the building footprint of the existing development on the site. As such, the proposal will not increase the requirement for stormwater drainage on the site or require additional water management on the site. Accordingly, the proposal complies with the requirements of this clause.

4.2 Streetscape and Site Context - General

The proposed development is located on the seventh floor of a mixed use development, underneath an existing roof line, located behind a parapet wall and setback from the street. As such, the proposed enclosure and additional bedroom with ensuite is not visible from the street and will not visually add to the bulk of the building. As such, the proposal is likely to have little or no impact on the existing streetscape along Bryant Street.

4.3.2 Private Open Space - Residential Flat Building/Shoptop housing

Council's DCP refers to the Apartment Design Guide (ADG) which requires a minimum dimension of 2.4m in balcony width and minimum 12m² for a 3 bedroom dwelling. The proposal will provide a roof top terrace dedicated to unit 18 (exclusive use) which is in excess of these requirements. As such, the proposal complies with Council's DCP and the ADG and is acceptable in this regard.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The proposed development will involve additional floor space on the roof top terrace and use as a bedroom with ensuite underneath the existing awning. As such, the proposal will not increase the height of the building or reduce any existing setbacks to any significant degree. The proposal will not increase the level of overshadowing from the existing awning and building structures on the roof level and therefore will have minimal impact on the level of sunlight currently received by adjoining properties and within the development site. Accordingly, the proposal is acceptable in respect to the requirements of this clause.

4.4.3 Natural Lighting and Ventilation - Residential

The proposed development is designed to achieved natural ventilation and lighting, incorporating a minimum floor to ceiling height of 2.59m. While this is 11 mm less than the standard of 2.7m under Council's DCP, the existing roof form includes 100 mm for services and will allow substantial light and ventilation into the dwelling given the number of openings. As such, the proposal is consistent with the objectives of this clause and acceptable in this regard.

4.4.5 Visual privacy

The proposal includes the addition of a room on the roof top level which is adjacent to the roof top terrace and will be used as a bedroom with ensuite. Part of this room was previously approved as an open floor area (habitable space) but was not a designated bedroom or water closet. This previously approved area has been expanded upon to create a larger room with one additional opening in an external wall for the bathroom. The additional bedroom has reduced the southern and eastern setbacks

on the roof top terrace but does not extend beyond the previously approved for the level below and will not result in any additional overlooking or privacy impacts than the previous approval on the site. As such, the proposal will retain adequate privacy for the existing dwelling and those adjoining it in the residential flat development. Accordingly, the proposal is consistent with the requirements of this clause.

4.4.5 Acoustic privacy

The proposal will reduce the size of the existing roof top terrace as it replaces some of it with floor area however, there is ample private open space remaining for the existing dwelling. As such, the proposal is not likely to increase the level of noise generated from the existing dwelling or remaining roof top terrace. The proposal will result in a bedroom being adjacent to the roof top terrace rather than a living area/room as previously approved. Notwithstanding this, the proposal is not likely to result in any additional noise impacts on the dwelling and those adjoining it within the residential flat building on the site. Accordingly, the proposal is consistent with the requirements of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

The previous approval granted development consent for the construction of 18 x 2 bedroom residential units and two retail shops for the mixed use development on the site. The current proposal will improve the housing mix by making unit 18 a three bedroom unit instead of a 2 bedroom unit as previously approved on the site. While the current proposal will increase the number of three bedroom dwellings on the site, it will help in seeking to satisfy the requirements of this clause. The current proposal and the application for the adjoining unit 17 would both result in 2 x 3 bedroom units which would provide a minimum of 10% of the units. As such the proposal would satisfy the provisions of this clause being 10% of the total number of dwellings. Accordingly, the proposal is acceptable in this regard.

4.6 Parking Rates Residential Flat Buildings

The existing mixed use development on the site was approved on 16 December 2002 and contained all two bedroom units each with one car parking space within the ground and basement car parking levels. Unit 18 was also approved with an open habitable floor area on the upper level which provides access to the roof top terrace. The current proposal converts this existing internal space into a study and the unit has been extended (unauthorised works) to include a third bedroom with an ensuite in the existing unit. The bedroom is marked as a storage room on the plans submitted with the application, however this is classified as a bedroom for future use. Council's DCP 2011 ordinarily requires the provision of two on site car parking spaces for a three bedroom unit. The original development approval on the site (DA-2002/660) considered unit 18 to be a two bedroom unit despite the upper floor area as it did not have a separate door above the stairs and was open floor space. The current proposal includes the additional floor area for unit 18 which is larger than unit 17 by 26m² resulting in a total unit size of 101m².

The existing building on the site contains ground and basement parking levels containing one car parking space for each unit, commercial parking spaces and visitor car parking for the building. The design and layout of the basement levels do not make provision for any additional on site car parking for the current application. As such, an additional car parking space cannot be provided on the site and the proposal does not comply with the minimum car parking requirement.

Information has been submitted by the applicant that confirms the above scenario and requests the additional car parking space be waived in light of the limitation of the existing building. Notwithstanding this, the subject site is located within the Rockdale Town Centre and is approximately 300m away from Rockdale Railway Station. In respect to the provision of on site car parking requirements, the

Apartment Design Guide refers to the Guide to Traffic Generating Development (Guide) or Council's DCP 2011 and states that the control to be used is that for which car parking is the lesser. In this regard, the Guide states the following requirement for high density residential flat buildings:

- 0.6 spaces per 1 bedroom unit.
- 0.9 spaces per 2 bedroom unit.
- 1.40 spaces per 3 bedroom unit.

Based on the car parking rates above, the Guide would require less parking for the proposal which would amount to an increase in parking for the unit from 1 space to 1.4 spaces, that is 0.4 of a space to be provided on the site.

Council's Section 94 Contributions Plan is not applied to the provision of car parking spaces for residential units and as such, a levy under the Contribution Plan for a deficiency of on car parking space cannot be applied to the current proposal.

Strict compliance with the on site car parking requirement under section 4.6 of Council's DCP 2011 is not possible on the subject site. The current proposal does not involve any changes to the existing ground and basement level car park. Notwithstanding this, the subject site has proximity to Rockdale Railway Station and the unauthorised building works are not visible from the street and do not result in any significant or detrimental adverse impacts on the amenity of the site or adjoining properties.

In the circumstances of the case, the proposal is not considered likely to set an undesirable precedent and strict compliance with the standard is unreasonable and unnecessary.

Given the above, the application is recommended for approval subject to the imposition of conditions of development consent.

4.7 Laundry Facilities and Drying Areas

The proposal will not alter the existing provision of an internal laundry within the residential unit. Nor will the proposal affect the existing letterboxes, storage areas, air conditioning system or hot water system on the site. Accordingly, the proposal will satisfy the provisions of 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 the works have already been carried out and a condition of consent is not necessary to ensure compliance with the standard.

The application was referred to Council's Building Surveyor who has assessed the fire safety considerations under the BCA and recommended conditions of development consent are imposed. In this regard, a Building Information Certificate is required to be submitted to Council and this has been addressed by way of a condition of development consent.

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:

General

The building works have been assessed against relevant controls in regard to potential impacts on the environment and neighbouring properties. The development is satisfactory and not likely to result in any significant adverse amenity impacts on the site or adjoining dwellings. Appropriate conditions of consent have been included in the draft consent to further minimise impacts. Accordingly, the building works, as conditioned, are acceptable in this instance.

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: The Common Seal of the Strata Plan 73839 has not been provided on the application form (i.e. Owner's Corp has not granted consent to lodge) and therefore Council cannot consider the application for approval

Comment: With the current application the applicant submitted a copy of the by law granted by the Owner's Corporation in relation to the unauthorised building works carried out for unit 18 on the subject site. The applicant submitted a form with the Building Certificate application for the same works on the site (BC-2017/68) which was signed by the secretary of the Owner's Corporation and included the common seal of "The Owners of Strata Plan No. 73839". As such, the common seal of the Strata Plan 73839 has been provided to Council in relation to the unauthorised building works which are the subject of this application. Accordingly, Council has received owners consent and can consider the current application under the Environmental Planning and Assessment Act 1979 (as amended).

Issue 2: Parking issues faced by the owners of the entire building involving some owners using visitor spaces on a permanent basis

Comment: This is a matter that involves the Owner's Corporation and is not within the purview of Local Government. Parking in relation to this application has been addressed previously in this report (please refer to section 4.6 for more information).

Issue 3: The proposal is for an additional bedroom not a storage area

Comment: This point is acknowledged. Under the current application, Council will be considering the use of the additional room as a bedroom.

Issue 4: The proposal has questionable fire safety compliance

Comment: As this point may be valid, a condition shall be imposed in the Draft Notice of Determination requiring submission of a Building Information Certificate with Council. As such, information shall be

submitted to Council in respect to all of the relevant building matters and inspections.

Issue 5: The unauthorised building works were carried out by unlicensed contractors and the works are not certified

Comment: As this point may be valid, a condition shall be imposed in the Draft Notice of Determination requiring submission of a Building Information Certificate with Council. As such, information shall be submitted to Council in respect to all of the relevant building matters and inspections.

Issue 6: Matters in relation to the operation of the Owner's Corporation (OC) Meetings and functions of the OC were raised including the AGM and voting protocols

Comment: These matters are not within the jurisdiction of Council but rather under the management of the Act carried out by the Civil and Administrative Tribunal and Department of Fair Trading NSW.

Issue 7: Prevent construction of a kitchenette in the storage area

Comment: An inspection of the property has revealed that the "storage area" does not contain a kitchenette. It is noted that there is no provision for such a facility within the storage area. Further, the plans the subject of this application do not contain any such kitchenette. In this regard, Council cannot preempt development and can only assess the plans currently before it.

Issue 8: Requirement for an additional on site car parking spaces as required for a 3 bedroom unit

Comment: This has been addressed previously in this report (please refer to section 4.6 of this assessment 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

The application was referred to Council's Section 7.11 Planner who advised that a Section 7.11 Contribution Payment of \$4,653.50 is payable in accordance with Council's Policy. Accordingly, a condition has been imposed on the draft Notice of Determination in this regard.

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 proposal will not alter the existing building height (previously approved) at 20.2m which 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 maintained 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
Project No. 2174, Drawing No. A-04, Issue 01, Existing Top Floor Plan As Built,	IQ Homes	30/06/17	8/5/2018
Project No. 2174, Drawing No. A-02, Issue 01, Existing Site & Roof Plan As Built,	IQ Homes	30/06/17	8/5/2018
Project No. 2174, Drawing No. A-05, Issue 01, Existing Elevations As Built,	IQ Homes	30/06/17	8/5/2018

3. 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.
4. The dwelling shall be used as a single occupancy only.

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. 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.
6. A smoke detection and alarm being installed at level 6 of Unit 18 complying with the requirements of Part E2 of the Building Code of Australia. A certificate issued by a licensed electrician for the installation being submitted to Council on completion of the installation.

7. A Building Information Certificate shall be submitted to Council in relation to the unapproved building works carried out on the subject site.
8. A Section 7.11 contribution of \$4,653.50 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 for the unauthorised building works which includes an additional bedroom. Payment of the contribution is required within 2 months of the granting of this development consent for the unauthorised building works carried out on the site.

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.

9. The Strata Plan applying to the subject site shall be amended in accordance with the approved changes detailed in Development Consent No. DA-2018/111 and any subsequent Section 4.55 modifications.

Prior to issue of subdivision certificate

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

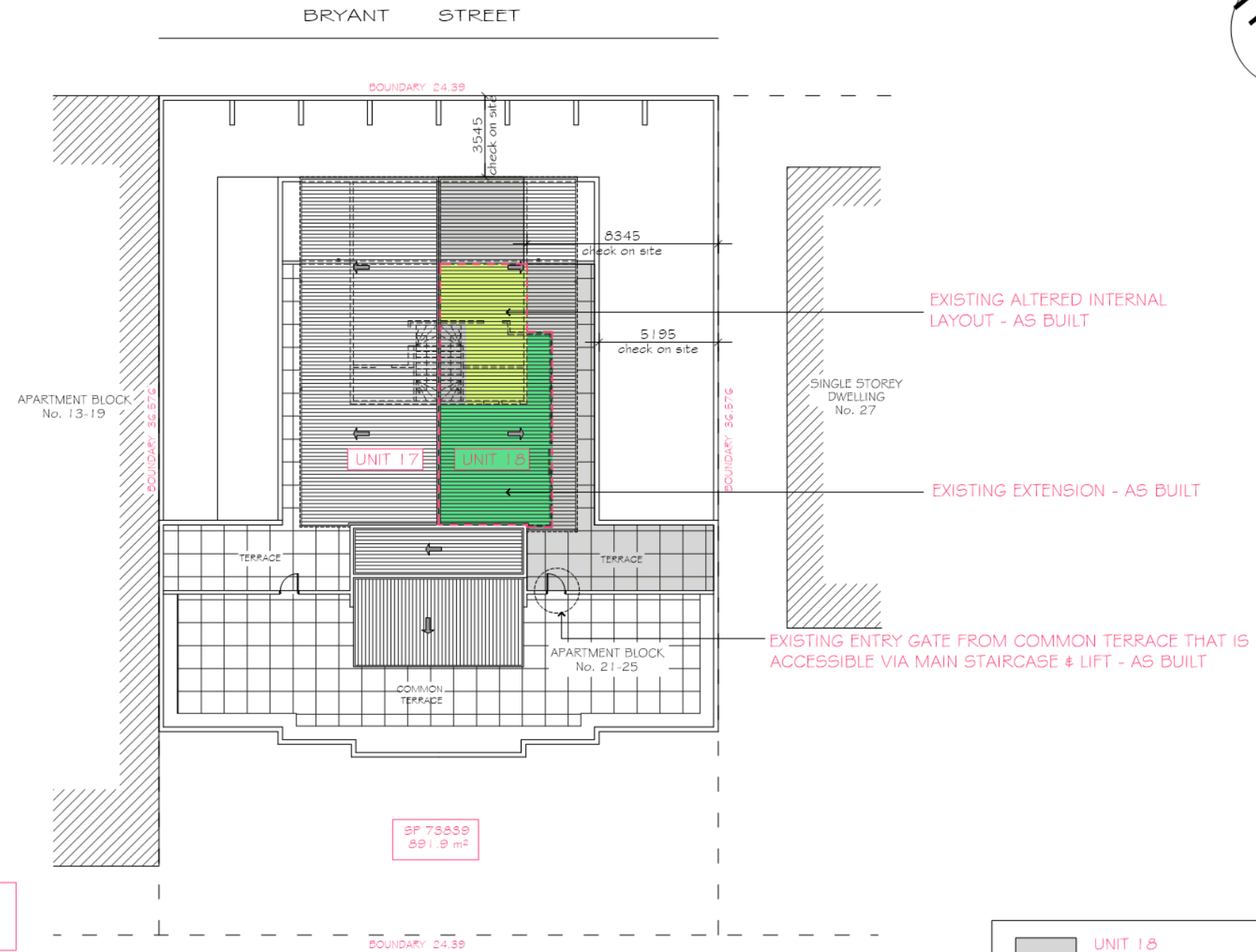
10. Where Council is the Principal Certifying Authority, a Strata Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted prior to lodgement with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
11. A Strata Certificate must be obtained prior to registration of the Strata Plan with the Land and Property Information Office. Where Council is the Principal Certifying Authority for the revised Strata Plan, an application form and associated fee are required to be submitted to Council's Customer Service Centre with lodgment of the Strata Plan.

The revised Strata Plan shall be registered with the Land and Property Information Office within six (6) months from the date of this development approval. Details of the registration are to be submitted to Council.

Development consent advice

- a. 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.

*Do not scale off drawings.
 *All dimensions, levels & existing site conditions shall be checked & verified by the contractor's prior to the commencement of works



AS BUILT SITE CALCULATIONS :

SITE AREA TOTAL:	891.9 sqm
APPROVED AREA:	87.0 sqm
EXTENSION AREA:	29.0 sqm
UNIT 18 AREA - AS BUILT:	116.0 sqm
APPROVED BUILDING AREA:	1783.4 sqm
AS BUILT - BUILDING AREA:	1812.4 sqm
APPROVED FSR:	2:1
AS BUILT - FSR:	2.03:1

NOTE:

- INTERNAL CHANGES TO TOP FLOOR
- EXTENSION TO TOP FLOOR

NO CHANGE TO STORMWATER SYSTEM DUE TO AS BUILT EXTENSION.

SP 75839
891.9 m²

	UNIT 18
	OUTLINE OF AS BUILT
	INTERNAL CHANGES - AS BUILT
	EXTENSION - AS BUILT

EXISTING SITE & ROOF PLAN - AS BUILT



Description	By	Date
Issue for AS BUILT	IQH	30.06.17

Drawn By:
 Architectural Design and Drafting
IQ HOMES
 Pri: 9553 4049 Mob: 0415 417 137
 mirella@iqhomes.net.au

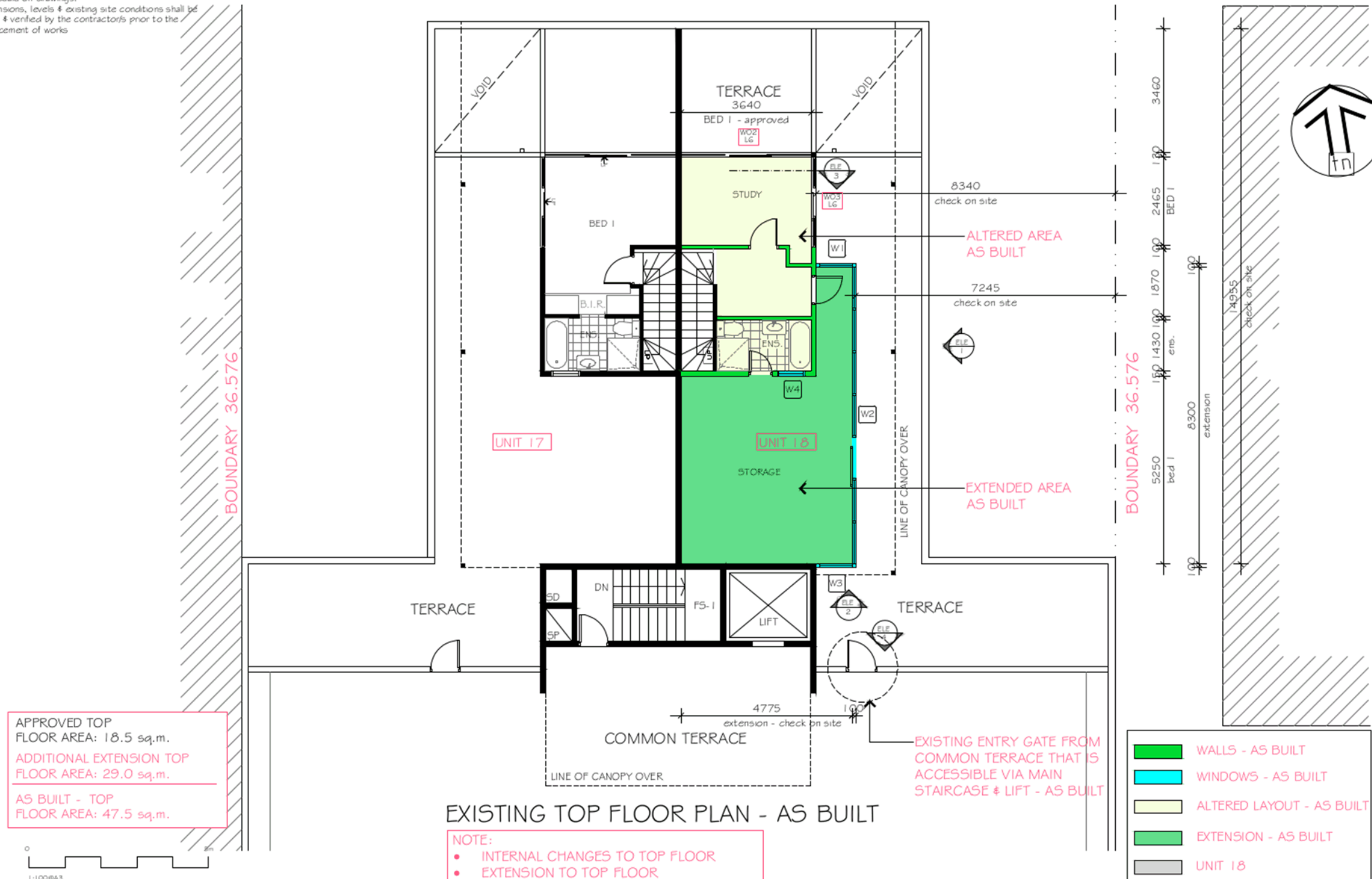
EXISTING SITE PLAN &
 ROOF PLAN - AS BUILT

Owners/ Property:
 Mr. Roman Bicioc
 18/ 21-25 Bryant Street
 Rockdale, NSW 2216

Title:
 AS BUILT

DATE	30.06.2017	PROJECT NUMBER	2174
DRAWN	IQ HOMES	DRAWING NUMBER	A - 02
CHKD	MA		
SCALE	1:200 @ A3		

*Do not scale off drawings.
 *All dimensions, levels & existing site conditions shall be checked & verified by the contractor/s prior to the commencement of works



APPROVED TOP FLOOR AREA: 18.5 sq.m.
 ADDITIONAL EXTENSION TOP FLOOR AREA: 29.0 sq.m.
 AS BUILT - TOP FLOOR AREA: 47.5 sq.m.

EXISTING TOP FLOOR PLAN - AS BUILT

- NOTE:
- INTERNAL CHANGES TO TOP FLOOR
 - EXTENSION TO TOP FLOOR

	WALLS - AS BUILT
	WINDOWS - AS BUILT
	ALTERED LAYOUT - AS BUILT
	EXTENSION - AS BUILT
	UNIT 18

No.	Description	By	Date
1	Issue for AS BUILT	IQH	30.06.17

Drawn By:
 Architectural Design and Drafting
IQ HOMES
 Ph: 9553 4049 Mob: 0415 417 137
 mirella@iqhomes.net.au

EXISTING TOP FLOOR PLAN
 AS BUILT

Owners/ Property:
 Mr. Roman Bicioc
 18/ 21-25 Bryant Street
 Rockdale, NSW 2216

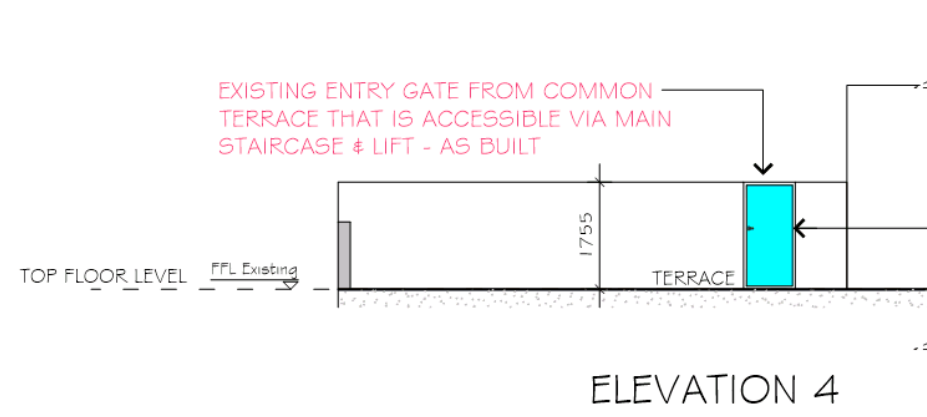
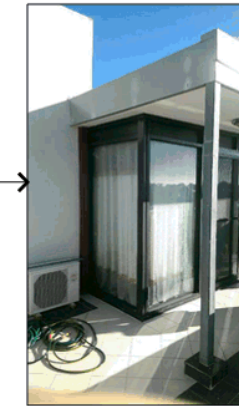
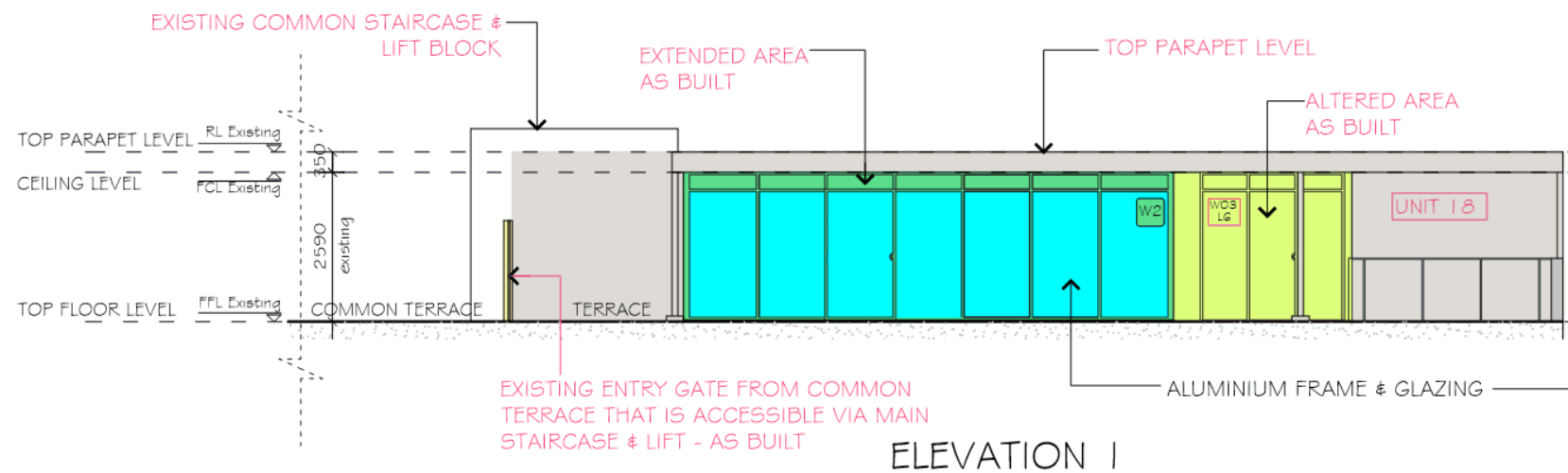
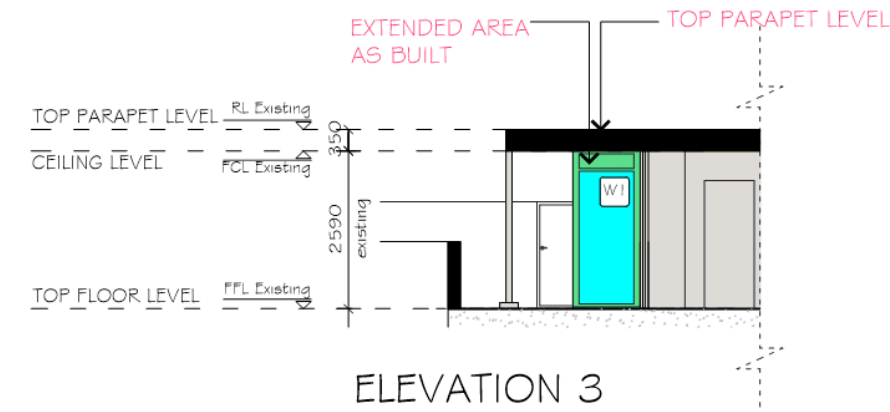
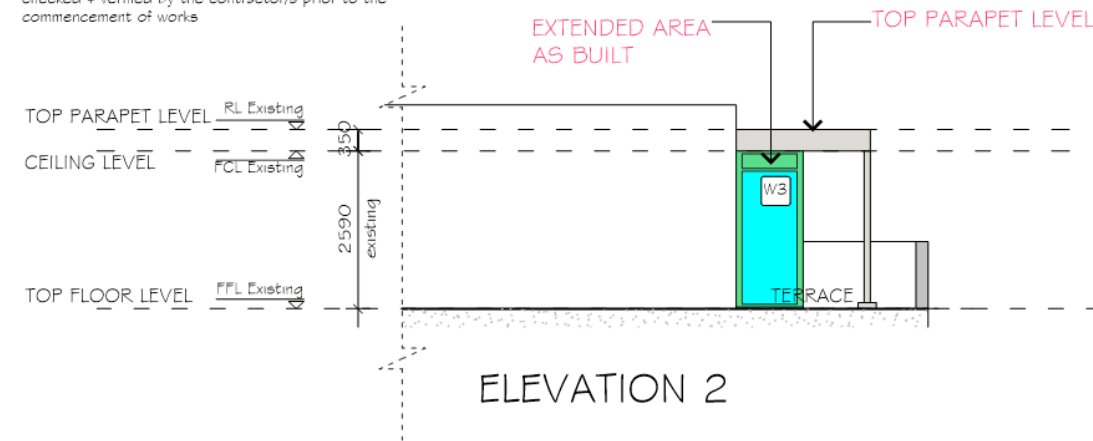
Title:
 AS BUILT

DATE: 30.06.2017
 DRAWN: IQ HOMES
 CD: MA
 SCALE: 1:100 @A3

PROJECT NUMBER:
 2174

DRAWING NUMBER:
 A - 04

*Do not scale off drawings.
 *All dimensions, levels & existing site conditions shall be checked & verified by the contractor/s prior to the commencement of works



	WINDOWS - AS BUILT
	ALTERED LAYOUT - AS BUILT
	ENTRY GATE - AS BUILT
	EXTENSION - AS BUILT
	UNIT 18 - APPROVED



Description	By	Date
Issue for AS BUILT	IQH	30.06.17

Drawn By:
 Architectural Design and Drafting
IQ HOMES
 Ph: 9553 4049 Mob: 0415 417 137
 mirella@iqhomes.net.au

EXISTING ELEVATIONS
 AS BUILT

Owners Property:
 Mr. Roman Bicioc
 18/ 21-25 Bryant Street
 Rockdale, NSW 2216

Title:
 AS BUILT

DATE	30.06.2017	PROJECT NUMBER	2174
DRAWN	IQ HOMES	DRAWING NUMBER	A - 05
CHKD	MA		
SCALE	1:100 @AS		

Bayside Local Planning Panel

18/12/2018

Item No	6.3
Application Type	Development Application
Application No	DA-17/1249
Lodgement Date	21/12/2017
Property	DA-2017/1249 - 1 Baker Street, Banksmeadow
Ward	Port Botany
Owner	Boral Resources NSW Pty Ltd
Applicant	Boral Resources NSW Pty Ltd
Proposal	Designated and Integrated Development for the construction of additional infrastructure at the Botany Concrete Batching Plant to increase production to a maximum capacity of 200,000 m3 of concrete product (500,000 tonnes per annum).
No. of Submissions	17
Cost of Development	\$5,700,000
Report by	Michael McCabe, Director City Futures

Officer Recommendation

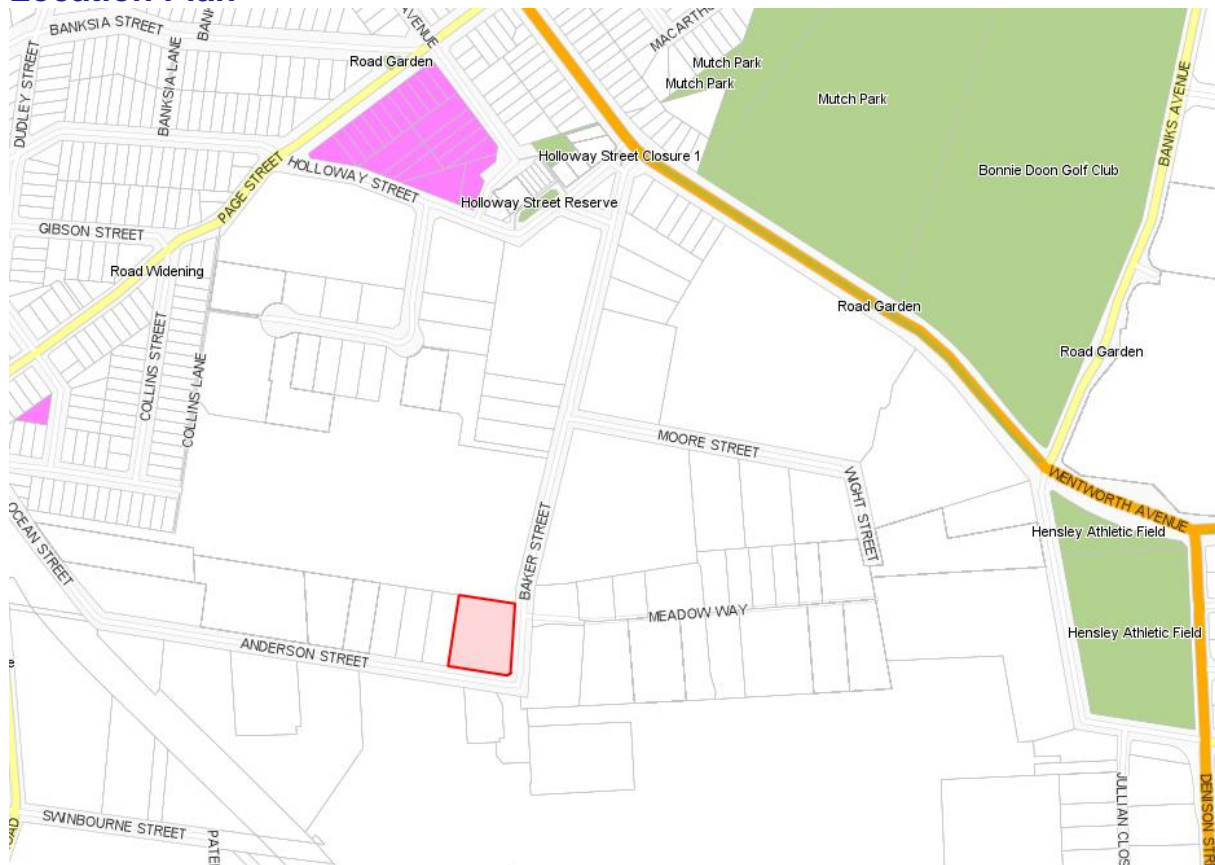
- 1 That Development Application DA-2017/1249 for the expansion of the existing concrete batching plant to allow for 200,000 cubic metres (m3) or approximately 500,000 tonnes of pre-mixed concrete products per annum to be produced at 1 Baker Street, Banksmeadow, be REFUSED for the reasons provided below:
 - i Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided with particular regard to traffic and air quality impacts by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
 - ii The proposed application fails to meet Section 5 of the Environmental Planning and Assessment Act 1979, in particular, the proposed development does not achieve ecologically sustainable development. (Environmental Planning and Assessment Act 1979 4.15(1)(e)).
 - iii 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 Three Ports SEPP 2013 in particular the Aims of the Policy in that the proposed development does not allow for the efficient development re-development and protection of land at Port Botany for port purposes.
 - iv 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 IN1 - General Industrial zone as contained in SEPP (Three Ports) 2013, including: to facilitate and encourage

- port related industries that will contribute to the growth and diversification of trade through the port and to encourage ecologically sustainable development.
- v 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 IN1 - General Industrial zone as contained in SEPP (Three Ports)2013, including: to facilitate and encourage port related industries that will contribute to the growth and diversification of trade through the port and to encourage ecologically sustainable development.
 - vi Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is likely to result in the following adverse environmental impacts.
 - a Natural Environment – The air quality impacts are not able to be quantified for small Particulate matter at peak production. Further, increase discharge of particulate matter of 2.5 where Councils position is no additional discharge to ensure that regional air quality is maintained.
 - b Social Impacts - The human health impacts have not been quantified
 - c Economic Impacts – to the regional road network which seek to threaten the efficiency of the Port and surrounding land uses
 - vii 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 adverse impact on the surrounding built environment and respective uses.
 - viii Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development results in unsatisfactory traffic generation that will detrimentally impact the local and regional road system and the as such the efficiency of the operation of Port Botany.
 - ix The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the area available for the loading and unloading of concrete given the existing operation is not able to be contained within the site.
 - x 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 intensity in regards to traffic movements and air quality impacts and would adversely impact upon the amenity of the locality.
 - xi The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of traffic generation, intensity of use and is likely to adversely impact on the port related activities. In particular as the applicant has declared that the proposal is not port related.
 - xii Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable traffic, air quality, congestion, impacts to surrounding land uses some being sensitive impacts on adjoining /nearby properties.
-

- xiii 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 in regards to traffic, air quality, noise, human health hazards, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
- xiv Pursuant to the provisions of Section 4.2(1) of the Environmental Planning and Assessment Act 1979, the works to which this application are related have been carried out without first obtaining a development consent for the expanded use of truck movement and number of staff at the site without first a development consent being in force.

2 That the objectors be advised of the Bayside Local Planning Panel's Decision.

Location Plan



Attachments

- 1 Planning Report [↓](#)
- 2 Plans [↓](#)
- 3 Air Quality Impact Assessment [↓](#)
- 4 Traffic Impact Assessment [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2017/1249
Date of Receipt:	21 December 2017
Property:	1 Baker Street, Banksmeadow
Lot & DP/SP No:	Lot: 1 DP: 602703
Owner:	Boral Resources NSW Pty Ltd
Applicant:	Boral Resources (NSW) Pty Ltd
Proposal:	Designated and Integrated Development - Expansion of the existing Concrete Batching plant through the construction of additional infrastructure at the Botany Concrete Batching Plant to increase production from 90,000m ³ to a maximum capacity of 200,000 m ³ of concrete product (500,000 tonnes per annum). On the northern side of Anderson Street and western side of Baker Street at the intersection of Baker and Anderson Street
Property Location:	
Value:	\$5,700,000.00
Recommendation:	That this Development Application be refused pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979
Zoning:	IN1 – General Industrial State Environmental Planning Policy (Three Ports) 2013
Author:	Lincoln Lawler- Senior Development Assessment Officer
Date of Report:	6 October 2018
Present Use:	Concrete Batching Plant
No. of submissions:	17

Key Issues

The key issues with this application include the traffic generation and impacts on the intersection of Baker Street and Wentworth Ave which in turn creates impacts on this industrial precinct.

The issues of dust and air quality remain an issue with the peak production fine particulate matter not being modelled.

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

Recommendation

1. That development application DA-2017/1249 for the expansion of the existing concrete batching plant to allow for 200,000 cubic metres (m3) or approximately 500,000 tonnes of pre-mixed concrete products per annum to be produced at 1 Baker Street, Banksmeadow, be **refused**.
2. That the submitters be advised of the Panel's Decision.

Site Description

The subject site is located on the northern side of Anderson Street and the western side of Baker Street at the intersection of the aforementioned streets. Meadow way (a Private Road) is located to the east, on the eastern side of Baker Street

The site is generally rectangular in shape and has an area of 4959 m2 with a 75 metre frontage to Baker Street and a 65 metre frontage to the Anderson Street frontage. The site contains an existing concrete batching plant operated by Boral. The Anderson Street frontage has a driveway adjacent to the northern boundary directly opposite Meadow Way. Located almost at the intersection of Baker Street and Anderson Street is another vehicle crossing and located adjacent the western boundary on Anderson Street is another vehicle crossing. All crossings are utilised.

The site is located approximately 480 metres south of the intersection of Baker Street and Wentworth Ave.



Figure 1. Locality Map

The surrounding area is characterised by commercial and industrial premises, with the following key land uses immediately adjacent to the site:

North – Botany Grove -an industrial estate owned by Goodman containing Campos Coffee and a range of other commercial/industrial undertakings. Additional commercial/industrial premises are immediately adjacent to the north of the site, with further commercial and industrial premises along Baker Street beyond.

South – to the south of Anderson Street are commercial and industrial properties (including Air Liquide plant and a storage container yard near the site). Further to the south-east is the Botany Industrial Park, including a chlor-alkali plant operated by Orica Australia Limited and a polyethylene manufacturing plant operated by Qenos Pty Ltd.

East – to the east are commercial and industrial premises along Baker Street and Meadow Way including Price and Speed Container Depot, a metal recycler and Nurti Soy production facility.

West – to the west of the site are commercial and industrial premises along Anderson Street, including ICF, a freight company, and Bourke Street Bakery warehouse. In addition at 2 Anderson Street is the recent approval of Gunlake Concrete and their Batching Plant.

The closest residential dwellings to the site are along Spring Street, with the closest residential receiver approximately 330 m to the west north-west of the site.

Other sensitive receivers in the locality include Pagewood Public School, which is 413 m north west of the site, and Pagewood Kindergarten, which is approximately 480 m west north-west of the site along Dudley Street, Pagewood.

Site History

The site benefits from a number of approvals both Pre and Post Environmental Planning and Assessment Act of 1979. The approvals are detailed as follows:

Development Consent No. 71-T-38 (Lot 3)

Development Consent No. 71-T-38 was approved for the use of the site as a Concrete Plant. This was approved by Council on 19 March 1971

Development Consent 71 – T -44 (Lot 2)

Development Consent No. 71-T-44 was approved for the use of the site as a ready mixed Concrete Plant. This was received by Council on 3 March 1971 approved by Council on 15 March 1971

Development Application 1748

The application was lodged with Council for a proposed new silo at the existing concrete batching plant on 30th March, 1988. This was approved on the 20th June 1988.

Development Application 2006/327

Development Application 06/327 was lodged with Council on 17 March 2006 for alterations to the existing concrete plant including the replacement of existing cement silos, water recycling tank and admixture storage area, with new ones in similar locations. This application was approved on 9 August 2006. The conditions of approval includes a condition that relies on the

information submitted with the application. In particular Condition 26 states "The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 06/327 dated as 17 March 2006 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council."

A review of the applicants Stamped and Approved Statement of Environmental Effects to which they must operate in accordance with in light of the above condition states.

	Type and Size of vehicles e.g. Class 6	Number of each type of vehicle	Vehicle movements per day e.g. In / Out = 2 trips
Employee (private)	1 Class 4 - Cars	13	13 x 2 = 26
	2		
	3		
	4		
Company	1 Class 4 - Agitator trucks	11	11 x 6 max = 66
	2 Class 8 - Cement tankers		3 x 2 = 6
	3 Class 8 - Aggregate		12 x 2 = 24
	4		
	5		
	6		
	7		
Delivery / Courier / Container	1 Class 1 - Visitors		3 x 2 = 6
	2 Class 3 - deliveries		1 x 2 = 2
	3		
	4		
	5		
	6		
	7		

The consent was also limited to a maximum of 13.5 employees.

Development Application 2007/96

DA-07/96 was received by Council on 8 September 2006 for alterations to existing concrete plant including replacement of cement silos, above ground water recycling tank and admixture storage area. This was approved as deferred commencement on 15 January 2007 for a period of 12 months. On 30 March 2007, the consent was issued as operational.

Condition 26 states

"The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. DA07/096 dated as 8 September 2006 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council."

The Statement of environmental effects states

	Type and Size of vehicles e.g. Class 6	Number of each type of vehicle	Vehicle movements per day e.g. In / Out = 2 trips
Employee (private)	1 Class 1 - Cars	13	13 x 2 = 26
	2		
	3		
	4		
Company	1 Class 4 - Agitator Trucks	11	11 x 6 max = 66
	2 Class 8 - Cement tankers		3 x 2 = 6
	3 Class 8 - Aggregate		12 x 2 = 24
	4		
	5		
	6		
	7		
Delivery / Courier / Container	1 Class 4 - Visitors		3 x 2 = 6
	2 Class 3 - Deliveries		1 x 2 = 2
	3		
	4		
	5		
	6		
	7		

And again reconfirms that the operation is limited to a maximum of 13.5 employees.

Existing operation

Chapter 3 of Boral's Environmental Impact Statement lodged with the current application has described in detail how the existing Concrete Batching Plant at the site currently operates. This is discussed as follows:

Section 3.4 – Employment and Operating Hours states “The site employs a total of 27 personnel, including 11 agitator drivers. The current operating hours of the site are 6am to 9pm Monday to Friday, 6am to 12pm Saturday, and closed Sundays and Public Holidays.”

Chapter 4 provides a comparison between the current operation of the plant and the proposed expanded facility.

Of note Table 7 of Chapter 4 discusses one way truck movements – total truck movements would be double the figures below:

Table 7: Comparison of existing and proposed truckloads (one way movement)

Truck type and number of loads	Existing operations			Proposed operations		
	Average per day	Peak per day	Peak per hour	Average per day	Peak per day	Peak per hour
Aggregate truck	22	42	6	50	94	12
Cement tanker	4	8	2	10	19	3
Agitator truck	60	113	17	133	250	33
Trucks transporting concrete waste	1	2	1	2	4	1

Description of Development

The Development Application seeks Council consent for the demolition and modification of the existing infrastructure at the site, install a total of six 130 tonne blended product dispatch silos and associated infrastructure (air slides and dust controls), and construction of additional infrastructure required to operate the concrete plant at its new operational capacity. The additional infrastructure will be integrated into the existing concrete plant and will allow the dispatch of up to 200,000 cubic metres (m³) or approximately 500,000 tonnes of pre-mixed concrete products per annum.

The proposed upgrade to the concrete plant will generate a peak of 367 truck movements per day during operation.

The specifics of the proposal are contained in the applicants EIS and are repeated as follows:

The construction and commissioning of the upgrade to the concrete plant will involve the following stages:

- Demolition of existing administration building and associated infrastructure (including removal of existing landscape vegetation at the site);
- Construction of a new double storey administration and amenities building along the eastern perimeter of the site;
- Relocation of utility services (if required);
- Demolition of three existing silos and replacement with a total of six modern silos. Each silo will be delivered on the back of a 40 tonne truck;
- Piling, where the proposed silos will be founded on approximately 600 mm piles, which would be installed through the existing concrete hardstand to a depth of approximately 4 m (or until appropriate load bearing material is reached). Pile caps will be constructed on top of each pile;
- Installation of six silo mounting frames, which will be secured to the pile caps. The dimensions for the mounting frames are 2.34 m long, 2.34 m wide and 8.37 m high. An 80 t crane will lower the silos onto the mounting frames and secured in place;
- Installation of other infrastructure to connect the silos to the existing batching plant and load alley and will include connecting airslides; pneumatic proportional flow control valves and shut-off valves and air bag filters, dirty air fans and motors; testing, fault finding and checks will be run before full operation of the silos;
- Demolition of existing two concrete washout pits and construction of four new concrete washout pits in the centre of the site;
- Construction of additional in-ground unloading bins along the northern perimeter of the site;
- Improvements to above ground open materials stockpile areas at the north-western corner and centre of the site;
- Demolition of existing two slump stands and construction of four new slump stands in the centre of the site;
- Construction of an additional first flush stormwater pit and reconstruction of a single, larger water recycling pit along the southern perimeter of the site;
- Relocation of existing entrance gate along Baker Street and additional driveway paving at the northern gate within the road verge of Baker Street;
- Erection of new 1.8 m security perimeter fencing and upgraded access gates, including provision of access to existing electrical substation for Endeavor Energy; and

- Construction of additional parking spaces on-site for light and heavy vehicles.

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*.

Integrated Development – Part 4, Division 4.8 – Integrated Development and Environmental Planning and Assessment Regulations 2000 – Part 6, Division 3

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the development applications.

Water Management Act 2000

The development application is Integrated Development in accordance with the Water Management Act 2000 as the development involves interference with the aquifer as the proposed construction works intercept groundwater.

Before granting development consent to an application, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

In this regard, the development application was referred to WaterNSW. In a letter dated 28 March 2018, WaterNSW has provided its General Terms of Approval for the proposed development, which can be imposed upon the development in the Schedule of Consent Conditions should consent be granted.

Protection of the Environment Operations Act 1997 – POEO Act

Clause 48 of the Act outlines that an Environmental Protection licence ("EPL") (separate application) is required for any scheduled activities to be undertaken at a premise at which Schedule 1 of the Act indicates that a licence is required.

Schedule 1 includes the following:

13 Concrete works

(1) This clause applies to concrete works, meaning the production of concrete products, but does not include the production of pre-mixed concrete (concrete batching).

(2) The activity to which this clause applies is declared to be a scheduled activity if it has a capacity to produce more than 30,000 tonnes per year of concrete products.

The applicant has comments: The Project would involve production of pre-mixed concrete, commonly referred to as 'concrete batching'. As such, the scheduled activity of concrete works is not applicable to the site, and the Project does not trigger an additional scheduled activity under the POEO Act.

Discussion with the applicant was held around whether the application triggered an EPL under Clause 6 of Schedule 1 – Cement or lime works.

Council's opinion is that the application involves cement handling, in accordance with the definition and breaches the capacity threshold.

Clause 6 identifies cement **or lime handling**, meaning the handling of cement, fly ash, powdered lime (other than agricultural lime) or any other similar dry cement products.

An EPL is required where the facility has capacity to handle more than 150 tonnes of cement or lime per day or 30,000 tonnes of cement or lime per year. The applicants EIS states that they will make approximately 500,000 tonnes of concrete. And further indicates on page 23 that water and cement powder constitute roughly 15% of the mix volume while aggregates are between 65-80%. The application then goes to say that the raw materials (cement) are delivered in a dry state and stored in purpose built silos. Looking at the number of truck movements (maximum) associated with cement trucks. The project specifies a maximum of 19 Cement tanker trucks per day. The cement tankers volume varies with the minimum of a semi-trailer being 28 Tonnes and on a b double 32 tonnes.

The application is for 24/7 operation 365 days a year. The maximum capacity or cement handling is therefore 19 (trucks) X 32 tonnes (minimum capacity) x 365 days in a year. This equates to 221,900 tonnes of cement, more than reaching the trigger of 30,000 tonnes per year.

Accordingly, an EPL is considered to be necessary for this project.

The applicant has provided a comment from the Director of Regulatory Reform and Advice at the NSW EPA stating that

"making reference to the potential amendments that aim to address the issue of concrete batching plants that handle significant quantities of cement and/or lime, and trigger a requirement to hold an environment protection license under the POEO Act (as cement or lime handling activities). As previously stated in our meetings (and stated at the ASBG seminar) this is contrary to the EPA's policy intention to remove the need for concrete batching plants to hold a license.

As you know, the EPA is proposing amendments to the Act so that the 'cement or lime handling' licensing trigger does not apply if the handling is being undertaken as part of the production of pre-mixed concrete."

At the time of writing the report the legislation requiring the activity to operate under an Environment Protection License is still in force.

Further the above only relates to Cement or lime handling and still fails to discuss Clause 19 Extractive industries which require an EPL.

This clause defines the activity as follows

"land-based extractive activity, meaning the extraction, processing or storage of extractive materials, either for sale or re-use, by means of excavation, blasting, tunnelling, quarrying or other such land-based methods. "

Clause 19(2) states"

"extractive materials means clay, sand, soil, stone, gravel, rock, sandstone or similar substances that are not minerals within the meaning of the [Mining Act 1992](#).

Again the trigger for a license is for a facility to have a capacity in excess 30,000 tonnes of extractive materials per year.

In regards to this application the storage of extractive materials (aggregate) are broken down as follows:

The proposal involves a maximum of 94 aggregate trucks per day with a maximum capacity of 35 tonnes per truck over 365 days a year for production equates to 1,200,850 tonnes of aggregate per year proposed. This meets the trigger for the storage of extractive material of 30,000 and as such needs an Environment Protection License.

The NSW Environment and Protection Agency has not provided comment in regards to the need for an Environment Protection License in their official referral response.

The NSW EPA have confirmed in their letter of 29 November 2018 that if the thresholds are met and/or exceeded then the proponent will require an Environmental Protection licence.

The EPA have also advised that *"where a licence is required under clause 6 of Schedule 1 of the POEO or another clause of Schedule 1, a planning proposal should be referred to the EPA as integrated development."*

Environmental Planning and Assessment Act, 1979 and Environmental Planning and Assessment Regulations 2000 (EP and A Regs)

Section 77A of the Act defines designated development to be development that is declared designated development by an EPI or the Regulations.

Designated Development

Consideration has been given to Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (Regulations), which relates to designated development. Clause 14 – Concrete works, provides the criteria for concrete works, and an assessment of the proposal against this criteria shows that the activity is 'designated development' for the following reasons:

In accordance with Clause 14 of Schedule 3, which stipulates the following:

- 14 - Concrete works that produce pre-mixed concrete or concrete products and:
(a) that have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per year of concrete or concrete products,

Comment:

Given the development is producing up to 500,000 tonnes of concrete per year, it satisfies the requirement for Designated Development, in accordance with Clause 4 of the EP and A Regulations.

Environmental Impact Statement

In accordance with Section 4.12(8) of the Act an environmental impact statement has been submitted. This statement is considered to be consistent with the requirements of Schedule 2 of the Regulations, which stipulates the information to be included within an environmental impact statement. The applicants EIS does not satisfy the SEARS issued by the Department of Planning as demonstrated in the table below:

Secretary' Environmental Assessment Requirements

Secretary's Environmental Assessment Requirements	
Strategic Context	The applicant has failed to identify the required licenses in relation to the Protection of the Environment
Air Quality	<p>A description of all potential sources of air emissions including dust is required. The applicant has advised:</p> <p><i>The main sources of air pollution in the wider area include emissions from anthropogenic activities such as motor vehicle exhaust, urban activity and various commercial and industrial Activities.</i></p> <p>This does not include the operation of nearby Concrete Batching Plant (under construction) at 2 Anderson Street or the significant open air storage of salt to the south east of the site within the Botany Industrial Park.</p> <p>The cumulative impact on air quality has not been discussed. It is therefore considered that the EIS has not addressed the requirement of the Secretary.</p>
Water Resources	<p>The application does not detail the approval required under the Water Management Act 2000 for the controlled activity of Aquifer interference. However, Council advised that it was integrated development for the above and approval was needed under the Water Management Act 2000. The applicant stated in their EIS that</p> <p><i>"The Project does not require approvals under the aforementioned legislation and is therefore not classified as integrated development under Section 91(1) of the EP&A Act."</i></p>
Soil and water	This is considered to be satisfied with a description of local soils being provided and potential impacts on quality and quantity of surface and groundwater resources, sediment and erosion controls and site water balance. Discussion was also provided around stormwater and wastewater systems, contamination and mitigation and monitoring measures

Noise and Vibration	Sources of noise and vibration and an assessment of such with mitigation and monitoring measures is satisfied.
Traffic and Transport	Detail of road transport routes and access, road traffic predictions during construction and operation, impacts to safety and function of road network and any road upgrades required for the development. How this is addressed is discussed within the body of the report (refer Traffic discussion).
Waste Management	Details of waste handling and reuse have been detailed within the EIS as required by the SEARS.
Hazards and Risk	The EIS must include a preliminary risk in accordance with SEPP 33. This has been provided.
Biodiveristy	Description of vegetation clearing and flora and fauna impacts. This is included in the EIS
Visual	Visual impact assessment at private and public receptors. This is achieved
Heritage	Aboriginal and non Aboriginal Cultural Heritage considered as adequate.

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

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

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of BBDCP Part 3K Contamination, relating to Contaminated Land.

Clause 7 of SEPP 55 requires the consent authority to consider whether land is contaminated prior to granting consent to carrying out of any development on that land and if the land is contaminated, it is satisfied that the land is suitable in its current state or will be suitable.

The application was supported by the following reports:

- 1) 'Phase 1 Environmental Site Assessment: Boral Concrete, 1 Baker Street, Banksmeadow NSW' completed by Environmental Compliance Services dated November 2016.
- 2) 'Phase 2 Environmental Site Assessment – 1 Baker Street, Banksmeadow NSW' completed by Cleanaway dated May 2017.

- 3) 'Acid Sulfate Soil Management Plan – Boral Concrete – 1 Baker Street, Banksmeadow NSW 2019' completed by Environmental Compliance Services dated June 2017.

These reports have been assessed by Council's Environmental Scientist who makes the following comments:

The Phase 1 and Phase 2 reports did not show any contaminants of concern for commercial/industrial use that require management. Acid sulfate soil was detected at 5m bgl, and an Acid Sulfate Soil Management Plan for works below 4m has been provided. It is noted that during construction that groundwater will be encountered and dewatering required.

As the site is maintaining the current commercial/industrial use, and information indicates that the site is suitable for the proposed development, the Environmental scientist has not objected to the proposal and recommended conditions of consent.

Given the above, Council is satisfied that the applicant has provided information for it to be satisfied of the Clause 7 requirements of SEPP 55.

On this basis, the site is suitable in its present state for the proposed development. No further investigations of contamination are considered necessary.

State Environmental Planning Policy – Three Ports 2013 (SEPP 3 Ports)

Under SEPP 2013, Clause 6 relates to the relationship to other environmental planning instruments. Subject to section 74 (1) of the Act, 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. Therefore, the provisions of Botany Local Environmental Plan (LEP) 2013 do not apply to the subject site.

Principal Provisions of SEPP (Three Ports) 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned IN1 – General Industrial
Is the proposed use/works permitted with development consent?	Yes	<p>The proposed use is permissible with Council's consent under the BBLEP 2013. The use has been categorized as General Industries.</p> <p>Clause 4(3) of the SEPP – Definitions calls up the words having the same meaning as those described at the end of Standard Instrument (Local Environmental Plans) Order 2006.</p> <p>General industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.</p>

Principal Provisions of SEPP (Three Ports) 2013	Compliance Yes/No	Comment
		<p>Industrial Activity means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity</p> <p>Comment: The proposed use does not fall into the definition of light industry nor heavy industry (Where relevant controls mitigate impacts). The applicant has undertaken an assessment of Hazardous and offensive industry in accord with SEPP 33 and determined that it is neither and as such does not meet the criteria for heavy industry.</p> <p>Given the nature of the concrete batching plant it is considered to be an industrial activity and as such in light of the above falls into the definition of general industry.</p>
Does the proposed use/works meet the objectives of the zone?	No – Refer Note 1	<p>The proposed development is consistent with the objectives of the IN1 – general industry zone which are as follows:</p> <ul style="list-style-type: none"> • To provide a wide range of industrial and warehouse land uses. • To encourage employment opportunities. • To minimise any adverse effect of industry on other land uses. • To facilitate and encourage port related industries that will contribute to the growth and diversification of trade through the port. • To enable development for the purposes of business premises or office premises associated with, and ancillary to, port facilities or industries.

Principal Provisions of SEPP (Three Ports) 2013	Compliance Yes/No	Comment
		<ul style="list-style-type: none"> To encourage ecologically sustainable development. <p>Comment: The development provides a type of industrial use which will encourage employment opportunities.</p> <p>Given the proposed use and the significant impact of truck movements and that the current operation is operating well beyond the current approval for the site, then the development has not sought to minimise the adverse traffic impacts.</p> <p>The proposed concrete batching plant by Boral has been identified in the applicants EIS (Pg 56) as <i>“not specifically a port-related development, it is considered that the concrete plant is a beneficial development within Port Botany as it provides an opportunity for local and cost-effective supply of concrete products for the development of various port related infrastructure if required. The position of the site is located a sufficient buffer from prime port-related land uses and as such the development would not obstruct or impede a future port-related development.”</i></p> <p>It is unclear from the applicants EIS as to how the proposed concrete batching plant will facilitate and encourage port related industries that will contribute to the growth and diversification of trade through the port.</p> <p>The development does not involve business or office premises.</p> <p>The development is to encourage ecologically sustainable development This is discussed below within Note 1.</p>
Clause 17 – Demolition requires consent	Yes	Demolition is proposed.
Clause 22 - Earthworks	Yes	Clause (2) - Development consent is required for earthworks unless:

Principal Provisions of SEPP (Three Ports) 2013	Compliance Yes/No	Comment
		<ul style="list-style-type: none"> • the earthworks are exempt development under this Policy or another applicable environmental planning instrument, or • the earthworks are ancillary to development that is permitted without consent under this Policy or to development for which development consent has been given. <p>Comment: Development Consent is required for earthworks as the proposal does not satisfy either of the above clauses.</p> <p>Clause (3) - Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <ul style="list-style-type: none"> • the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, • the effect of the development on the likely future use or redevelopment of the land, • the quality of the fill or the soil to be excavated, or both, • the effect of the development on the existing and likely amenity of adjoining properties, • the source of any fill material and the destination of any excavated material, • the likelihood of disturbing relics, • the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, • any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development, • the potential impact on groundwater and groundwater dependent ecosystems. <p>Comment:</p>

Principal Provisions of SEPP (Three Ports) 2013	Compliance Yes/No	Comment
		<p>The proposed earthworks are unlikely to alter the drainage patterns of the area and the area is not known as being unstable land. The effect of the earthworks would not preclude future redevelopment of the land for a future purpose.</p> <p>Appropriate conditions can be recommended in relation to the quality of any excavated material and quality of any imported fill. The conditions would ensure that the source of any fill will be of a high quality.</p> <p>The applicant has advised that in accordance with the Heritage Act 1977 that the site does not support any items of historic heritage value and as such the likelihood of disturbing relics would be low.</p> <p>The site is located well away from any waterway and is in an area where the groundwater is contaminated as such impacts on waterways as a result of earthworks are negligible.</p> <p>The applicant has also undertaken an assessment of Acid Sulfate soils. Appropriate conditions can be included to effectively manage any impacts associated with the excavation. The application is integrated and as such appropriate conditions from the NSW Office of water will ensure the protection of groundwater.</p>

Note 1 – Objectives of the zone

In reference to the above table, the following is noted in regards to consistency of the proposed development with the objectives of the zone.

The development continues to allow a range of uses and encourages employment opportunities. It is considered that the development does not facilitate the growth of the Port.

In regards to whether the development encourages ecologically sustainable development the following is discussed.

The term **environment** is defined in the Environmental Planning and Assessment Act 1979 as "**environment** includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings."

Of note – Clause 4 of Schedule 2 of the EP and A Regulations 2000, in relation to Environmental Impact Statements notes:

(4) *The principles of ecologically sustainable development are as follows:*

- (a) *the **precautionary principle**, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

In the application of the precautionary principle, public and private decisions should be guided by:

- (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
 (ii) *an assessment of the risk-weighted consequences of various options,*
- (b) ***inter-generational equity**, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) ***conservation of biological diversity and ecological integrity**, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*
- (d) ***improved valuation, pricing and incentive mechanisms**, namely, that environmental factors should be included in the valuation of assets and services, such as:*
- (i) *polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*
 (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
 (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

Comment:

Precautionary Principle

In accordance with the principle, the lack of certainty about the extent of Environmental damage, being the impacts to the road network. Then in accordance with the principle, the application should be determined. It is through the assessment guided by the EP and A Act that the evaluation is made to avoid, where practicable, serious or irreversible environmental damage.

If the application were approved, it is considered that there would be irreversible damage to the environment. The environment is made up of the built environment including the road network and this accords with the definition of environment as it includes all aspects of the surroundings of humans.

Inter-Generational equity – The maintenance of the productivity of the environment is compromised by the proposed development through the significant increase in traffic movements proposed, to the extent that even after Council installs the asset of traffic lights at the intersection of Baker Street and Wentworth Ave to provide a service of better traffic flows in the area, the proposed development would then take the level of service of the asset to the worst level being “F”. This flies in the face of the fundamentals of intergenerational equity as the level of service is not maintained or enhanced.

Conservation of biological diversity and ecological integrity

The proposed development is not considered to impact the ecological integrity of the area. Minimal tree removal is proposed and given the surrounds, this is not anticipated to impact on the biological diversity in the locality.

Improved valuation, pricing and incentive mechanisms.

The applicant is a significant use of the proposed good and service of the pending upgraded intersection of Baker Street and Wentworth Ave. The amount that they propose to use, is not able to be accurately measured as the applicants existing operation at the site is operating outside the realms of their current approval and already utilising more capacity at the existing intersection than permitted to. The existing intersection already operates at the worst service level again being "F"

The applicant has advised in their EIS (Pg 169) that:

"Boral acknowledges and accepts the financial costs associated with all the measures required for the Project to avoid, minimise, mitigate and manage potential environmental and social impacts."

The applicant has not demonstrated how it will avoid, minimise, mitigate or manage the environmental impact associated with the significant traffic increase through both the existing and upgraded intersection and nor have they identified how they would contribute financially to these measures.

The objectives and provisions of SEPP (Three Ports) 2013 have been considered in relation to the subject development application. The proposal is considered unsatisfactory in terms of the BBLEP 2013.

S.4.15(1)(a)(ii) - Provisions of any Draft EPI'sDraft State Environmental Planning Policy (Three Ports)

The draft Amendment to the SEPP (Three Ports) was placed on exhibition on 20 September 2018 until 1 November 2018.

The amendments include the provisions of additional categories of exempt and complying development that can occur at the three ports, additional land within the Port Kembla and Port of Newcastle lease area, rezone certain land near Hale Street and Wentworth Avenue, Botany, outline options to discourage the subdivision of industrial land at Port Botany and other housekeeping amendments and operational improvements.

The draft SEPP goes on to discuss four options specifically in relation to the protecting of land at Port Botany for freight and container depots.

The four options are

Option 1- Heads of consideration provision – additional circumstances to be considered on assessment

Option 2 – introduce a 2ha minimum lot size for land zoned IN1 – General Industrial

Option 3 – Restricting uses in the zone IN1 to container storage and port related uses, and other ancillary uses that would not affect the operation of the Port such as roads and signage.

Option 4 – Do Nothing

Comment: Of relevance to this application, is that if Option 3 was the preferred option then the applicant has advised that the concrete batching plant is not strictly port related and as such would only benefit from existing use rights if the option were adopted. Given the draft amendment and its relative infancy in the process, the amendment is not considered imminent or certain and as such minimal weight should be given to it.

Draft SEPP 55

The new SEPP aims for the better management of remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works. For remediation works that can be undertaken without development consent, the mandatory use of certified contaminated land consultants and standard operational requirements, will provide greater certainty for councils, planning authorities and the community, that remediation work is properly carried out and appropriately validated. The draft while relevant to the project, given its relative infancy in the process and that the Department is in the process of identifying and considering issues identified in the submissions, the draft is not considered certain or imminent

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

Development Control Plan 33

This Development Control plan is still in force as it applies to the Three Ports SEPP land

Relevant Objectives of the DCP

O4 To improve the environmental and aesthetic amenity of industrial areas for those who visit and/or work in the areas.

O5 To encourage the development of cleaner, well-landscaped industrial zoned areas with well maintained industrial/commercial buildings and sites.

O7 To ensure that development incorporates safe, effective and convenient provision for servicing, parking, pedestrian and vehicular access and movements.

O12 To encourage ecologically sustainable development.

Comment: It is inconsistent with objective O4, O5, O7 and O12

P5 The need for a compatible and workable relationship between industrial and non-industrial uses.

Local road networks within the City are not to be adversely effected as a result of the operations of an industrial or commercial use.

Comment: The road network is proposed to be adversely affected by the development however the extent of the effect is not quantified.

Objectives for Banksmeadow industrial Precinct

O7 To ensure that any risk to human health, property or the natural environment arising from the operation of the development is minimised and addressed.

Comment: The proposed development has not demonstrated how the risk to human health and natural environment have been minimized or addressed.

C6 Development is not to adversely impact on the surrounding established residential areas through noise, traffic, pollution and risk.

Comment: Throughout the assessment contained in the report it is demonstrated that there are likely adverse impacts arising from the development, however the information is not fully contained within the application material.

Botany Bay Development Control Plan 2013

Botany Bay Development Control Plan 2013 (BBDCP 2013) does not apply to land subject to the SEPP (Three Ports) 2013.

A detailed assessment against Council’s DCP would not ordinarily be required in this case as the DCP does not apply. However, Council has consistently used the DCP controls as a guide to development in this locality. The following matters have been considered in order to determine the merits of this application without strict application of the development controls.

Notwithstanding the above, an assessment of the proposal in terms of its permissibility and future impact under BBDCP 2013 is provided as a guide below:

Control	Requirement	Proposed	Complies
Part 3 General Provisions			
3A.2 Car Parking	General: Table 1 provides that office premises are required to provide 1 space per 40m ² of GFA.	The GFA of the office/admin building is approximately 160 m ² . The proposed parking spaces meet this requirement of 4 spaces.	Yes
	Bicycle Parking: C7 In every new building, where the floor space exceeds 600m ² GFA (except for houses and multi unit housing) bicycle parking equivalent to 10% of the required car spaces or part therefore as required in Table 1 shall be provided.	As the proposal is for alterations to the existing building and not a new building, there is no requirement to provide bicycle parking.	N/A
3A.3.1 Car Park Design	General: C1 All off-street parking facilities shall be designed in	A Traffic and Parking Report was submitted with the application which addresses compliance with the	Yes

Control	Requirement	Proposed	Complies
	accordance with current Australian Standards AS2890.1 and AS2890.6 (for people with disabilities).	standards relating to the car park design.	
	<p>Location:</p> <p>C10 Off-street parking facilities are not permitted within the front setbacks.</p> <p>C11 Car parks must provide a direct and safe access to a building's entry and exit (well lit and free of concealment opportunities).</p> <p>C12 Off-street parking facilities must not dominate the streetscape and are to be located away from the primary frontages of the site.</p>	<p>The location of the car parking spaces at the site are located within the front setbacks and side setback.</p> <p>This is in areas where trucks have been parking, however it is unclear whether this has been previously regularised or not.</p> <p>The applicant has advised that <i>"Parking spaces would be required along the site boundary fronting Baker Street. Parking is required along the perimeter due to operational logistics and safety requirements. Despite location of parking spaces along the primary frontage of the site, parking would not dominate the streetscape given the industrial setting of the locality, existing trees that will be retained and proposed landscape planting."</i></p>	No
	<p>Access:</p> <p>C13 Pedestrian entrances and exits shall be separated from vehicular access paths.</p> <p>C14 A maximum of one vehicle access point is permitted per property. Council may consider additional vehicle access points for large scale developments.</p>	<p>All vehicular access to the site has been designed to ensure all vehicles enter and exit the site in a forward direction. Formalised pedestrian networks are not located on this side of the Baker or Anderson Street.</p> <p>Pedestrian access is separated from vehicular access.</p> <p>The existing development is provided with existing vehicular access via two</p>	Yes

Control	Requirement	Proposed	Complies
		crossings to Baker Street and one access way to Anderson Street.	
	At-Grade Parking: C25 At-grade parking shall be avoided for large scale residential and commercial development.	All parking is at grade with minimal screening proposed.	Yes
	Non-Residential: C29 Car parking areas shall be adequately finished with fully sealed surfaces, internal drainage systems, line markings, appropriate kerbing, paved aisle dividers and/or wheel stops. Pavement: C32 All off-street parking areas and internal circulation roadways shall be sealed with hard-standing all weather materials or approved alternatives to Council's satisfaction.	All parking and manoeuvring areas will be sealed and finished in accordance with Council requirements. Relevant conditions are proposed.	Yes – achievable.
	Lighting: C34 Adequate lighting shall be provided if the parking facility is expected to be used at night. Design of lighting shall be in accordance with relevant Australian Standards and be consistent with the relevant requirements to allow drivers to manoeuvre vehicles	No detail has been provided to ensure lighting will be provided in accordance with the relevant Australian Standards.	No

Control	Requirement	Proposed	Complies
	safely into and out of parking spaces.		
	Accessible parking: C35 Accessible parking spaces for people with disabilities shall be designed in accordance with AS2890.6.	The applicant has advised that they won't provide any.	No – as an access report has not confirmed the development is exempt in accordance with D3.4 of BCA/NCC vol.1
	Waste Collection Points: C40 The waste collection point shall be designed to: (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.	No detail provided - unable to assess	No
3A.3.3 Traffic and Transport Plans and Reports	C1 A Traffic and Parking Impact Assessment Report shall be provided for development: (i) Listed in Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007; and	A Traffic and Parking Report prepared accompanies the application which addresses compliance with the car parking requirements and standards relating to the car park design, The report has incorrectly assumed the existing traffic generation from the site is	Traffic report provided Refer Note 1:

Control	Requirement	Proposed	Complies
	<p>(ii) Where, in the opinion of Council, the proposed development is likely to generate significant traffic and/or parking demand or land use.</p> <p>C2 The Traffic and Parking Impact Assessment Report shall be prepared by a qualified and experienced traffic engineer.</p>	<p>approved and as such the integrity of the impacts proposed and existing local traffic conditions are unable to be relied upon.</p>	
<p>3A.3.4 On Site Loading and Unloading</p>	<p>C2 - The number of service bays shall be provided in accordance with Table 2. Where calculated provision of servicing bays numbers results in a fraction, the requirements shall be rounded up to the nearest whole number.</p>	<p>The nature of the development inherently relates to loading and unloading.</p> <p>However the existing operations already cause traffic issues and complaints from the community with trucks utilising the road way as a waiting bay. Given the operation is spilling onto the road network in order to operate at present the proposed expansion will further exacerbate this situation.</p> <p>The fact that the operation spills out on the to the road questions the suitability of the site not only for the current operations but the proposed operations.</p>	<p>No.</p>
<p>3C Access and Mobility</p>	<p>Commercial and industrial developments: A Statement of consistency is to be lodged with the DA.</p>	<p>The applicant categorially states in their EIS(Pg 68) <i>"It is not possible for Boral to employ a person with a disability at the site due to the industrial nature of the workplace and relevant</i></p>	<p>No – as an access report has not confirmed the development is exempt in accordance with</p>

Control	Requirement	Proposed	Complies
	<p>Appropriate access to and within all areas normally used by the occupants, designed in accordance with the BCA and relevant Australian Standards.</p> <p>General access for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, shower facilities, indoor and outdoor recreational facilities.</p> <p>In a vehicle parking area containing 6-49 vehicle spaces, one accessible vehicle space, designed in accordance with relevant Australian Standards will be provided.</p>	<p><i>operational logistics and workplace health and safety requirements. Therefore no accessible vehicle space will be provided.</i></p> <p><i>This justification forms the statement of consistency required by Table 1.</i></p> <p><i>Appropriate access to and within areas normally used by personnel with access arrangements (i.e. the proposed administration building), would be designed in accordance with the Building Code of Australia and relevant Australian Standards.</i></p> <p><i>General access would be provided for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, and amenity facilities.”</i></p>	D3.4 of BCA/NCC vol.1
3D Signage	Not applicable.	No signage is proposed as part of this application	Not Applicable
3G Stormwater Management	<p>Stormwater Management:</p> <p>Stormwater runoff generated from the development site shall be collected and discharged in accordance with Council’s Part 10 – Stormwater Management Technical Guidelines.</p>	<p>Water reuse initiatives have been incorporated into the design of the Project. Stormwater and process water is reused in the concrete batching process wherever feasible and discharge to Council’s stormwater network would only occur in extreme rainfall events where the capacity of the stormwater management system is exceeded.</p>	<p>Yes</p> <p>On site detention is not feasible due to flooding extent, Site benefits from existing recycle/reuse of stormwater and no increase of impervious area (site is completely sealed).</p> <p>No changes proposed to existing stormwater collection system.</p>

Control	Requirement	Proposed	Complies
3H Sustainable Design	To ensure commercial and industrial development incorporates ecologically sustainable design principles.	No opportunities exist on this Project. The proposed administration building must be positioned in order to ensure operational logistics of the concrete plant are maintained.	No – In addition refer to discussion on Ecologically Sustainable development.
3I Crime Prevention, Safety and Security	The building is to be designed in accordance with CPTED principles.	The proposed development provides opportunities for natural surveillance to the surrounding streets. The entries to the development will be appropriately lit at night to enhance safety, visibility and legibility. Effective access control has been achieved through the provision of physical barriers to attract, channel and/or restrict the movement of people within the development. The internal areas within the development such as the entrances and lobbies will be well used.	Yes
3J Aircraft Noise & OLS	In certain circumstances and subject to Council's discretion, Council may grant consent to development where the building site has been classified as "conditional" or "unacceptable" under Table 2.1 of AS2021-2000 Pursuant to Part 3J.3 of the DCP if a building is located within a specific area identified on the OLS map or seeks to exceed the height limit specified in the map the application must be referred to	The site is located outside of the 20-25 contour on the Aircraft Noise Exposure Forecast (ANEF) chart, as such there is no further assessment required in regards to the Australian Standard AS 2021 for aircraft noise As the site is within the area identified on the OLS map and the building exceeds 15.24 metres, Council is required to refer the application to the Sydney Airport for assessment. Sydney Airport have provided their approval to the proposed development.	Yes – Condition of consent

Control	Requirement	Proposed	Complies
	Civil Aviation Safety Authority and Air services Australia for assessment.		
3K Contamination	Contamination of the site is to be investigated in accordance with SEPP 55 and the Managing Land Contamination: Planning Guidelines.	A full assessment of potential contamination has been undertaken – Refer to SEPP 55 discussion	Yes
3L Landscaping and Tree Management	<p>A Landscape Plan is to be prepared.</p> <p>A deep soil zone is required for all developments within boundary setbacks, communal and private open space and green corridors.</p> <p>A minimum of 80% of a planting scheme is to consist of native plants.</p>	<p>A landscape Plan has been prepared for the project by a landscape plan.</p> <p>Given existing concrete hardstand at the site is to be maintained along most boundary setbacks, limited opportunities for provision of landscaping exists for the Project.</p> <p>Where landscaping is to be implemented at the site, shrubs would be planted at densities suitable for the nominated species.</p> <p>The plan has taken into consideration the requirements detailed within the BBDCP.</p>	<p>Yes – Landscape plan provided.</p> <p>The intensification of the site with no attempt to soften the impact through landscaping is less desirable than providing limited screening to the edges of the site.</p>
3N Waste Minimisation and Management	<p>Demolition, construction and ongoing waste is to be minimised.</p> <p>A Site Waste Minimisation Plan is to be submitted for all development applications.</p>	If required, a site waste minimisation and management plan would be prepared and submitted to Council prior to construction of the Project.	No – Able to comply through condition of consent

6.3 General Provisions

6.3.12 Noise and Hours of Operation	To ensure appropriate noise attenuation measures are incorporated into building design and site layout.	The site is located in an industrial area proposed to operate 24/7 all year round. The noise report submitted with the application is considered to have addressed the relevant criteria	Yes
6.3.13 Waste	Development must comply with Part 3N - Waste Management and Minimisation. Sufficient space shall be provided for on-site separation and storage of recyclables and garbage.	A Waste Management Plan has not been submitted with the application however waste management has been addressed within the EIS.	Yes
6.3.14 Environmental Protection	To ensure that development takes account of and minimises any adverse effects upon the environment. To limit the potential for noise, air (including odour), ground water, soil and surface water pollution	The proposed expansion has the potential to generate air pollution where the peak production of fine particulate matter has not been identified. Further Council is of the opinion that the development requires an environmental protection licence as described previously in the report.	No – Refer Note 2
6.3.15 Risk	To ensure that any risk to human health, property or the natural environment arising from the operation of the development is minimised and addressed.	The use will involve the hazardous substance or Portland Cement and Crystalline silica. The air quality report has not demonstrated how the increase in PM 2.5 is acceptable in terms of health impacts	No

Note 1: Traffic and Parking.

The application has been supported by a Traffic Impact assessment in support of the application which advises that the level of service is considered suitable and that there are no impacts to the road network.

The applicant has summarised the *“Traffic impacts on adjoining intersections and the local road network will be minor, with no real change in the level of service of local intersections, and with improvements to intersections proposed by Bayside Council in the near future, the Project would result in only very small increases in vehicle delays over existing and future*

projected conditions. The Project will not have any adverse impacts on other road users including public transport, pedestrians and/or cyclists.”

The proposed development seeks to produce 500,000 tonnes of concrete with the maximum peak production requiring the site to be serviced by the following

- 94 one way aggregate truck movements (188 total truck movements per day)
- 19 one way Cement Tanker movements (38 total truck movements per day)
- 250 agitator truck movements (500 total truck movements per day)

Given the location of the concrete batching plan, all truck movements must be directed through one intersection being that of Baker Street and Wentworth Ave.

The Baker Street and Wentworth Ave Intersection is currently an unsignalled intersection and is subject to a Give way Control.

The applicant’s traffic consultant has modelled the impacts on the intersection based on the intersection being upgraded to a signalized intersection.

In October 2016, Council reviewed traffic in the area in light of another concrete batching plant at 2 Anderson Street. Council was aware of this intended application and modelled expected traffic flows for 1 Baker Street in addition to those generated from 2 Anderson Street.

The Council’s review indicates that the Baker Street and Wentworth Ave intersection will be at level of service of D in the morning period and a level of Service F in the afternoon after signalisation of the intersection. It is noted that this data was compiled in 2016.

The level of service is generically indicated in the table below:

LEVEL OF SERVICE CRITERIA FOR INTERSECTIONS			
Level of Service	Average Delay per Vehicle (secs/veh)	Traffic Signals, Roundabout	Give Way & Stop Signs
A	<14	Good operation	Good operation
B	15 to 28	Good with acceptable delays and spare capacity	Acceptable delays and spare capacity
C	29 to 42	Satisfactory	Satisfactory, but accident study required
D	43 to 56	Operating near capacity	Near capacity and accident study required
E	57 to 70	At capacity; at signals, incidents will cause excessive delays. Roundabouts require other control mode	At capacity, requires other control mode
F	> 70	Intersection is oversaturated	Oversaturated, requires other control mode

Source: Table 4.2 Guide to Traffic Generating Developments October 2002. Roads and Traffic Authority

On 15 June 2018 the applicant was advised the level of service was F and advised that as per Council's Pre DA advice that the cumulative impacts of the area need to be considered as part of the traffic assessment.

On 20 June 2018 the applicant responded advising that their Traffic impact assessment included:

Future cumulative impacts in 2024 AM and PM periods which included the additional traffic from:

- *The Gunlake proposal at peak production;*
- *The residential development for [32 Page Street](#) Pagewood;*
- *A 25% increase in the 2017 base traffic volumes using Wentworth Avenue; and*
- *The Boral proposal at maximum production.*

Cumulative impacts from surrounding more recent applications, but before lodgment of the application have not been included in the applicants Traffic Impact assessment including the business development at 32 Page Street. The residential development at 2A Baker Street and Warehousing and self-storage development at 13-19 Baker Street.

Further it is noted that a 25% base traffic increase has only been applied to Wentworth Ave and not surrounding feeder roads.

On **12 July 2018**- Council contacted the applicant and identified key issues with the traffic report which may demonstrate the different outcomes than Council had previously measured at the intersection. This are as follows:

- *The Level of Service analysis in the traffic report has only considered the existing situation and the proposal, not the cumulative impacts of other developments including the development at 13 Baker Street which was lodged in August of 2017.*
- *Council has modelled the Boral facility expansion in 2016 along with the development at 2 Anderson Street and this modelling demonstrates that the intersection will have a level of service of D for AM and F for PM. This modelling did not include new developments which are now under consideration by Council*
- *The proposal will create 46 additional truck movements per hour which is not considered minor.*
- *The modelling submitted with this application has incorrectly assumed that there are 'No Parking' restrictions along Wentworth Ave, and that Wentworth Avenue is therefore three (3) lanes in each direction. Parking is currently permitted along this section of Wentworth Avenue and it is our understanding that RMS will not agree to clearway restrictions.*
- *The modelling must link the two nearby intersections (Baker Street / Wentworth Ave and Page Street / Wentworth Ave)*
- *It is also our understanding that, based on the traffic report submitted with 13 Baker Street, the right hand turn bay (of signalised intersection) from Wentworth Avenue east bound into Baker Street is also at capacity.*
- *It is also worthy to note that the intersections of Page Street and Wentworth Ave and Baker Street and Wentworth Ave are linked due to the queue interaction and this can*

impact the Level of Service. This line of assessment needs to be confirmed by your traffic consultant.

On 7 August 2018, Council and the applicant and respective traffic consultants met to discuss the traffic aspect of the development. The meeting discussed the issues and the outcome of the meeting was for the applicant to provide written confirmation from RMS that a clearway would be installed on Wentworth Ave, once the intersection reached Service level F. The applicant's traffic consultant advised that this would occur for any intersection along Wentworth Ave once the intersections are overcapacity.

The application for the residential component at 32 Page Street, indicated in their traffic report the Page Street and Wentworth Ave Intersection both currently and in the future post that development would be at a service level F. This was confirmed in the application dated 16 April 2014.

The applicant provided a summary of the Clearways strategy and how it is enacted with confirmation from RMS as to how the strategy is enacted. The summary provided was in broad terms and not specifically relating to the intersection.

It is also noted that there is car parking on both sides of Wentworth Ave in proximity to Page Street, i.e the same scenario as being discussed with Boral. Based on the applicants assertion that the clearway should be instigated is not able to be relied upon, as based on their advice, RMS should have instigated a clearway program for Wentworth and Page Street intersections. Further the reliance on the clearway has been clarified with RMS in their email of 25 July, discussions were held with RMS who confirmed to Council that the applicant should not consider Wentworth Ave as a clearway in their modelling. The applicant's traffic model assumes a clearway on Wentworth Ave. The applicant was advised of this the same day.

The proposed development not only currently operates beyond its existing approval in terms of truck movements. This limit of truck movements was related to the maximum capacity of the Concrete Batching Plant.

As discussed the existing operation (vs existing approval) and the proposed operation will have a significant impact on the efficiency of the surrounding road network and limit development of surrounding sites that rely on the intersection. The site is located within the State Environmental Planning policy Three Ports) - The objectives of which is to ensure that the area recognises its importance in terms of servicing the port and other port related activities. This is reinforced through the proposed amendment to the SEPP Three ports currently on exhibition.

The draft SEPP is a clear response to the Greater Sydney Commissions – Eastern City District Plan which includes the likes of: Planning Priority E9 – Growing international trade gateways, In particular Objective 16 – Freight and logistics network is competitive and efficient.

In light of the above commentary it is considered that in this instance that the proposed traffic generation is incompatible with the existing and proposed road network.

Note 2: Air Quality

The air quality report is based on maximum production capacity of up to 200,000 metres cubed (m³) of concrete with an average daily volume of 800m³ and peak daily volume of 1,500m³.

The NSW Environmental Protection Agency has reviewed the application and were specifically asked to review the applicants Air Quality Impact Assessment on 7 May 2018. THE NSW EPA provided updated conditions and made the following comments

- The assessment does not predict exceedances of the impact assessment criteria for particulate matter at the assessed residential receptors; and
- The assessment advises that a peak production scenario has been assessed. EPA believes this refers to the proposed daily peak production. It is further noted that peak scenario modelling results have only been presented for PM₁₀ and not for PM_{2.5} (refer to Table 8-1 of the AQIA; there is no column for peak 24-hour average for PM_{2.5}).

Council's approach to concrete batching plants, as applied to the Concrete Batching plant at 2 Anderson Street is that a nil increase be permitted in the PM 2.5 to ensure acceptable air quality. The modelling shows increases in the PM 2.5 during average production days but as identified by NSW EPA there is no data for the maximum production including night time.

The average truck movements per day is 199 (day and night), based on lowest capacity agitator truck of 23 tonnes or 6 cubic metres as outlined in the applicants EIS, then the average production is 1194 cubic metres over a 24 hour period. The average production over a year based on this, equates to 435,810 m³. The air quality report has only modelled night production for the peak period and not the average night production.

The requirement to maintain PM_{2.5} efficiency is considered appropriate, particularly in circumstances where the proposal is in close proximity to food production/processing, transport facilities and also residential areas including a school and child care such as the case with this application.

The proposed maximum truck movements of 500 agitator trucks/ per 24 hour period, with the smallest capacity in terms of tonnage of 23 tonnes equates to a production of 2,599 tonnes of concrete /24 hours period. Over an operation as proposed of 24/7 – 365 days a years, this equates to a production capacity of 4,197,500 tonnes of concrete a year. This would be approximately the maximum capacity of the plant based on truck movements.

There is a clear disparity between the capacity of the concrete plant that is related to truck movements and the capacity that the applicant is applying for. This disparity is further inconsistent with the modelled air quality impacts which accompany the application. The air quality report based on the figures modelled has used background data from air monitoring stations located at least 5km away from the site. There is no way of knowing whether the quality of the air at this locality is suitable and whether the additional particulate matter crosses any thresholds in regards to suitability or impacts to human health.

Further it is unclear as to whether the modelling has taken into consideration the approved plant at 2 Anderson Street, Banksmeadow or other proposed Concrete Batching Plants. This facility Council was insistent that the facility was enclosed with appropriate filters for dust management.

Portland cement is highly alkaline, so it can cause chemical burns, skin, eye and respiratory irritation or with severe exposure lung cancer. The highly corrosive nature of the cement powder has a higher probability of causing corrosion and therefore soiling or degrading of nearby amenities.

The cement powder is known to contain hazardous components such as crystalline silica and hexavalent chromium; these are both classified by the International Agency for Research on Cancer (IARC) as Category 1 human carcinogens. No comment is made on the hazardous nature of the particulate,

It is the cumulative addition of both the background particulate level data and off site referenced data that is used here in conjunction with dispersion modelling which provides the predicted results for dust fallout at ground level. Therefore, collection of data from the site for background levels before the construction of the proposed plant would have provided a more accurate/relevant reference point for evaluating accumulative particulate risks from the proposed concrete batching plant.

As discussed above, there is insufficient information to make an informed decision in regards to air quality.

S.79C(1)(a)(iv) - Provisions of regulations

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

S.79C(1)(b) - Likely Impacts of Development

The proposed development will have a significant impact to the road network as discussed above. The air quality of the development is unable to accurately be represented given no site specific background data was used in the modeling, no cumulative impacts and the inconsistency between the production amounts modelled and the capacity based on truck movements. Given this the air quality impacts and the derived human health impacts are unable to be ascertained, the impacts of the development are not able to be assessed.

S.79C(1)(c) - Suitability of the site

The site is located in the IN1 –General Industry zone within the SEPP (Three Ports) 2013 and accommodates an existing concrete batching plant. The subject site is affected by several site constraints which have been discussed within this report. The issue of site and groundwater contamination, and acid sulphate soils have been considered with suitable mitigation measures able to be adopted through conditions of consent should consent be granted. The cumulative air quality impacts of the area has only been predicted through modelling of impacts which the EPA have verified are acceptable. Council is of a differing opinion as the total impacts of peak production are unknown and the cumulative impact from all concrete batching plants in the area has not been determined. The EPA and the applicant have been unable to determine cumulative air quality impacts and no baseline air quality from the location has been sampled.

The proposed maximum truck movements of 500 (one way) agitator trucks/ per 24 hour period, with the smallest capacity in terms of tonnage of 23 tonnes equates to a production of 2,599 tonnes of concrete /24 hours period. Over an operation as proposed of 24/7 – 365 days a years, this equates to a production capacity of 4,197,500 tonnes of concrete a year.

The applicant has advised that the maximum produced will be 500,000 tonnes or 200,000 cubic metres. This does not equate to the proposed truck movements

The location of the site and truck access means all truck movements are concentrated through one intersection which is at capacity now as a give way and will be at capacity after signalisation. Given these constraints and the proposed truck movements, the site is not considered suitable for the proposed expansion.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of Botany Bay DCP 2013 – Notification and Advertising, the development application was notified to surrounding property owners for a thirty (30) day Period. Due to issues with the advertising this was notified three times to ensure the advertisement was notified in the manner set down by the regulations. This notification ended on 7 December 2018.

Submissions were received in response to the notification. The submissions raise the following issues:

- *Traffic*
 - *Heavy Congestion – existing and proposed*
 - *Cumulative traffic impacts, especially from other Concrete Batching Plants;*
 - *Parking – no on street parking.*
 - *Trucks queuing along the street and backed up along the streets*
 - *Baker Street at capacity*
 - *Trucks waiting to go into site are waiting in on street car parking or more often double parking on the street*
 - *Trucks blocking safe access to surrounding businesses*
 - *Lack of pedestrian safety*
 - *Traffic data is three years old*
 - *Accumulative impacts from nearby Gunlake Pty Ltd concrete batching plant located at 2 Anderson St, Banksmeadow, and Hanson Concrete Plant proposal DA 2018/1175, will present significant issues for the current road infrastructure along Baker Street. Increase in production will require the need for additional truck movements, affecting parking and causing considerable safety risks to residents, workers and children from nearby Pagewood Public School. Baker street traffic is regularly at a standstill, concrete trucks are often parked across driveways to other premises as well as being doubled parked along Baker Street. This is currently causing disruption to businesses and workers as well as presenting a dangerous hazard to vehicles and pedestrians. An expansion in production will only increase these issues.*
 - *measures should be undertaken to further prevent the plants impacts on residents and workers especially with regard to concrete dust emissions and traffic hazards.*

Comment: The current operation of the concrete batching plant is beyond that of the existing approval. As such the impacts are not contained within the site and are now overflowing and impacting other sites. The data presented is skewed given the baseline data is beyond what has been approved at the site. The reference to three year old data refers to Council's Traffic study for the area which included future traffic predictions. There would be the ability to ground

truth these predictions given the base data is three years old. These issues outlined are discussed previously within Note 1.

- *Air Quality*
 - *Pollution*
 - *Only located 25 metres from Bourke Street Bakery HQ – health concerns*
 - *Air quality for all residents, local works, trees and plant life and especially young children at local school.*
 - *Dust – and associated health risks, especially silicosis with cement dust being carcinogenic*
 - *any increase in airborne dust has the potential to impact upon stock hygiene for Orora’s packaging and distribution centre on Moore Street, as well as the welfare of staff, local residents and surrounding businesses.*
 - *measures should be undertaken to further prevent the plants impacts on residents and workers especially with regard to concrete dust emissions and traffic hazards.*

Comment: As discussed in Note 2- the air quality report or the EIS have not concluded that there are no health impacts as a result of the proposed development. As identified by the NSW EPA there is no column for peak 24-hour average for PM2.5 and as such the only reasonable conclusion is that it has not been modelled. As such Council is unable to establish the maximum air quality impacts. Further Council does not support any addition to the PM 2.5 as this is the same approach taken for the approval of the Concrete batching plans at 2 Anderson Street, Banksmeadow to ensure satisfactory air quality.

- *Negative impact on property value.*

Comment The value of property is not a planning consideration

- *The development will be unsightly.*

Comment: The development is located in an industrial area, the applicant has taken a visual impact analysis. Largely the plant will remain similar to the existing. The site benefits from being screened by significant vegetation. It is noted that the visual impact has not been presented post removal of 6 trees adjacent to the northern driveway.

- *Long term impacts on Westfields, residents and sporting field*

Comment: The short and long term impacts on the surrounds in terms of traffic appear to be unacceptable. The air quality impacts are unable to be ascertain given the missing information and no recognition of the current proposals or the cumulative impact.

- *Safety for all inhabitants, particularly given the increase in truck movements*

Comment: The application was referred to the Department of Planning in terms of risk and was found to be acceptable. The human health aspect to the proposal in particular regard to air quality and cement has not been able to be assessed.

- *Noise and vibration*

Comment: The applicant has provided a noise report in support of the application. The report indicates that the noise impacts are acceptable. The Noise and vibration report concludes that no significant sources of vibration from construction or operational activities have been identified for the Project, and therefore a detailed assessment of potential construction and operation vibration impacts is not considered necessary.

- *The redevelopment of the Boral Concrete Plant is in conflict with principles in the Botany Bay Strategy 2031. The strategy principles include enhancement of existing and future urban character, improve amenities and protect areas of cultural and environmental significance. Consolidate residential activity in and around existing centres and support their revitalisation and improved quality of, and access to, open space in the local government area.*

Comment: The development is in conflict as it seeks to ensure employment areas near the Port are protected and able to accommodate Port-related activity and business. The applicant has identified in their EIS that they are not Port related.

- *The application should not be granted an environment protection licence from NSW Environmental Protection Authority as it cannot guarantee the health and safety of persons working in the area, residents and toxicity in the surrounding environment. Heavy vehicle traffic carrying carcinogenic materials places workers, visitors and the general community in danger.*

Comment: The applicant has not identified the application as integrated development for the requirement of needing an Environment Protection Licence. Council is of the opinion that one is required given the capacity available within the facility.

- *Negative effect on businesses and property value in the area. When air quality and safety of workers, visitors, residents and the ecological environment is compromised, businesses are discouraged from establishing services in this area.*

Comment: As discussed above the air quality has failed to address the correct production for the fine particulate matter and the air quality impact report has not addresses the relevant health impacts.

- *Expanding the concrete plant on the fringe of light industry IN2 and amongst residential development and a school is out of character for the area.*

Comment: The site already contains an existing concrete batching plant so to say it is out of character is incorrect. The intensification of the activity and associated impacts have been addressed largely through the report.

- *The small business sector that currently constitutes the IN2 zoned area currently serving to protect residents from heavy industry should be maintained and encouraged.*

Comment: This application does not seek to change this.

- *Concrete plants are characterised as designated development – Designated Development refers to developments that are high-impact developments (e.g. likely to*

generate pollution) or are located in or near an environmentally sensitive area (e.g. a wetland).

Given the proximity to workers and residents it is unreasonable to impact on the health of local populations of residents and workers, by subjecting them to harmful pollutants such as concrete dust on a 24 hr basis.

Cement batching pollutants include Kiln dust which increases particulate matter, sulphur dioxide, nitrous oxides, aggregate, sand and fly ash. Not to mention the innate hazardous nature of both sulphur dioxide and nitrous oxides, crystalline silica found in cement-based materials are of more and immediate concern. Long term exposure to Crystalline silica found in cement-based materials can lead to silicosis, currently an incurable lung disease. It can also contribute to lung cancer, renal cancer and chronic obstructive pulmonary disease (COPD). On average there is around 30% silica in concrete aggregate and of course 96-100% in sand and sandstone.

Workers and residents will be subjected to known carcinogenic on a consistent basis. The accumulated dust deposited onto and inside neighbouring properties will be replenished on a daily basis. This builds up and causes an ongoing threat to workers and residents.

Comment: Refer to Air Quality discussion within the body of the report.

- *This presents a totally unacceptable risk. The area is also a high wind area, particulate matter will have far reaching affects across areas that are very heavily populated such as the Meriton development that is situated further afield.*

Comment: The modelled dispersion for particulate matter does not reach the Meriton Development. However, there are issues with the totality of the air quality report and the cumulative impact if other concrete batching plants including existing ones are tested and modelled. There is not enough information to fully address this.

- *There are many existing issues that affect Banksmeadow residents and workers such as pollution, traffic congestion and dangerous goods routes. Residents and workers have the right to not be subjected to further hazards.*

Comment: The total impacts resulting from the proposal are unable to be ascertained so Council is unable to undertake a full assessment and address these comments

- *It is of concern, that this development may preceded by a number of years, any significant traffic management remedies that may be planned, further increasing traffic issues within the Banksmeadow Industrial Estate. The report was dated November 2017 and it is understood that there is still no finite timeframe for the upgrading of the intersection of Baker Street and Wentworth Avenue.*

It is requested a firm commitment from the proponent, Bayside Council and RMS as to the timing of the signalisation of the intersection of Baker Street and Wentworth Avenue and consider that there can be no further increase in traffic to the Banksmeadow Industrial Estate until such time an upgraded, signalised intersection at the intersection of Baker Street and Wentworth Avenue is implemented.

Comment: The exact timeframe of the upgrade has not been ascertained as the design is still being progressed with relevant stakeholders. Given there is not 100% design approval of the

intersection and in line with the precautionary principle, the impacts are oversaturate the intersection to possibly failure without signalisation.

- *There are concerns about the impact of congestion to the Banksmeadow Industrial Estate as a consequence of this DA. The estate is presently gridlocked numerous times a day due to the issues of entry to, and egress from the estate. Due to Baker Street being the approved Heavy Vehicle and B-Double access route to the Banksmeadow Industrial Estate, the present levels of congestion that are presently experienced are to be severely impacted by the addition of further heavy vehicle traffic relating to this development. It is accepted that private, light vehicles may use alternate routes of entry to the site, however the proposed peak hour increase of some 90% solely relating to heavy vehicles will be utilising the intersection of Baker Street and Wentworth Avenue for entry and exit to the Banksmeadow Industrial Estate. The impact solely from Boral will make traffic movement throughout the estate unbearably congested throughout the peaks. Something that will be further exacerbated with the cumulative impact of the additional developments presently proposed.*

Comment: The current traffic situation hasn't been modelled by the applicant nor have they offered to avoid, remedy or mitigate the impacts until signalisation.

- *The traffic issues from the Boral Development Application and the cumulative impact of the other DA's presently submitted are likely to cause a safety risk. There is inadequate pedestrian access throughout the Banksmeadow Industrial Estate with a lack of defined footpaths. Pedestrians routinely cross the roads between workplaces and other areas within the estate for the purposes of transport, public transport or amenities such as cafes. These pedestrian routes often involve crossing at multiple points of Baker Street and Anderson Street from within parked vehicles across the live traffic lanes. The increased traversing of these roads by heavy vehicles will increase the risk of an accident.*

Comment: The cumulative impact from all current and approved operations has not been modelled and as such the total cumulative impact is unknown. The pedestrian environment and respective safety has not been discussed within the Traffic Impact Assessment

- *The traffic issues are not solely of a safety risk to pedestrians. The significant traffic impact on the Banksmeadow Industrial Estate affects vehicle movements also. Vehicles that have become frustrated with the delays in traffic and blocked crossovers tend to undertake riskier manoeuvring such as u-turns to find faster travel paths out of the estate or overtaking double-parked vehicles where there may be limited room in which to do so.*

Comment: The Traffic impact assessment has addressed road user safety through their assessment of accidents.

- *The traffic assessment report as submitted to council At 4.2, states "The modelling assumes that the intersection will be operating under traffic signal control". If it is the intention of Boral to operate the facility prior to the intersection of Baker Street and Wentworth Avenue being under the control of signals, It is requested that modelling of the actual likely scenario is undertaken. It is an incorrect and flawed assumption to base a traffic impact against a hypothetical signalisation of an intersection.*

Comment: The Traffic impact assessment has assumed upgrade of the intersection which with no specific timeframe of upgrade is likely to have impacts that are unacceptable. However Council has not modelled this and is unable to fully assess the impacts.

- *It is considered that the proposed intensification of the concrete batching plant and the significant increase in truck movements to be generated have the potential to result in adverse traffic impacts on this particular locality. If there is the potential for ongoing adverse traffic impacts despite intersection upgrades, the problem should not be exacerbated by any new developments. Thought should be given to limiting the maximum truck movements permitted per hour or reducing the scale of the proposed development in order to reduce traffic impacts. This is particularly important to consider given the potential for adverse traffic impacts to stifle future land uses and changes in this part of the larger industrial area.*

Comment: The total cumulative impact from existing and proposed developments is needed in order to make an informed decision about the traffic within the precinct and on Wentworth Ave.

- *In preparing the report the traffic consultant undertook a traffic count between 7am and 1pm on Wednesday 12 October 2016 to examine the existing traffic conditions. It is noted that the traffic count did coincide with the peak hours of operation for the plant; however, DA 2017/1249 is proposing 24 hours a day, 7 days a week operation, and therefore the impacts of operating in the evenings and on weekends is unknown. Additional traffic counts should be undertaken to ensure that the proposed development will not result in any adverse impacts on the existing traffic conditions on the road network outside of what is the plant's normal operating hours.*

Comment: The sample size for traffic counts is considered inadequate given it doesn't represent the total operation of the proposed concrete batching plant.

- *From the swept path diagrams (Figures 9A-9G) included within the report it is unclear whether on-street car parking will be impacted by the proposed truck movements. Further investigation is required to ensure that on-street car parking along Baker and Anderson Streets is not comprised by the proposed development.*

Comment: The applicant has not lodged any vehicle crossing permits that would determine whether on street parking is affected or applied for the removal of on-street parking. The writer concurs in regards to whether the applicant proposes to remove on street car parking.

- *Concerns are raised by any suggestion that larger vehicles (e.g. B-Doubles) may be using the site given the existing volumes of large vehicle traffic and provision of on-street car parking on either side of Baker Street.*

Comment: The applicant has not lodged any vehicle crossing permits that would determine whether on street parking is affected. The writer concurs in regards to whether the applicant proposes to remove on street car parking.

S.79C(1)(e) - Public interest

It is considered that granting approval to the proposed development would not be in the public interest.

Other Matters**External Referrals –****Roads and Maritime Services**

The Roads and Maritime Services first raised objection to the additional crossing proposed as part of the application, the applicant amended the proposal to keep the existing crossing and RMS were not accepting of this approach. The applicant then further amended the proposal to remove the crossing and hardstand and install landscaping on the provision that this was undertaken through a condition of consent. RMS provided their concurrence based on the above on 9 May 2018.

On 25 July 2018, RMS confirmed to Council that Wentworth Ave should not be modelled as a clearway.

Sydney Airport Corporation Limited (SACL)

The application was referred to Sydney Airport as the building and the proposed additions are above 15.24 (50 feet). Sydney Airport gave their approval to the proposed development on 7 February 2018 for the building to constructed to a height of 35m AHD.

Port Authority of New South Wales

The application was referred to the above as the site is within proximity to the Vessel Traffic Service, line of sight links. The Port Authority raised no objection to the proposed development in their correspondence of 13 February 2018.

NSW – Environment Protection Agency

The application was referred to the EPA given the application is for a concrete batching plant and is designated and integrated development.

The EPA provided their initial response on 13 February 2018, with an amended response in regards to air quality being provided to Council on 4 July 2018. EPA recommended conditions of consent.

On 29 November 2018 James Goodwim of the NSW EPA confirmed if the proposal has the capacity to meet or exceed the threshold then an Environment Protection license is required from the EPA and that the application is integrated.

Roads and Maritime Services

The application was referred to RMS with a response provided on 23 February 20108, the response was subject to conditions of consent. The RMS c

Water NSW

The application was referred to the agency of Water NSW. WaterNSW has determined that the proposed development will encounter groundwater during the excavation process, and is subject to a Water Supply Work Approval under the Water Management Act 2000 for dewatering during the construction phase. This determination is subject to appropriate construction methods to be employed to minimise volume of groundwater take during the construction phase. WaterNSW provided General Terms of Approval on 28 March 2018.

Internal Referrals

The application was referred to Council's environmental scientist, tree preservation officer, development engineer and environmental health. Conditions of consent were recommended.

Disability Discrimination Act 1992

The application has not been supported by an access report. The applicant has advised the following in their EIS.

"It is not possible for Boral to employ a person with a disability at the site due to the industrial nature of the workplace and relevant operational logistics and workplace health and safety requirements. Therefore no accessible vehicle space will be provided.

This justification forms the statement of consistency required by Table 1.

Appropriate access to and within areas normally used by personnel with access arrangements (i.e. the proposed administration building), would be designed in accordance with the Building Code of Australia and relevant Australian Standards.

General access would be provided for all persons to appropriate sanitary facilities and other common facilities including kitchens, lunch room, and amenity facilities."

Comment: The applicant has indicated that no one with a disability is able to work at the site and as such they are not designing to accommodate anyone with a disability. However the applicant has not provided a justification from a qualified access consultant to fully address the exemption provisions of D3.4 of BCA/NCC Vol.1

Section 7.12 – Development Contributions

The city of Botany Bay Section 94A Plan is applicable to the site, as such 1 percent of the value of works is the contribution required. Accordingly, at a cost of works of \$5,700,000.00. The resultant contribution is \$57,000.00

CONCLUSION

Development Application No. 2017/1249 for expansion of the existing concrete batching plant to allow for 200,000 cubic metres (m3) or approximately 500,000 tonnes of pre-mixed concrete products per annum to be produced at 1 Baker Street, Banksmeadow has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for **refusal** subject to the reasons listed below.

Premises: 1 Baker Street, Banksmeadow

DA No: 2017/1249

REASONS FOR REFUSAL

1. Pursuant to the provisions of Section 4.15(1)(b) and Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided with particular regard to traffic and air quality impacts by the applicant to allow a proper and thorough assessment of the impacts of the proposed development and the suitability of the site for the development.
2. The proposed application fails to meet Section 5 of the Environmental Planning and Assessment Act 1979, in particular, the proposed development does not achieve ecologically sustainable development.
(Environmental Planning and Assessment Act 1979 4.15(1)(e)).
3. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with Three Ports SEPP 2013 in particular the Aims of the Policy in that the proposed development does not allow for the efficient development re-development and protection of land at Port Botany for port purposes.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of the IN1 - General Industrial zone as contained in SEPP (Three Ports) 2013, including: to facilitate and encourage port related industries that will contribute to the growth and diversification of trade through the port and to encourage ecologically sustainable development.
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy the objectives of the IN1 - General Industrial zone as contained in SEPP (Three Ports) 2013, including: to facilitate and encourage port related industries that will contribute to the growth and diversification of trade through the port and to encourage ecologically sustainable development.
6. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is likely to result in the following adverse environmental impacts.
 - a. Natural Environment – The air quality impacts are not able to be quantified for small Particulate matter at peak production. Further, increase discharge of particulate matter of 2.5 where Councils position is no additional discharge to ensure that regional air quality is maintained.
 - b. Social Impacts - The human health impacts have not been quantified
 - c. Economic Impacts – to the regional road network which seek to threaten the efficiency of the Port and surrounding land uses

7. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, results in an undesirable and unacceptable impact on the adverse impact on the surrounding built environment and respective uses.
8. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development results in unsatisfactory traffic generation that will detrimentally impact the local and regional road system and the as such the efficiency of the operation of Port Botany.
9. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, is unsatisfactory given the inadequate proposed means of access to and from the development site and the area available for the loading and unloading of concrete given the existing operation is not able to be contained within the site.
10. 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 intensity in regards to traffic movements and air quality impacts and would adversely impact upon the amenity of the locality.
11. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of traffic generation, intensity of use and is likely to adversely impact on the port related activities. In particular as the applicant has declared that the proposal is not port related.
12. Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable traffic, air quality, congestion, impacts to surrounding land uses some being sensitive impacts on adjoining /nearby properties.
13. 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 in regards to traffic, air quality, noise, human health hazards, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.
14. Pursuant to the provisions of Section 4.2(1) of the Environmental Planning and Assessment Act 1979, the works to which this application are related have been carried out without first obtaining a development consent for the expanded use of truck movement and number of staff at the site without first a development consent being in force.

FIGURE 1
REGIONAL CONTEXT

Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



FIGURE 2
LOCAL CONTEXT

Botany Concrete Batching Plant Upgrade - Environmental Impact Statement

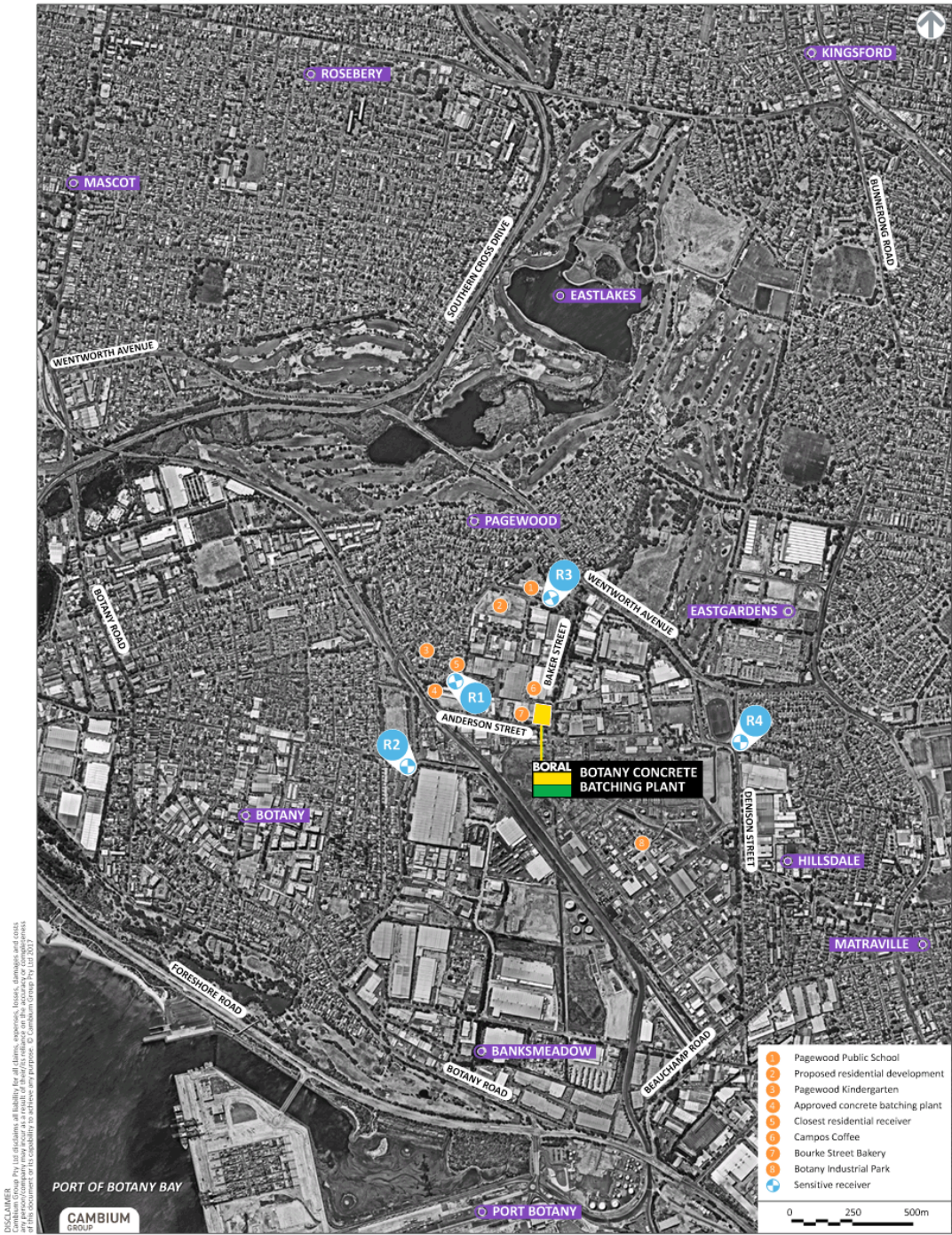


FIGURE 3
ZONING
Botany Concrete Batching Plant Upgrade - Environmental Impact Statement

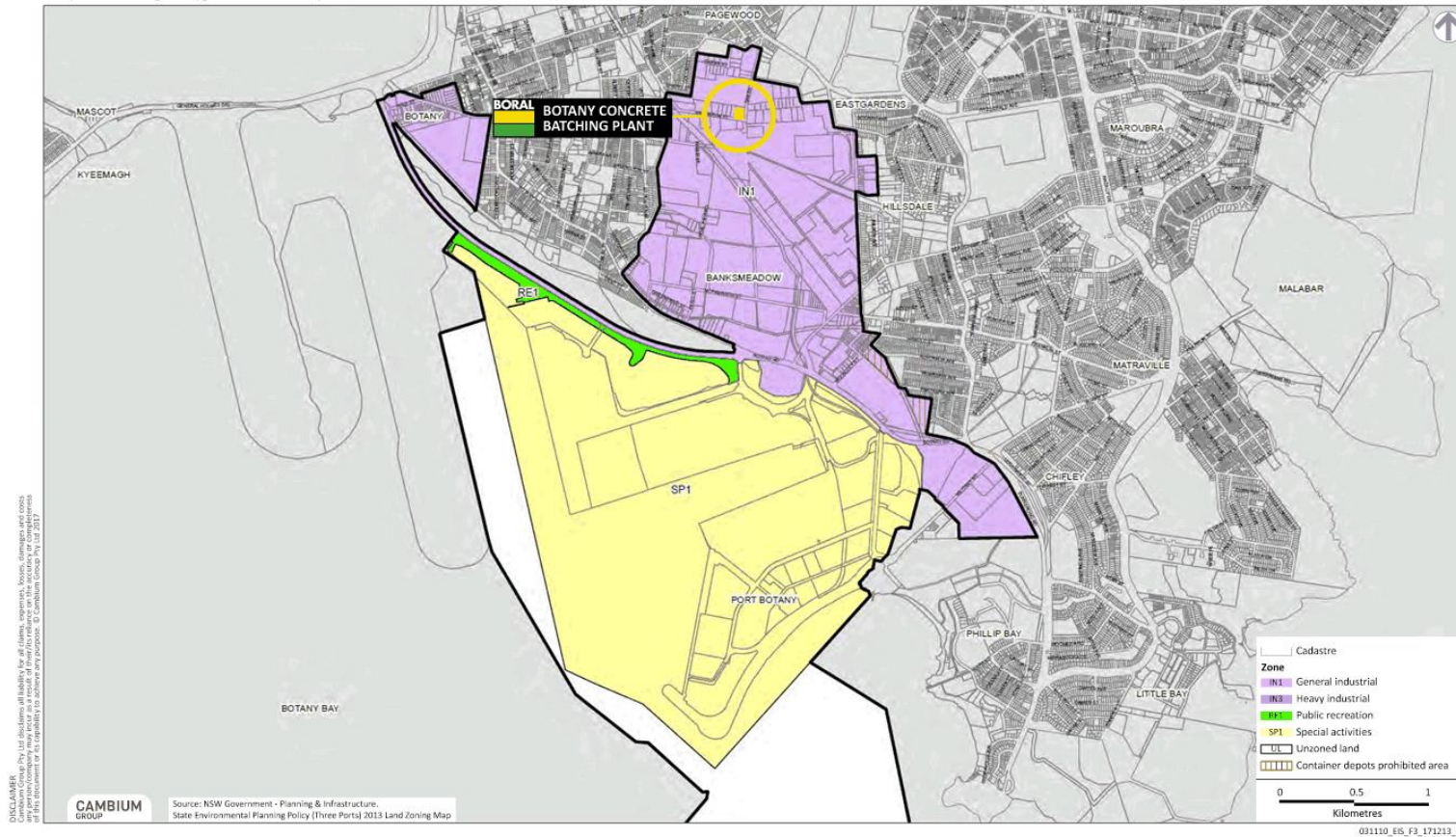
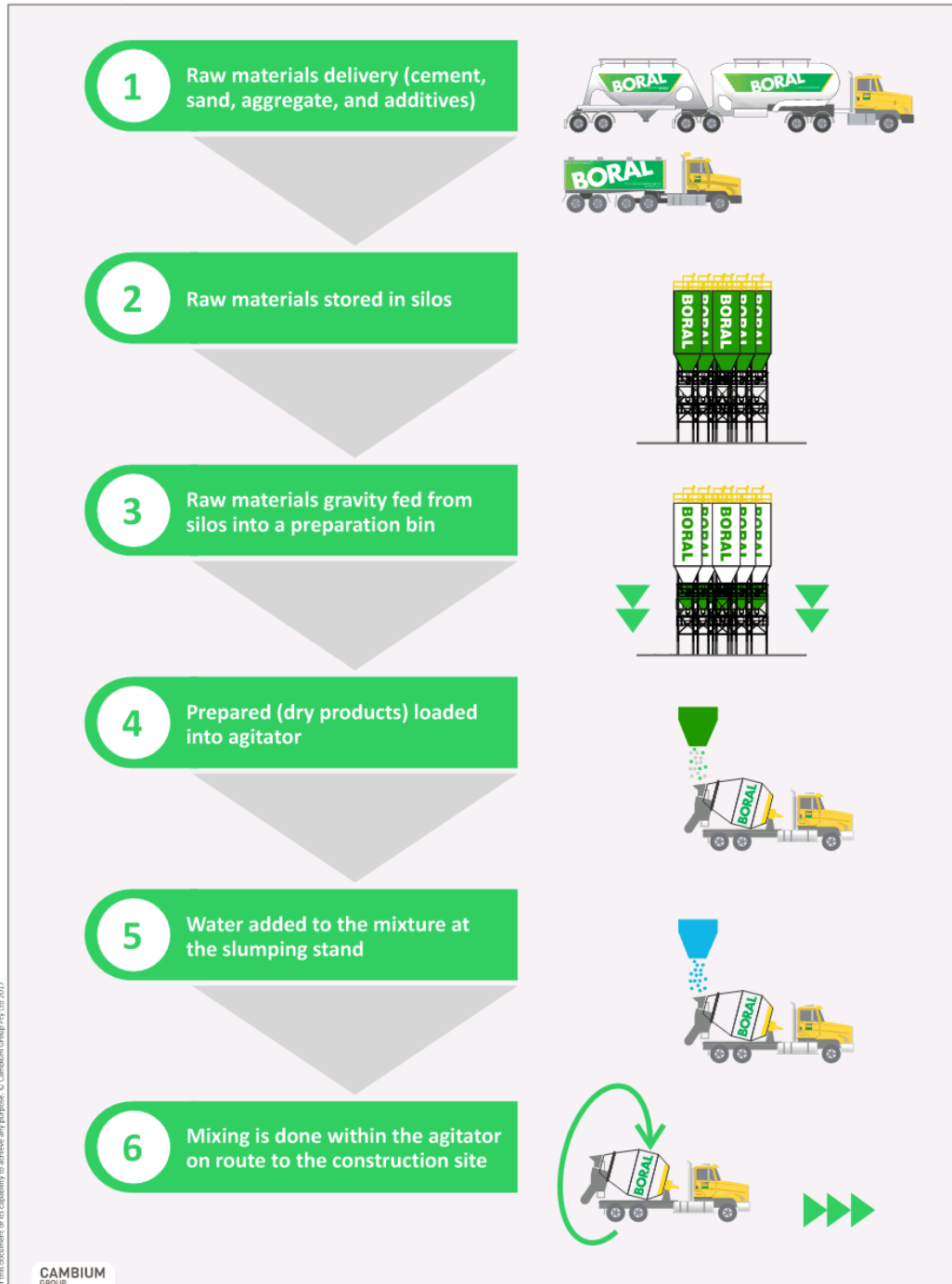


FIGURE 4
OPERATIONAL PROCESS
Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



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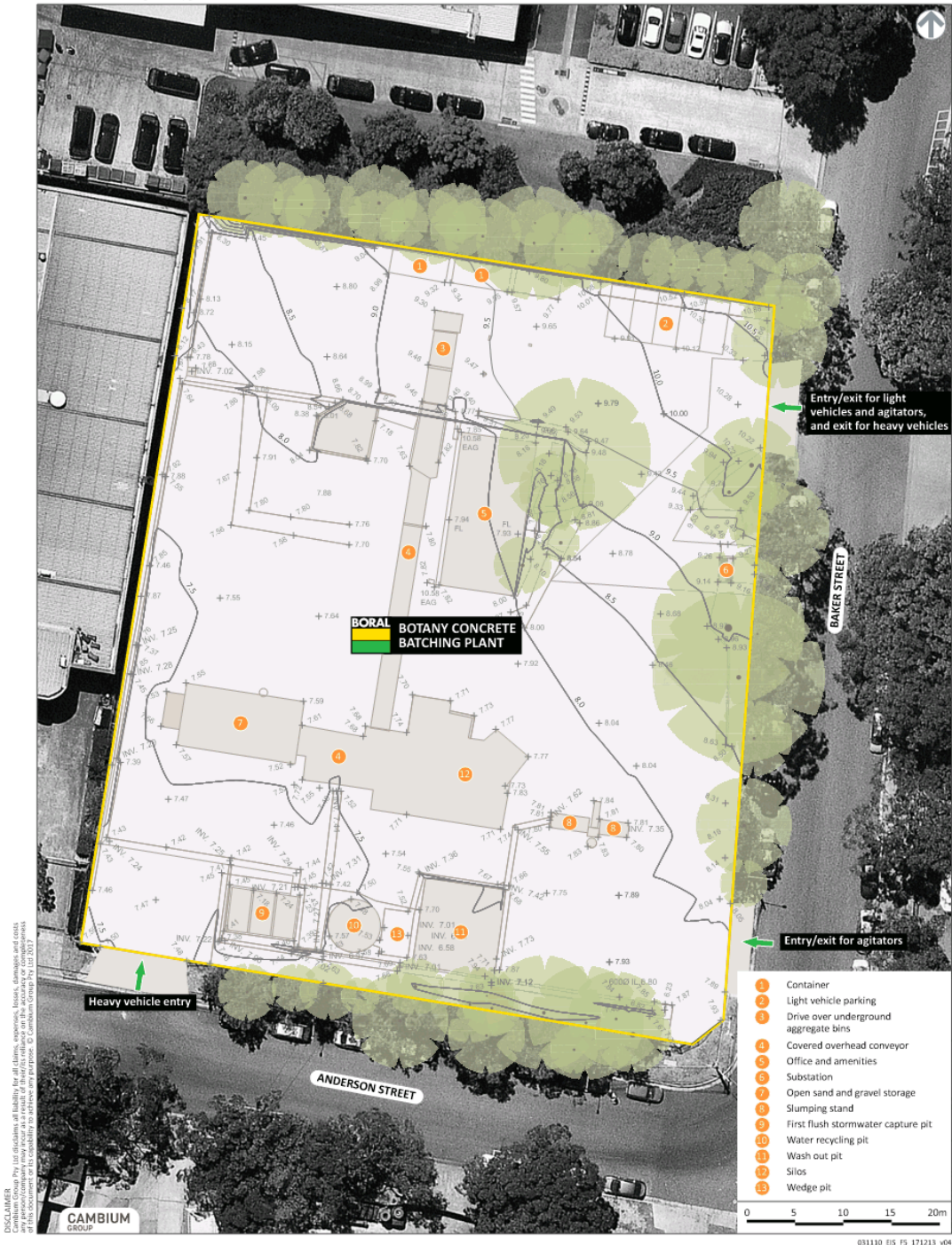


Plate 1: View from the northern perimeter of the site south towards Anderson Street.



Plate 2: View from the north-western corner of the site south-east towards Baker Street.

FIGURE 5
EXISTING OPERATIONS
Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



- 1 Container
 - 2 Light vehicle parking
 - 3 Drive over underground aggregate bins
 - 4 Covered overhead conveyor
 - 5 Office and amenities
 - 6 Substation
 - 7 Open sand and gravel storage
 - 8 Slumping stand
 - 9 First flush stormwater capture pit
 - 10 Water recycling pit
 - 11 Wash out pit
 - 12 Silos
 - 13 Wedge pit
- 0 5 10 15 20m

FIGURE 6
THE PROJECT
Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



FIGURE 7
THE PROJECT (ELEVATIONS)

Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



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FIGURE 8
 CUMULATIVE ANNUAL AVERAGE PM₁₀ CONCENTRATIONS
 Botany Concrete Batching Plant Upgrade - Environmental Impact Statement

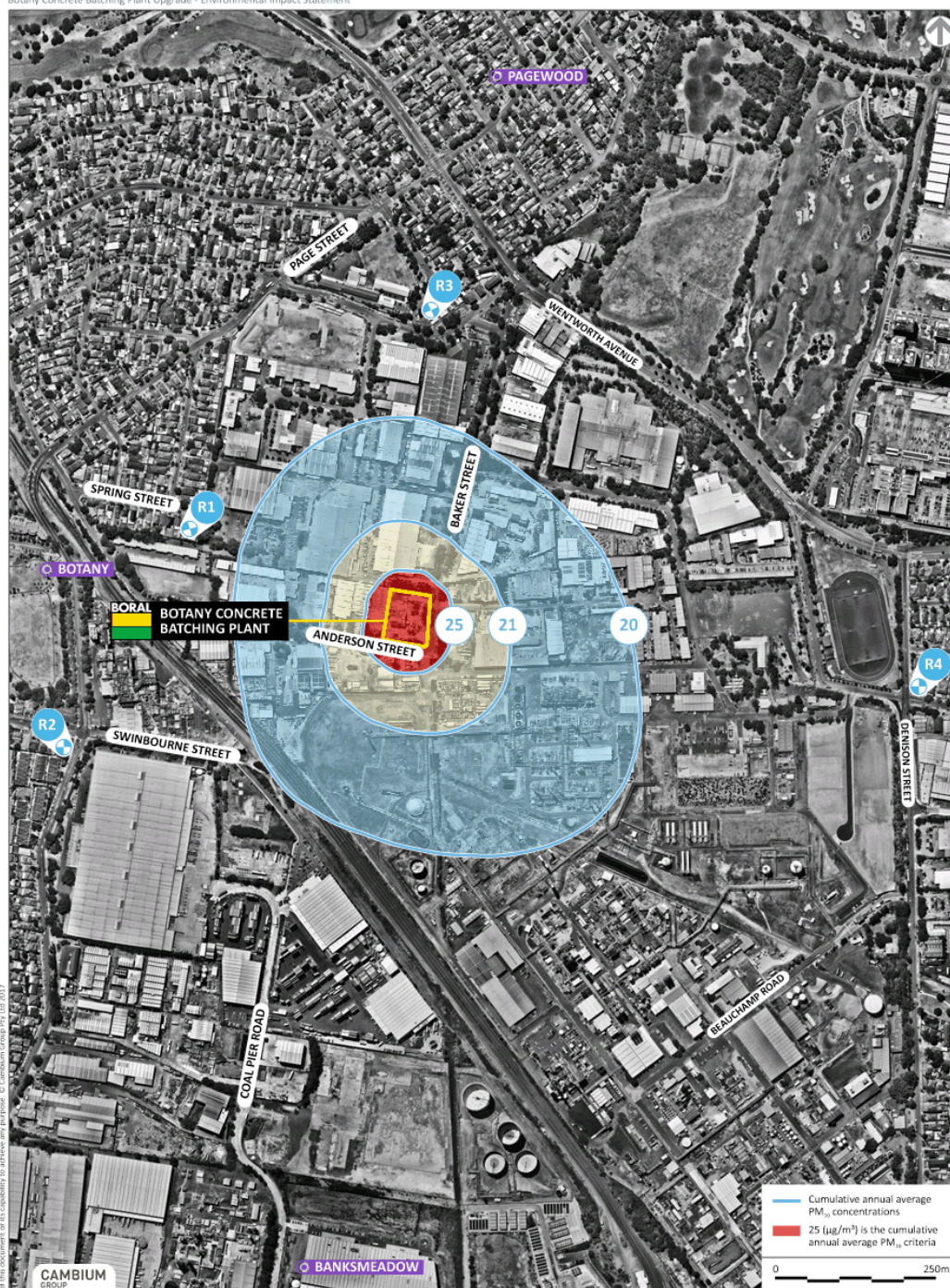


FIGURE 9
TRANSPORT ROUTES

Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



FIGURE 10
PEAK HOUR TRAFFIC VOLUMES ON ADJACENT ROAD NETWORK
Botany Concrete Batching Plant Upgrade - Environmental Impact Statement

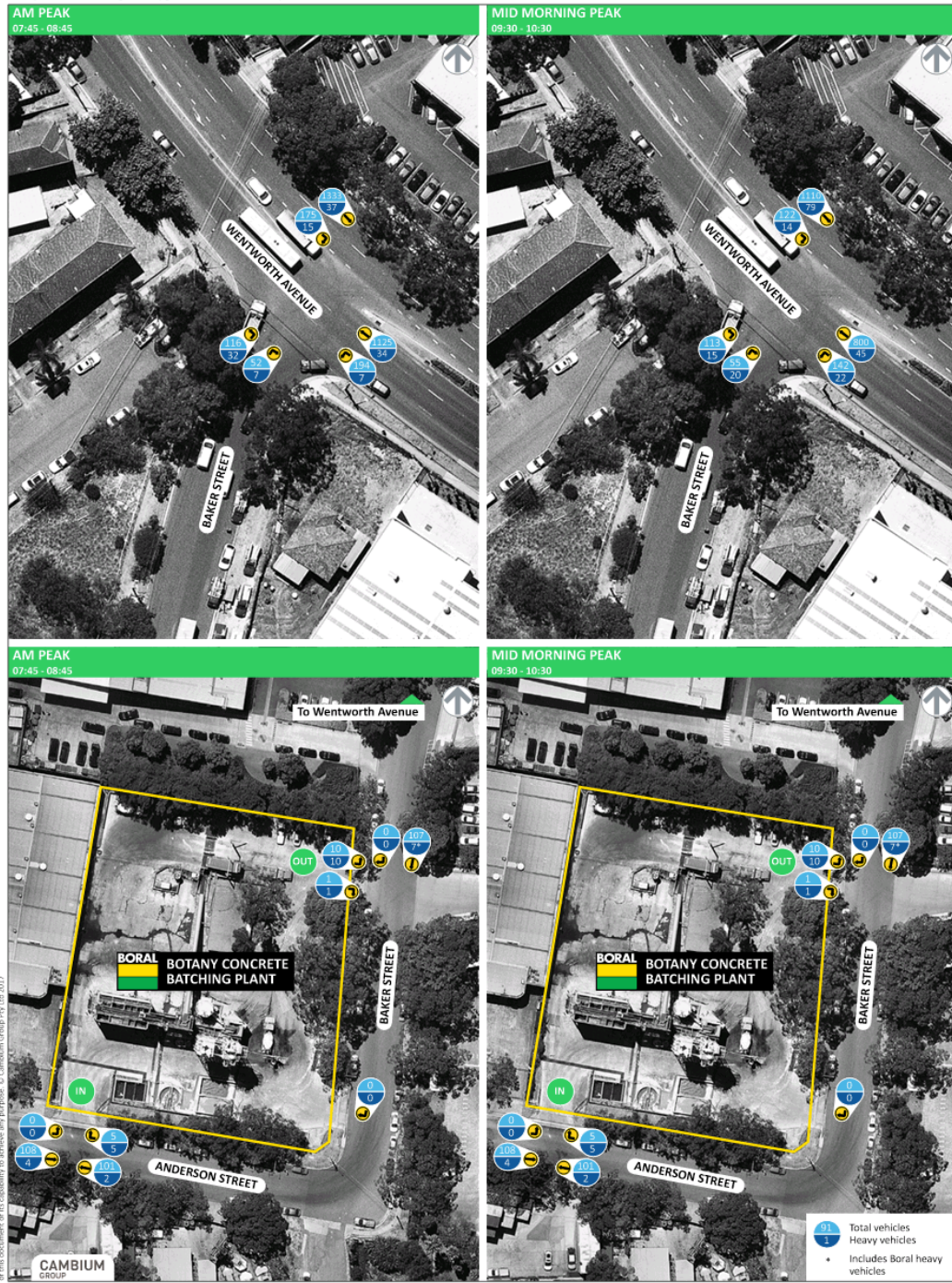


FIGURE 11
MAXIMUM HOUR TRAFFIC VOLUMES GENERATED BY THE PROJECT
 Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



FIGURE 12
 SAMPLE EXCEEDANCES OF SOIL ASSESSMENT CRITERIA
 Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



FIGURE 13
SAMPLE EXCEEDANCES OF GROUNDWATER INVESTIGATION LEVELS
 Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



FIGURE 14
EXISTING STORMWATER MANAGEMENT SYSTEM
Botany Concrete Batching Plant Upgrade - Environmental Impact Statement



FIGURE 15
 PROPOSED STORMWATER MANAGEMENT SYSTEM
 Botany Concrete Batching Plant Upgrade - Environmental Impact Statement

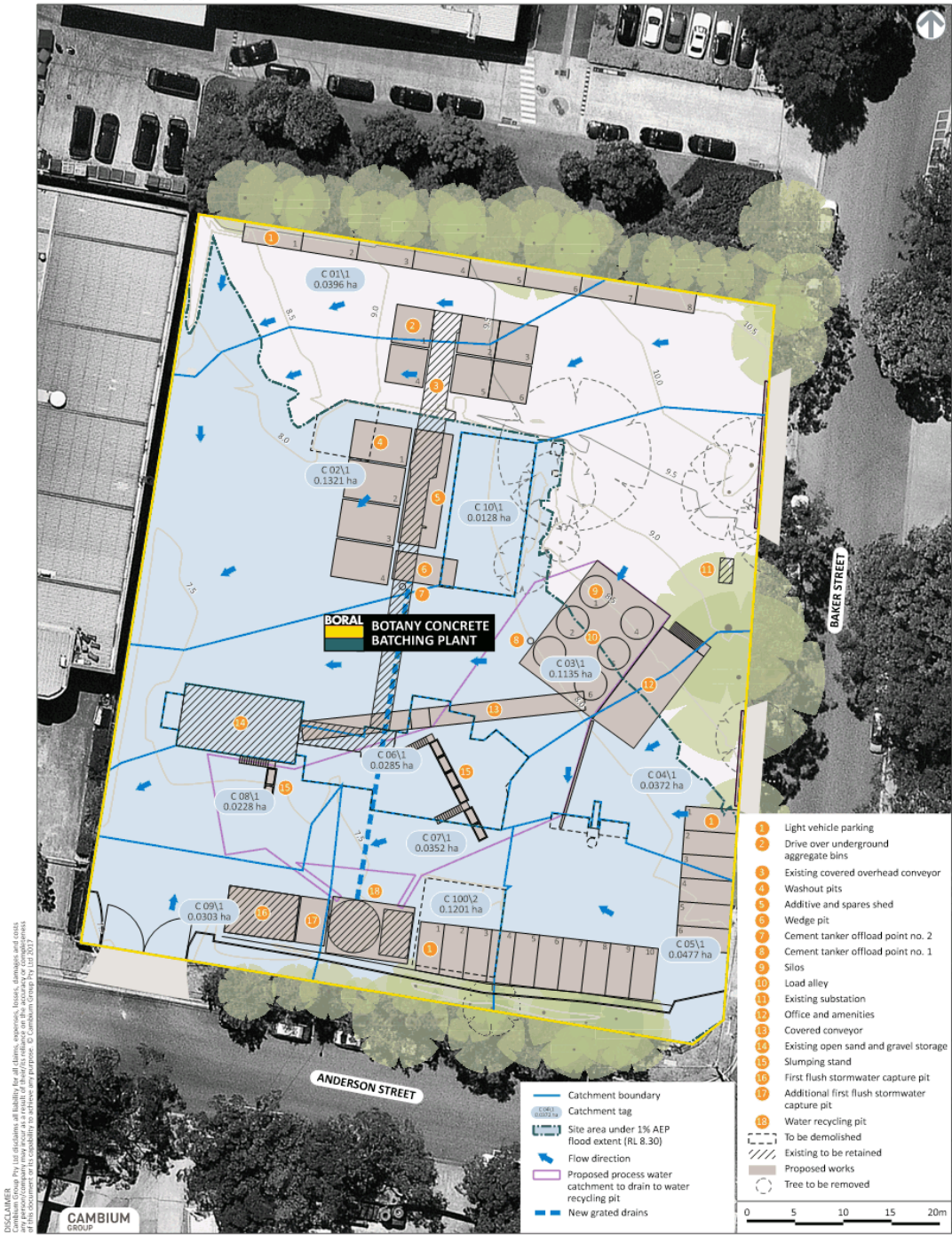




Plate 3: View of the site from adjacent property at 20 Anderson Street.



Plate 4: View east along Anderson Street towards the site.



Plate 5: View south along Baker Street towards the site.

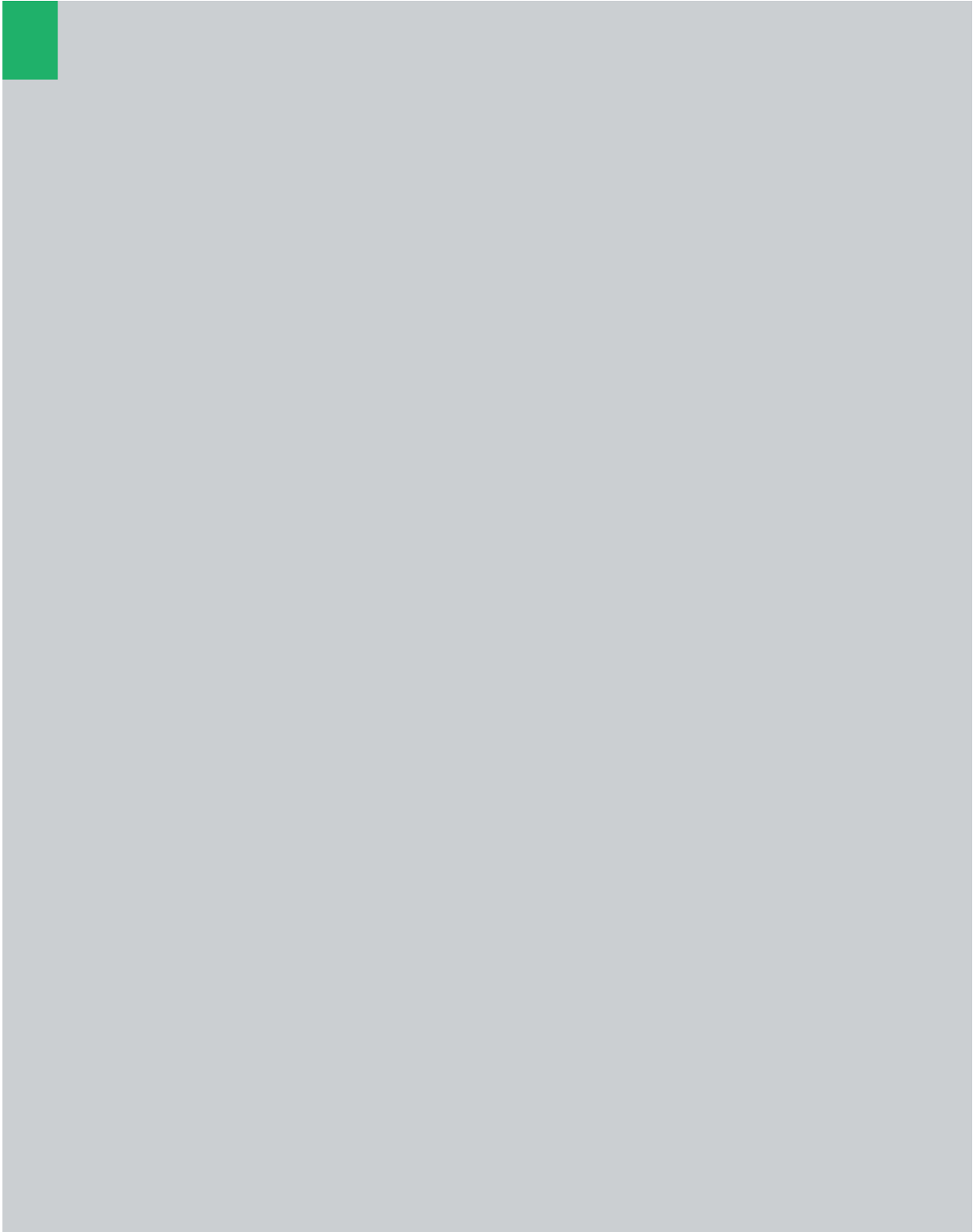


Plate 6: View east towards the site from the end of Spring Street, Pagewood.



APPENDIX D

AIR QUALITY IMPACT ASSESSMENT





AIR QUALITY IMPACT ASSESSMENT
BOTANY CONCRETE BATCHING PLANT
UPGRADE

Boral Resources (NSW) Pty Ltd

30 November 2017

Job Number 16090607

Prepared by
Todoroski Air Sciences Pty Ltd
Suite 2B, 14 Glen Street
Eastwood, NSW 2122
Phone: (02) 9874 2123
Fax: (02) 9874 2125
Email: info@airsciences.com.au



Air Quality Impact Assessment Botany Concrete Batching Plant Upgrade

DOCUMENT CONTROL

Report Version	Date	Prepared by	Reviewed by
DRAFT - 001	22/12/2016	P Henschke	D Kjellberg
DRAFT - 002	31/10/2017	P Henschke	
DRAFT - 003	27/11/2017	P Henschke	A Todoroski
FINAL - 001	30/11/2017	P Henschke	A Todoroski

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1 INTRODUCTION

Todoroski Air Sciences has prepared this report for Element Environment on behalf of Boral Resources (NSW) Pty Ltd (hereafter referred to as the Proponent). It presents an assessment of the potential air quality impacts associated with proposed upgrades to the existing Boral concrete batching plant at Banksmeadow, New South Wales (NSW) (hereafter referred to as the Project).

The Project involves upgrading the existing concrete batching plant operation to allow for a maximum production capacity of up to 200,000 metres cubed (m³) of concrete with an average daily volume of 800m³ and peak daily volume of 1,500m³.

This air quality impact assessment has been prepared in general accordance with the NSW Environment Protection Authority (EPA) document *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* (NSW EPA, 2017). The assessment forms part of the environmental impact assessment prepared to accompany the application for the Project.



2 PROJECT BACKGROUND

2.1 Project setting

The Project site is located at 1 Baker Street Banksmeadow, approximately 5 kilometres (km) east-southeast of Sydney Airport and approximately 9km south of the Sydney Central Business District (CBD). The site is situated in an industrial precinct comprised of various industrial and commercial facilities.

Figure 2-1 presents the location of the Project. The nearest residential dwellings and identified sensitive receiver locations are situated to the west, approximately 350 metres (m) from the Project. Other identified sensitive receiver locations are situated further afield to the north and east of the site. **Figure 2-1** presents the location of sensitive receivers assessed as discrete receivers in this assessment.

Figure 2-2 presents a pseudo three-dimensional visualisation of the topography in the general vicinity of the Project. The area can be characterised as relatively flat to the west and gently sloping towards higher ground towards the east, nearer the ocean coastline. Botany Bay is located to the south of the site.

The local land use and terrain in this area would have an effect on wind patterns and dispersion of air emissions. The key effects relate to the proximity of the Project to the coastline, and the associated sea-breezes and other such coastal effects which would occur.

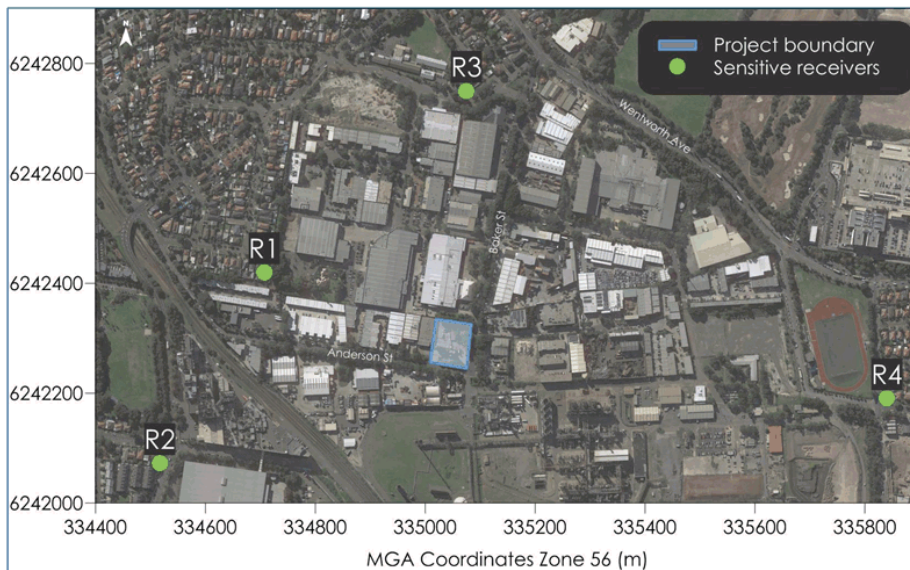


Figure 2-1: Project setting

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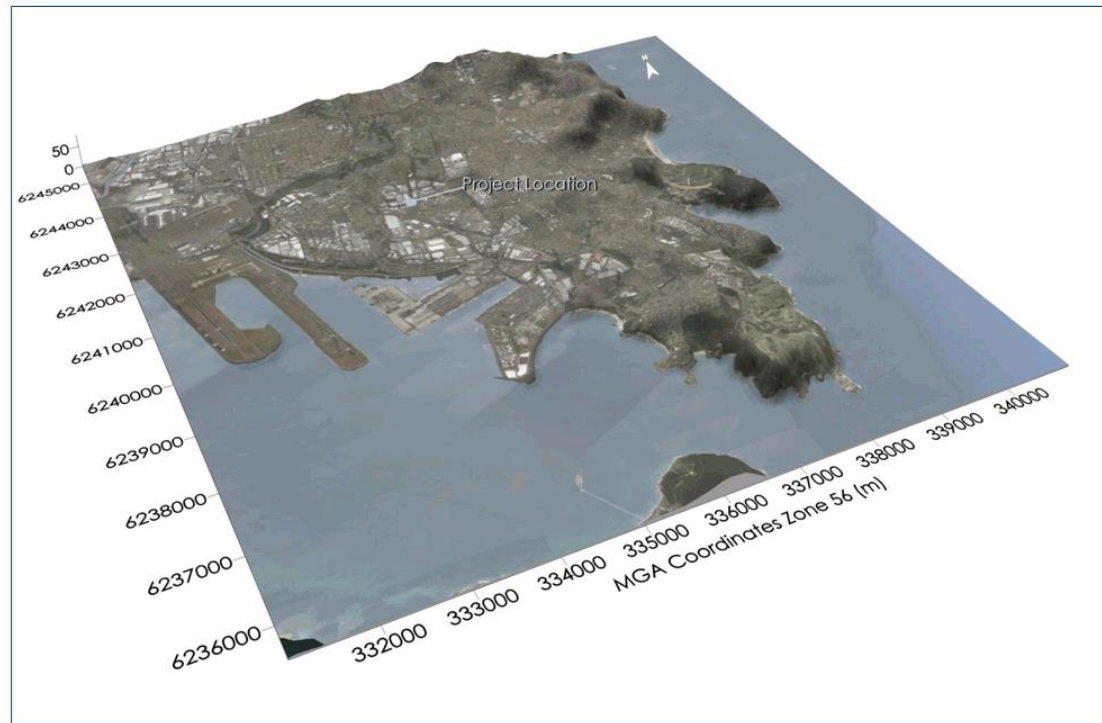


Figure 2-2: Representative visualisation of topography in the area surrounding the Project

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2.2 Project description

The Project seeks to upgrade the existing concrete batching plant operation to allow for a maximum annual production capacity of up to 200,000m³, approximately 500,000 tonnes (t), of concrete. The plant is also proposing to operate 24-hours per day, 7 days per week, with batching operations likely to be intermittent and subject to demand.

The site will receive bulk deliveries of raw materials including aggregate, sand and cement and distribute concrete via agitator trucks. Aggregate and sand will be delivered to the site and stored in a series of underground storage bins. Trucks will empty directly into the underground bins via grates. Water would be used where necessary to dampen the aggregates to reduce fugitive dust emissions during handling.

Cement will be stored in the overhead silos in the batching tower. The cement will be unloaded via a feed pipe directly from the delivery tankers into the storage silo. The unloading process involves a pneumatic system with the storage silos fitted with dust filters to manage dust emissions from this source.

The batching process involves the addition of water, cement, aggregate, sand and chemical admixtures from the overhead silos and storage bins to the concrete agitator trucks. A dust enclosure shroud and extraction system is fitted to each truck loading point and is designed to prevent fugitive emissions during the loading process. The agitator truck is then washed down to remove any external material before leaving the site.

Concrete washout material collected from the agitator trucks is stored in designated washout pits where the water is drained from the material. The concrete washout material is periodically loaded to trucks with a front-end loader when the bays are full for dispatch off-site.

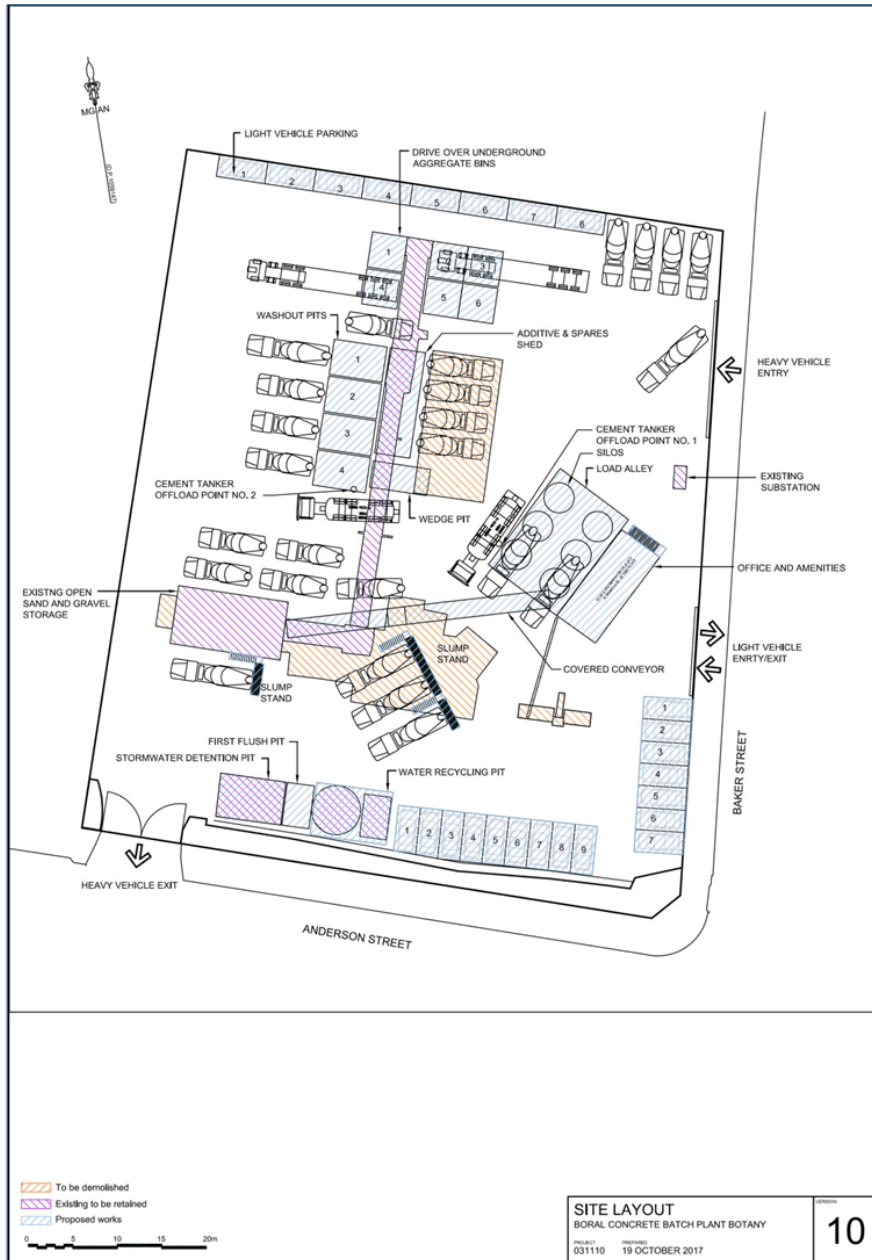
The entire area of the plant is paved in order to reduce potential dust generation from vehicle movements and wind erosion.

An indicative site layout is presented in **Figure 2-3**.

On an average production day it is estimated that 800m³ of concrete would be produced at the Project. For a peak production day it is estimated that 1,500m³ of concrete would be produced and would require additional materials delivery to accommodate the increased production.

The peak production day assumes both day and night shift are operating at a peak level. This level of production is expected to be infrequent and subject to demand.





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3 STUDY REQUIREMENTS

The purpose of this report is to provide an assessment of the maximum likely effects on air quality that may arise due to the Project. The assessment presented in this report addresses planning and regulatory agency requirements, as set out below.

3.1 Secretary’s Environmental Assessment Requirements

In preparing this Air Quality Assessment, the Secretary’s Environmental Assessment Requirements issued for the Project in September 2016 have been addressed. The key matters raised for consideration in this Air Quality Assessment are outlined in **Table 3-1** along with a reference as to where the requirements are addressed in the report.

Table 3-1: Secretary’s Environmental Assessment Requirements (SEAR No. 1071)

Specific Issue	General requirements	Section
Air quality – including:	A description of all potential sources of air emissions, including dust;	8.3
	An air quality impact assessment in accordance with relevant Environment Protection Authority Guidelines; and,	This report
	A description and appraisal of air quality impact mitigation and monitoring measures.	10

3.2 NSW Environmental Protection Authority

This Air Quality Assessment has been prepared in general accordance with the NSW EPA document *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* (NSW EPA, 2017) and the specific requirements outlined in **Table 3-2** along with a reference to where the requirements are addressed in the report.

Table 3-2: NSW EPA agency comments for air quality (SEAR No. 1071)

Air quality (Dust)	Section
Air quality management from construction and operational activities must be taken into specific consideration given the proximity to the large number of sensitive receivers (particularly small commercial/ industrial facilities) located around Meadow Way Banksmeadow.	7 and 10
An Air Quality Impact Assessment (“AQIA”) should be undertaken for the project and should consider the requirements of the <i>Approved Methods for Modelling and Assessment of Air Pollutants in New South Wales (2005)</i> . This should include all potential air emissions and dust impacts from construction and operation, including details of air quality impacts, mitigation, management and monitoring measures for preventing and/or minimising both point and fugitive emissions.	This report (now based on the current, 2017 Approved Methods)..

3.3 Bayside Council

The specific requirements of Bayside Council are outlined in **Table 3-3** along with a reference to where the requirements are addressed in the report.



Table 3-3: Bayside Council comments for air quality

Air Quality	Section
<p>An Air Quality Assessment and Management Plan is required to be prepared and submitted with the Development Application. Air Quality Management infrastructure and operational controls are to be incorporated into the Management Plan. An Ongoing Dust Mitigation/Management Report is also required.</p>	<p>This report (Note, the preparation of a dust management report has been deferred as a condition of consent)</p>

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4 AIR QUALITY CRITERIA

4.1 Particulate matter

Particulate matter consists of dust particles of varying size and composition. Air quality goals refer to measures of the total mass of all particles suspended in air defined as the Total Suspended Particulate matter (TSP). The upper size range for TSP is nominally taken to be 30 micrometres (μm) as in practice particles larger than 30 to 50 μm will settle out of the atmosphere too quickly to be regarded as air pollutants.

Two sub-classes of TSP are also included in the air quality goals, namely PM_{10} , particulate matter with equivalent aerodynamic diameters of 10 μm or less, and $\text{PM}_{2.5}$, particulate matter with equivalent aerodynamic diameters of 2.5 μm or less.

Particulate matter, typically in the upper size range, that settles from the atmosphere and deposits on surfaces is characterised as deposited dust. The deposition of dust on surfaces may be considered a nuisance and can adversely affect the amenity of an area by soiling property in the vicinity.

4.1.1 NSW EPA impact assessment criteria

Table 4-1 summarises the air quality goals that are relevant to this assessment as outlined in the NSW EPA document *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (NSW EPA, 2017)*.

The air quality goals for total impact relate to the total dust burden in the air and not just the dust from the Project. Consideration of background dust levels needs to be made when using these goals to assess potential impacts.

Table 4-1: NSW EPA air quality impact assessment criteria

Pollutant	Averaging Period	Impact	Criterion
TSP	Annual	Total	90 $\mu\text{g}/\text{m}^3$
PM_{10}	Annual	Total	25 $\mu\text{g}/\text{m}^3$
	24 hour	Total	50 $\mu\text{g}/\text{m}^3$
$\text{PM}_{2.5}$	Annual	Total	8 $\mu\text{g}/\text{m}^3$
	24 hour	Total	25 $\mu\text{g}/\text{m}^3$
Deposited dust	Annual	Incremental	2 $\text{g}/\text{m}^2/\text{month}$
		Total	4 $\text{g}/\text{m}^2/\text{month}$

Source: NSW EPA, 2017

$\mu\text{g}/\text{m}^3$ = micrograms per cubic metre

$\text{g}/\text{m}^2/\text{month}$ = grams per square metre per month

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5 EXISTING ENVIRONMENT

This section describes the existing environment including the climate and ambient air quality in the area surrounding the Project.

5.1 Local climatic conditions

Long-term climatic data from the closest Bureau of Meteorology (BoM) weather station at Sydney Airport Aeronautical Meteorological Office (AMO) (Site No. 066037) were analysed to characterise the local climate in the proximity of the Project. The Sydney Airport AMO weather station is located approximately 3km east-northeast of the Project.

Table 5-1 and **Figure 5-1** present a summary of data from the Sydney Airport AMO weather station collected over a 60 to 88-year period for the various meteorological parameters.

The data indicate that January is the hottest month with a mean maximum temperature of 26.6 degrees Celsius (°C) and July is the coldest month with a mean minimum temperature of 7.3°C.

Rainfall peaks during the first half of the year declines during the latter, with an annual average rainfall of 1085.8 millimetres (mm) over 95.8 days. The data indicate that June is the wettest month with an average rainfall of 124.2mm over 8.8 days and September is the driest month with an average rainfall of 59.7mm over 6.8 days.

Relative humidity exhibits little variability across the year. Mean 9am relative humidity ranges from 61% in October to 74% in June. Mean 3pm relative humidity levels range from 49% in August to 63% in February.

Wind speeds during the warmer months have a greater spread between the 9am and 3pm conditions compared to the cooler months. Mean 9am wind speeds range from 12.6 kilometres per hour (km/h) in May to 16.3km/h in October. Mean 3pm wind speeds range from 17.1km/h in May to 25.3km/h in November.

Table 5-1: Monthly climate statistics summary – Sydney Airport AMO

Parameter	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann.
Temperature													
Mean max. temp. (°C)	26.6	26.5	25.3	22.9	20.1	17.6	17.1	18.4	20.7	22.7	24.1	25.8	22.3
Mean min. temp. (°C)	18.9	19.1	17.6	14.3	11.0	8.7	7.3	8.2	10.5	13.3	15.5	17.6	13.5
Rainfall													
Rainfall (mm)	95.4	111.6	117.1	108.8	96.9	124.2	69.6	76.8	59.7	69.8	80.9	73.8	1085.8
No. of rain days	8.1	8.6	9.3	8.5	8.4	8.8	6.6	6.8	6.8	7.8	8.3	7.8	95.8
9am conditions													
Mean temp. (°C)	22.4	22.3	21.1	18.2	14.6	11.9	10.8	12.5	15.7	18.4	19.9	21.6	17.4
Mean RH (%)	70	73	73	71	73	74	71	65	62	61	64	66	69
Mean WS (km/h)	14.4	13.8	12.9	12.9	12.6	13.4	13.3	14.4	15.5	16.3	16.0	14.8	14.2
3pm conditions													
Mean temp. (°C)	24.8	24.8	23.9	21.7	19.0	16.6	16.1	17.2	19.0	20.7	22.1	23.9	20.8
Mean RH (%)	60	63	61	59	58	57	52	49	51	54	56	58	57
Mean WS (km/h)	24.1	23.0	21.0	19.3	17.1	17.8	18.2	20.8	23.1	24.6	25.3	25.2	21.6

Source: Bureau of Meteorology, 2017 (October 2017)

RH – Relative Humidity, WS – wind speed

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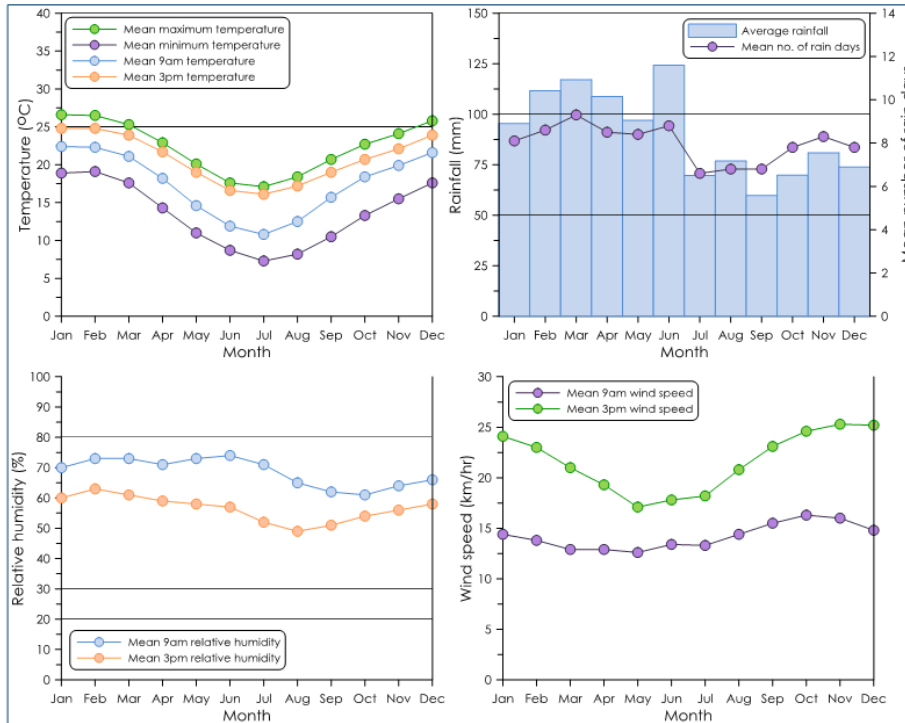


Figure 5-1: Monthly climate statistics summary – Sydney Airport AMO

5.2 Local meteorological conditions

Annual and seasonal windroses for the Sydney Airport AMO during the 2012 calendar period are presented in **Figure 5-2**. The 2012 calendar year was selected as the meteorological year for the dispersion modelling based on analysis of long-term data trends in meteorological data recorded for the area as outlined in **Appendix A**.

Strong winds are generally experienced in the area due to its proximity to the coast. Winds from the northwest quadrant are typically weaker than winds from other directions. On an annual basis, the winds are varied with the highest portion originating from the northwest.

In summer, winds are typically from the northeast and southeast quadrants, with dominant winds from the northeast and south. The autumn distribution is similar to the annual distribution with a high portion of winds from the northwest. During winter, winds are typically from the southwest and northwest quadrants, with winds from the northeast most frequent. Spring has similar distribution to the annual distribution, however indicates a slightly higher portion of northeast winds.

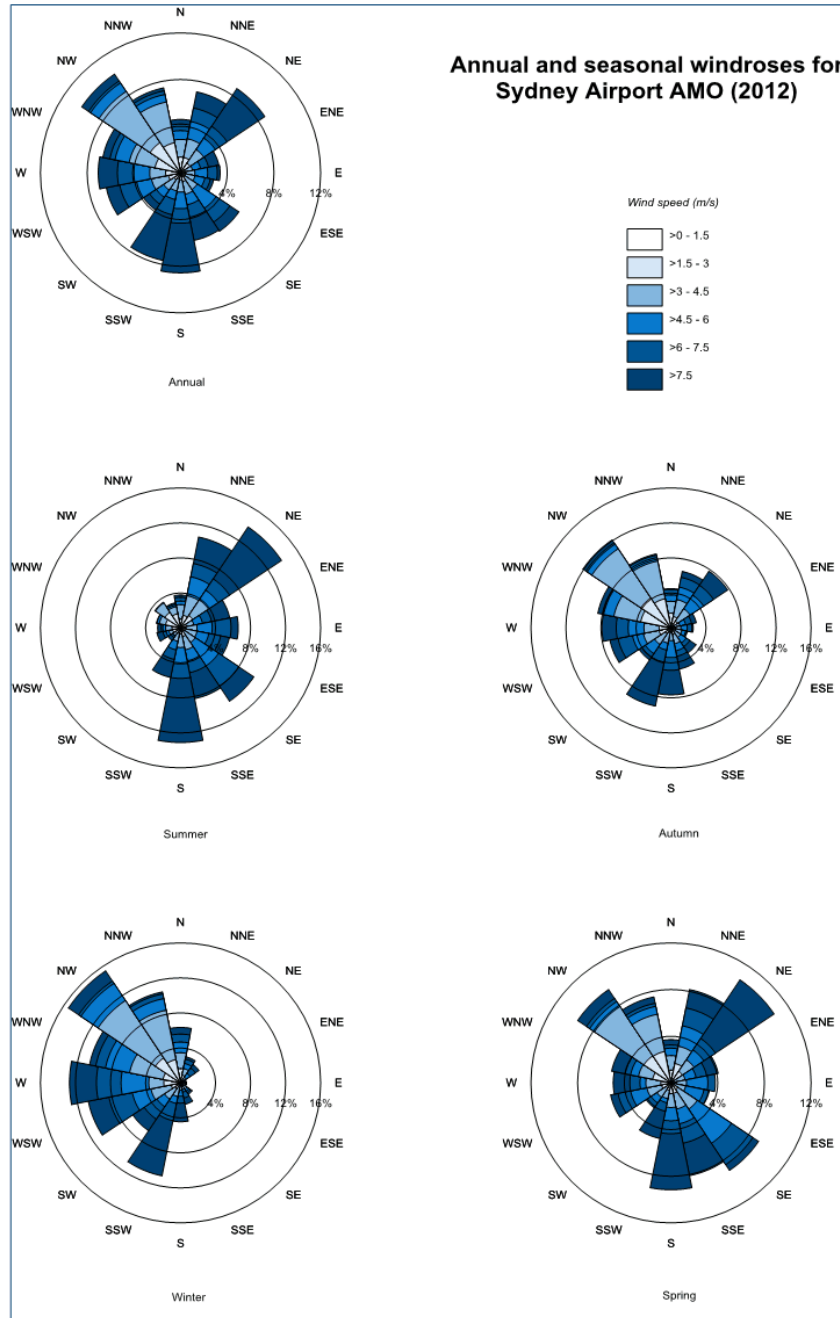


Figure 5-2: Annual and seasonal windroses – Sydney Airport AMO (2012)

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5.3 Local air quality monitoring

The main sources of air pollutants in the area surrounding the Project include emissions from local anthropogenic activities such as various commercial or industrial activities, motor vehicle exhaust and domestic wood heaters.

Ambient air quality monitoring data from the Project site are not available. Therefore the available data from the nearest air quality monitors operated by the NSW Office of Environment and Heritage (OEH) were used to quantify the existing background level for assessed pollutants at the Project site.

The NSW OEH air quality monitors at Randwick, Earlwood and Rozelle (see **Figure 5-3**) are approximately three to ten kilometres from the site and are taken to be generally representative of the background levels in the vicinity of the Project site. The data from these monitors have therefore been used to quantify the existing ambient levels of air pollutants in this study.



Figure 5-3: NSW EPA monitoring sites

5.3.1 PM₁₀ monitoring

A summary of the available data from the NSW OEH monitoring stations is presented in **Table 5-2**. Recorded 24-hour average PM₁₀ concentrations are presented in **Figure 5-4**.

A review of **Table 5-2** indicates that the annual average PM₁₀ concentrations for each monitoring station were below the relevant criterion of 25µg/m³. The maximum 24-hour average PM₁₀ concentrations

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recorded at these stations were found to exceed the relevant criterion of 50µg/m³ at times during the review period (see **Figure 5-4**).

Table 5-2: Summary of PM₁₀ levels from NSW OEH monitoring (µg/m³)

Year	Randwick	Rozelle	Earlwood
	Annual average		
2011	15.9	16.5	18.0
2012	18.0	17.0	19.6
2013	18.9	18.3	19.9
2014	18.1	17.9	18.3
2015	18.6	16.6	17.1
2016	18.0	16.8	17.6
	Maximum 24-hour average		
2011	40.1	39.4	124.9
2012	43.7	40.7	44.2
2013	55.3	58.5	63.1
2014	46.1	43.8	45.2
2015	77.4	60.3	66.5
2016	44.1	58.8	42.9

It can be seen from **Figure 5-4** that PM₁₀ concentrations are nominally highest in the spring and summer months with the warmer weather raising the potential for drier ground, elevating the occurrence of windblown dust, bushfires and increased pollen levels.

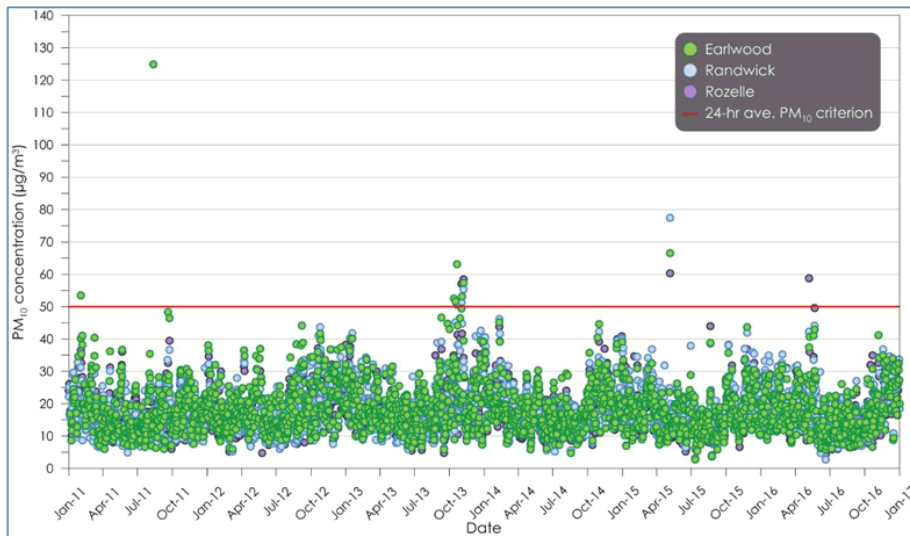


Figure 5-4: 24-hour average PM₁₀ concentrations

5.3.2 PM_{2.5} monitoring

A summary of the PM_{2.5} readings from the NSW OEH monitoring stations is presented in **Table 5-3**. The recorded 24-hour average PM_{2.5} concentrations are presented in **Figure 5-5**.

Table 5-3 indicates that the annual average PM_{2.5} concentration for the Earlwood monitoring station was 0.7µg/m³ above the annual average criterion of 8µg/m³ in 2015. The Rozelle monitoring station indicated levels below the standard in 2015. For all other periods the annual average PM_{2.5} concentrations were at or below the criterion.

The lower PM_{2.5} levels recorded in 2011 and 2012 may be due to a La Niña experienced in Australia which brought heavy rainfalls (**BOM, 2016**) and also due to a change in the instrumentation used to measure PM_{2.5} levels (i.e. from Tapered Element Oscillating Microbalances to Beta Attenuation Monitors).

Table 5-3: Summary of PM_{2.5} levels from NSW OEH monitoring (µg/m³)

Year	Rozelle ⁽¹⁾	Earlwood
	Annual average	
2011	-	5.4
2012	-	5.6
2013	-	7.9
2014	-	7.8
2015	7.2	8.5
2016	7.4	8.0
Maximum 24-hour average		
2011	-	23.6
2012	-	20.7
2013	-	37.3
2014	-	22.7
2015	33.4	28
2016	49.4	33.3

⁽¹⁾Data available from March 2015

Bushfire events can have a significant impact on ambient air quality levels. Most noticeable was the bushfire event which occurred in late 2013 and impacted the majority of the Sydney basin. **Figure 5-6** presents satellite imagery showing the extent of the smoke plume on 21 October 2013, noting that the red patches in the images indicate the position of the active fire.

The elevated levels associated with bushfire events skew the ambient levels and may not provide a reliable estimate if considered in the prevailing data for background levels.

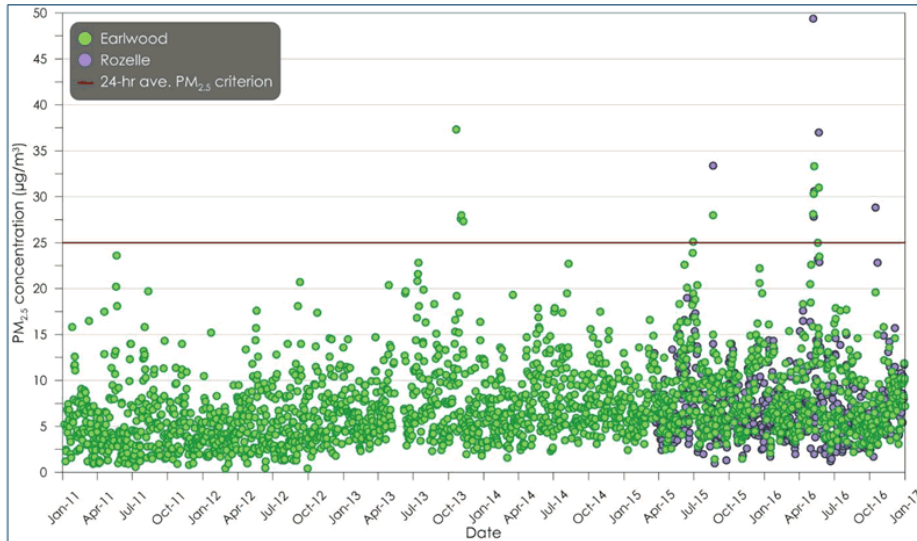


Figure 5-5: 24-hour average PM_{2.5} concentrations



Source: NASA, 2016

Figure 5-6: Satellite imagery showing smoke plume from bushfires on 21 October 2013

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5.3.3 Estimated background dust levels

5.3.3.1 *PM₁₀ and PM_{2.5} concentrations*

As outlined above, there are no readily available site specific monitoring data, and therefore the background dust levels around the Project site were estimated to be similar to those recorded at the NSW OEH monitoring sites.

Annual average PM₁₀ and PM_{2.5} values from the Earlwood monitoring station for the 2012 calendar were used to represent the background levels for the Project (see **Table 5-2** and **Table 5-3**) as they were the highest of the three monitoring sites. The 2012 calendar period corresponds to the period of meteorological modelling used in this assessment.

5.3.3.2 *TSP and Deposited dust*

In the absence of data, estimates of the annual average background TSP and deposited dust concentrations can be determined from a relationship between PM₁₀, TSP and deposited dust concentrations and the measured PM₁₀ levels.

This relationship assumes that an annual average PM₁₀ concentration of 25µg/m³ corresponds to a TSP concentration of 90µg/m³ and a dust deposition value of 4g/m²/month. This assumption is based on the NSW EPA air quality impact criteria.

Applying this relationship with the measured annual average PM₁₀ concentration of 19.6µg/m³ indicates an approximate annual average TSP concentration and deposition value of 70.6µg/m³ and 3.1g/m²/month, respectively.

5.3.3.3 *Summary of background dust levels*

The annual average background air quality levels applied in this assessment are as follows:

- + PM₁₀ concentrations – 19.6µg/m³;
- + PM_{2.5} concentrations – 5.6µg/m³;
- + TSP concentrations – 70.6µg/m³; and,
- + Deposited dust levels – 3.1g/m²/month.



6 POTENTIAL CONSTRUCTION DUST EMISSIONS

The establishment of the Project would involve the construction of associated infrastructure. This construction activity has the potential to generate dust emissions.

Potential construction dust emissions will be primarily generated due to material handling, vehicle movements and windblown dust generated from exposed areas and stockpiles. Exhaust emissions from the operation of construction vehicles and plant will also generate emissions.

The potential particulate impacts due to these activities are difficult to accurately quantify on any given day due to the short sporadic periods of dust generating activity which may occur over the construction time frame. The sources of dust are temporary in nature and will only occur during the construction period which is estimated to take approximately six months.

The total amount of dust generated from the construction process is unlikely to be significant given the nature of the activities. Given that the activities would occur for a limited period, no significant or prolonged effect at any off-site receiver is predicted to arise.

To ensure dust generation is controlled during the construction activities and the potential for off-site impacts is reduced, appropriate (operational and physical) mitigation measures will be implemented as necessary. Suggested dust mitigation measures to apply during construction are outlined in **Table 6-1**.

Table 6-1: Suggested construction dust mitigation measures

Source	Mitigation measure
General	Activities to be assessed during adverse weather conditions and modified as required (e.g. cease activity where reasonable levels of visible dust cannot be maintained)
	Engines of on-site vehicles and plant to be switched off when not in use
	Vehicles and plant are to be fitted with pollution reduction devices where practicable
	Vehicles are to be maintained and serviced according to manufacturer’s specifications
Hauling material/ vehicle movements	Visual monitoring of construction activities is to be undertaken to identify dust generation
	Concrete hardstand on-site and entry / exit points on Anderson and Baker Street to be swept/cleaned regularly as required etc..
	Construction vehicle traffic is to be restricted to designated routes (same routes as operational heavy vehicles)
	Construction speed limits are to be enforced
Material handling	Vehicle loads are to be covered when travelling off-site
	Drop heights from loading and handling equipment are to be reduced as much as practical
Exposed areas / stockpiles	The extent of exposed surfaces and stockpiles is to be kept to a minimum
	Exposed areas and stockpiles are either to be covered or are to be dampened with water as far as is practicable if dust emissions are visible
	Re-instate hardstand/concrete capping as soon as possible after completion of construction activities.

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7 DISPERSION MODELLING APPROACH

7.1 Introduction

The following sections are included to provide the reader with an understanding of the model and modelling approach applied for the assessment.

CALPUFF is an advanced "puff" air dispersion model which can deal with the effects of complex local terrain on the dispersion meteorology over the entire modelling domain in a three-dimensional, hourly varying time step. The model setup used is in general accordance with methods provided in the NSW EPA document *Generic Guidance and Optimum Model Setting for the CALPUFF Modeling System for Inclusion into the 'Approved Methods for the Modeling and Assessments of Air Pollutants in NSW, Australia'* (TRC, 2011).

7.2 Modelling methodology

Modelling was undertaken using a combination of the CALPUFF Modelling System and The Air Pollution Model (TAPM). The CALPUFF Modelling System includes three main components: CALMET, CALPUFF and CALPOST and a large set of pre-processing programs designed to interface the model to standard, routinely available meteorological and geophysical datasets.

TAPM is a prognostic air model used to simulate the upper air data for CALMET input. The meteorological component of TAPM is an incompressible, non-hydrostatic, primitive equation model with a terrain-following vertical coordinate for three-dimensional simulations. The model predicts the flows important to local scale air pollution, such as sea breezes and terrain induced flows, against a background of larger scale meteorology provided by synoptic analysis.

CALMET is a meteorological model that uses the geophysical information and observed/simulated surface and upper air data as inputs and develops wind and temperature fields on a three-dimensional gridded modelling domain.

CALPUFF is a transport and dispersion model that advects "puffs" of material emitted from modelled sources, simulating dispersion processes along the way. It typically uses the three dimensional meteorological field generated by CALMET.

CALPOST is a post processor used to process the output of the CALPUFF model and produce tabulations that summarise the results of the simulation.

7.2.1 Meteorological modelling

TAPM was applied to the available data to generate a 3D upper air data file for use in CALMET. The centre of analysis for TAPM was 33.57deg south and 151.13deg east (325000mE, 6242000mN). The simulation involved an outer grid of 30km, with three nested grids of 10km, 3km and 1km with 35 vertical grid levels.

CALMET modelling used a single domain covering a 10 x 10km area with a 0.1km grid resolution. The 2012 calendar year was selected as the meteorological year for the dispersion modelling based on analysis of long-term data trends in meteorological data recorded for the area as outlined in **Appendix A. Table 7-1** outlines the parameters used from each station.

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Table 7-1: Surface observation stations

Weather stations	Parameters						
	WS	WD	CH	CC	T	RH	SLP
Sydney Airport AMO (BoM) (Station No. 66037)	✓	✓	✓	✓	✓	✓	✓
Port Botany (Molineux Point AWS) (BoM) (Station No. 66100)	✓	✓					
Little Bay (The Coast Golf Club) (BoM) (Station No. 66051)	✓	✓					
Kurnell AWS (BoM) (Station No. 66043)	✓	✓					

WS = wind speed, WD= wind direction, CH = cloud height, CC = cloud cover, T = temperature, RH = relative humidity, SLP = sea level pressure

Local land use and detailed topographical information was included in the simulation to produce realistic fine scale flow fields (such as terrain forced flows) in surrounding areas, as shown in **Figure 7-1**.

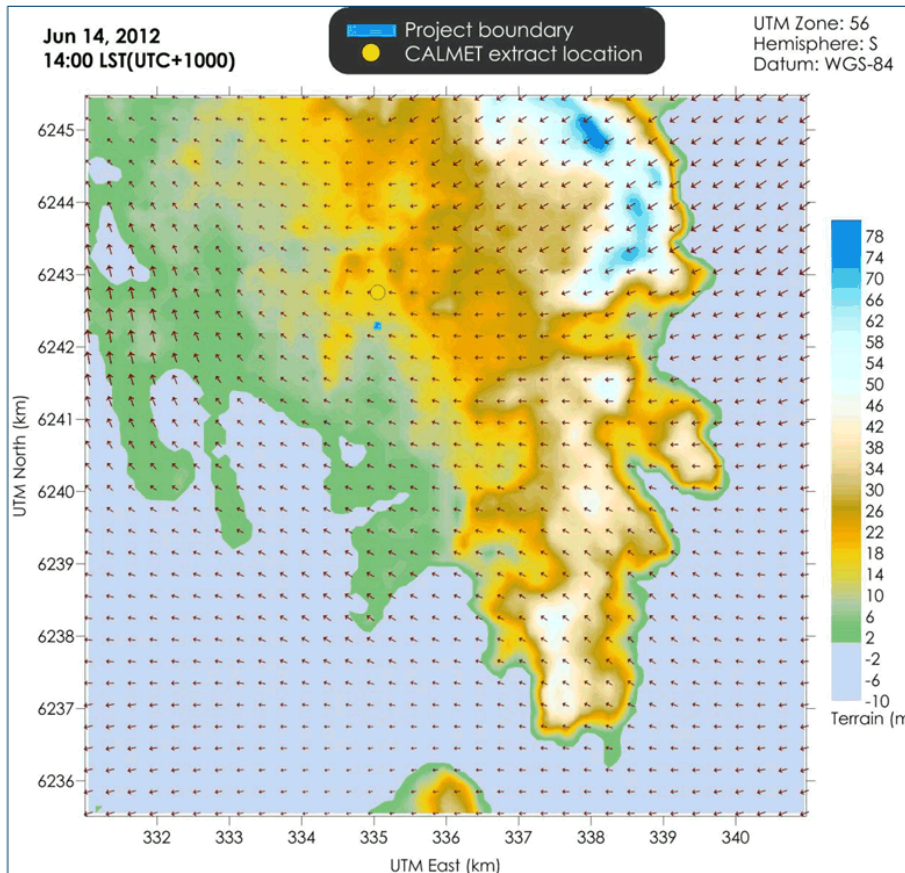


Figure 7-1: Representative snapshot of wind field for the Project

CALMET generated meteorological data were extracted from a point within the CALMET domain and are graphically represented in **Figure 7-2** and **Figure 7-3**.

Figure 7-2 presents the annual and seasonal windroses from the CALMET data. The figure shows similar annual and seasonal windroses for the Sydney Airport AMO during the 2012 calendar period presented in **Figure 5-2**. Overall, the windroses generated in the CALMET modelling reflect the expected wind distribution patterns of the area as determined based on the available measured data and the expected terrain effects on the prevailing winds.

Figure 7-3 includes graphs of the temperature, wind speed, mixing height and stability classification over the modelling period and show sensible trends considered to be representative of the area.



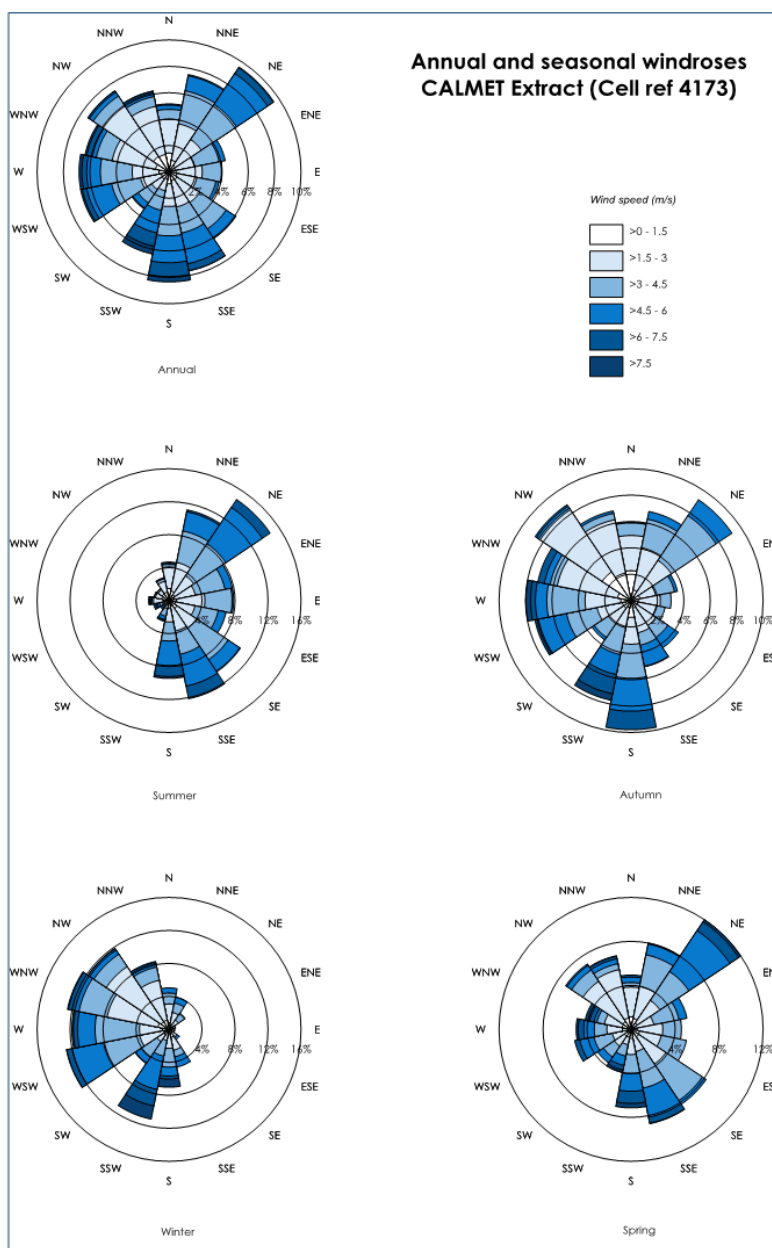


Figure 7-2: Annual and seasonal windroses from CALMET (Cell ref 4168)

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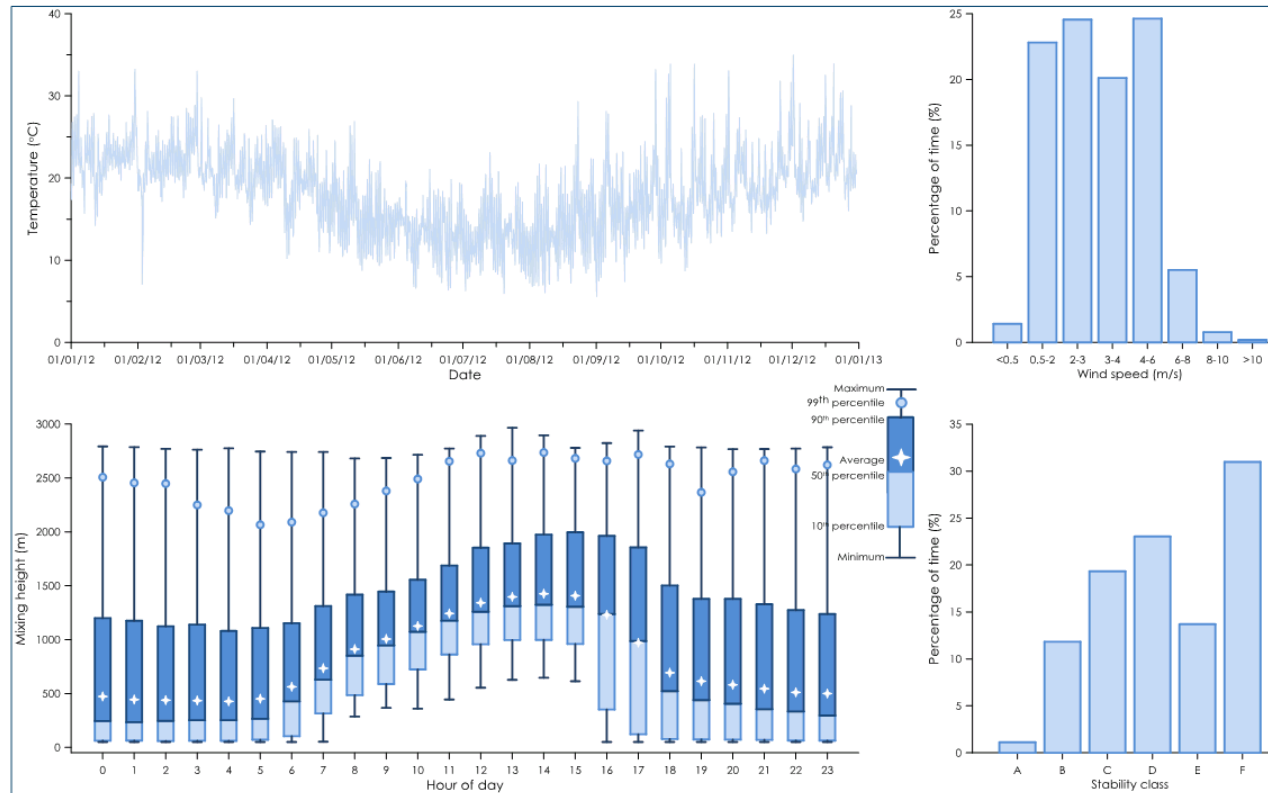


Figure 7-3: Meteorological analysis of CALMET (Cell Ref 4168)

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7.2.2 Dispersion modelling

Emissions from each operational activity of the Project were represented by a series of volume sources and were included in the CALPUFF model via an hourly varying emission file. Meteorological conditions associated with dust generation (such as wind speed) and levels of dust generating activity were considered in calculating the hourly varying emission rate for each source.

It should be noted that as a conservative measure, the effect of the precipitation rate (rainfall) in reducing dust emissions has not been considered in this assessment.

7.3 Emission estimation

Activities associated with operation of the Project have the potential to generate dust emissions from various activities including; loading/unloading of material, vehicles travelling on-site, and windblown dust generated from stockpiles.

The on-site vehicle movements have the potential to generate air emissions from the exhaust and wheel generated dust when travelling on roads. Vehicles would travel on a paved road surface and are generally expected to be on-site for relatively short periods of time due to the short travel path.

Dust emission estimates for the Project have been calculated by analysing the various types of dust generating activities taking place and utilising suitable emission factors sourced from US EPA developed documentation (**US EPA, 1985 and Updates**).

The estimated dust emissions for activities associated with the operation are presented in **Table 7-2**. Detailed calculations of the dust emission estimates are provided in **Appendix B**.

The assessment is based on two operating scenarios that cover impacts arising during average operation with a daily production of approximately 800m³ of concrete and peak operation with a daily production of approximately 1,500m³.

The peak operation scenario is assessed for only potential short-term air quality impacts occurring for a 24-hour period.

Table 7-2: Estimated annual TSP emissions rate for the Project

Activity	TSP emission (kg/year)	
	Average	Peak
Delivering sand and aggregate material onsite (paved road)	883	2,417
Unloading sand materials to hopper	195	535
Unloading aggregate materials to hopper	790	2,162
Conveying to storage silo	8	8
Delivering cement material onsite (paved road)	189	518
Unloading cement to elevated storage silo (pneumatic)	38	105
Weigh hopper loading	1,248	3,416
Mixer loading (central mix)	394	1,079
Agitator truck travelling onsite (paved road)	1,018	2,786
Loading concrete washout	40	110
Transporting concrete washout offsite (paved road)	42	115
Wind erosion - open stockpile area	8	8
Total TSP emissions	4,854	13,259

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8 DISPERSION MODELLING RESULTS

The dispersion model predictions presented in this section include those for the operation of the Project is isolation (incremental impact) and the operation of the Project with consideration of other sources (total (cumulative) impact). The results show the predicted:

- + Maximum 24 hour average PM_{2.5} and PM₁₀ concentrations;
- + Annual average PM_{2.5} and PM₁₀ concentrations;
- + Annual average TSP concentrations; and,
- + Annual average dust (insoluble solids) deposition rates.

It is important to note that when assessing impacts per the maximum 24-hour average levels, these predictions are based on the highest predicted 24-hour average concentrations that were modelled at each point within the modelling domain for the worst day (i.e. a 24-hour period) in the one year long modelling period. The predictions do not represent just one particular day, but a combination of days and is an overestimation of what would actually occur.

Associated isopleth diagrams of the dispersion modelling results are presented in **Appendix C**.

Table 8-1 presents the predicted incremental particulate dispersion modelling results at each of the assessed sensitive receiver locations. The results show minimal incremental effects would arise at the sensitive receiver locations due to the proposed operation and would be below the relevant criteria at the assessed sensitive receiver locations.

The peak scenario assumes peak production levels occur over the entire modelling period, whereas this would only occur on occasion during the year. The predicted maximum 24-hour average PM₁₀ levels for the peak scenario are also relatively low at the sensitive receiver locations.

Table 8-1: Particulate dispersion modelling results for sensitive receivers – Incremental impact

Receiver ID	PM _{2.5} (µg/m ³)		PM ₁₀ (µg/m ³)			TSP (µg/m ³)	DD (g/m ² /month)
	24-hour average	Annual average	24-hour average	Peak 24-hour average	Annual average	Annual average	Annual average
	Air quality impact criteria						
	-	-	-	-	-	-	2
R1	0.3	<0.1	2.5	6.8	0.2	0.5	<0.1
R2	0.2	<0.1	1.7	4.6	0.1	0.2	<0.1
R3	0.3	<0.1	2.1	5.7	0.2	0.4	<0.1
R4	0.2	<0.1	1.2	3.3	0.1	0.2	<0.1

The cumulative (total) impact is defined as the modelling impact associated with the operation of the Project combined with the estimated ambient background levels in **Section 4.3.1**. The predicted cumulative annual average PM_{2.5}, PM₁₀, TSP and dust deposition levels due to the Project with the estimated background levels are presented in **Table 8-2**. Cumulative 24-hour PM_{2.5} and PM₁₀ impacts are considered in detail in **Section 8.1**.

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The results in **Table 8-2** indicate the predicted levels would be below the relevant criteria at the assessed sensitive receiver locations.

Table 8-2: Particulate dispersion modelling results for sensitive receivers – Cumulative impact

Receiver ID	PM _{2.5} (µg/m ³)	PM ₁₀ (µg/m ³)	TSP (µg/m ³)	DD (g/m ² /month)
	Annual average			
	Air quality impact criteria			
	8	25	90	4
R1	5.6	19.8	71.1	3.1
R2	5.6	19.7	70.8	3.1
R3	5.6	19.8	71.0	3.1
R4	5.6	19.7	70.8	3.1

Based on the isopleth diagrams presented in **Appendix C**, the potential air quality impacts due to the Project largely indicate compliance in the surrounding environment and in particular at the small commercial/industrial facilities around Meadow Way.

8.1 Assessment of Total (Cumulative) 24-hour average PM_{2.5} and PM₁₀ Concentrations

An assessment of total (cumulative) 24-hour average PM_{2.5} and PM₁₀ impacts was undertaken in general accordance with the methods outlined in the *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (NSW EPA, 2017)*.

A Level 1 assessment was conducted to assess total (cumulative) 24-hour average PM_{2.5} and PM₁₀ impacts for the average scenario and involved adding the maximum predicted incremental impact of the Project at the sensitive receivers with the maximum background concentration recorded at the NSW OEH Earlwood monitoring site for the corresponding modelling period.

The results of the Level 1 assessment for total (cumulative) 24-hour average PM_{2.5} and PM₁₀ impacts are presented in **Table 8-3** and **Table 8-4** respectively for each of the sensitive receivers. Results indicate that the predicted maximum impact at all sensitive receivers would be below the relevant NEPM standard and impact assessment criterion for total (cumulative) 24-hour average PM_{2.5} and PM₁₀ impacts.

Table 8-3: Cumulative 24-hour average PM_{2.5} assessment – Maximum impact

Receiver ID	Predicted concentrations - incremental impact (µg/m ³)	Maximum background concentration (µg/m ³)	Predicted concentrations - maximum impact (µg/m ³)	Impact assessment criterion (µg/m ³)
R1	0.3	20.7	21.0	25
R2	0.2	20.7	20.9	25
R3	0.3	20.7	21.0	25
R4	0.2	20.7	20.9	25

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Table 8-4: Cumulative 24-hour average PM₁₀ assessment – Maximum impact

Receiver ID	Predicted concentrations - incremental impact (µg/m ³)	Maximum background concentration (µg/m ³)	Predicted concentrations - maximum impact (µg/m ³)	Impact assessment criterion (µg/m ³)
R1	2.5	44.2	46.7	50
R2	1.7	44.2	45.9	50
R3	2.1	44.2	46.3	50
R4	1.2	44.2	45.4	50

A time series plot of the predicted cumulative 24-hour PM_{2.5} and PM₁₀ concentrations for the average and peak scenarios at R1 (highest impacted receiver) is presented in **Figure 8-1** and **Figure 8-2**. The blue bars in the figure represent the measured background levels at the Earlwood monitoring site and the yellow bars represent the predicted incremental levels due to the Project.

It is clear from the figure that the Project would have only a minor influence at this receiver location for both the average and peak scenarios and is unlikely to be discernible beyond the existing background level at times.



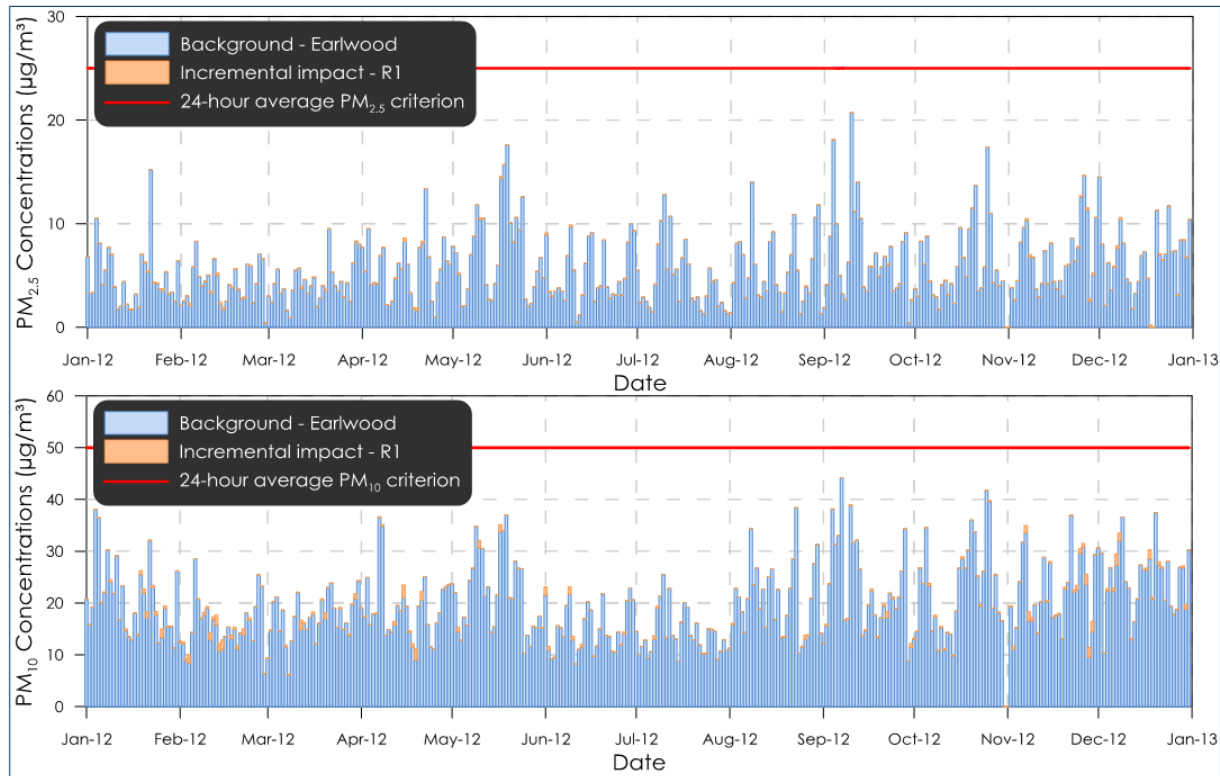


Figure 8-1: Time series plots of predicted cumulative 24-hour average PM_{2.5} and PM₁₀ concentrations for R1 – Average Scenario

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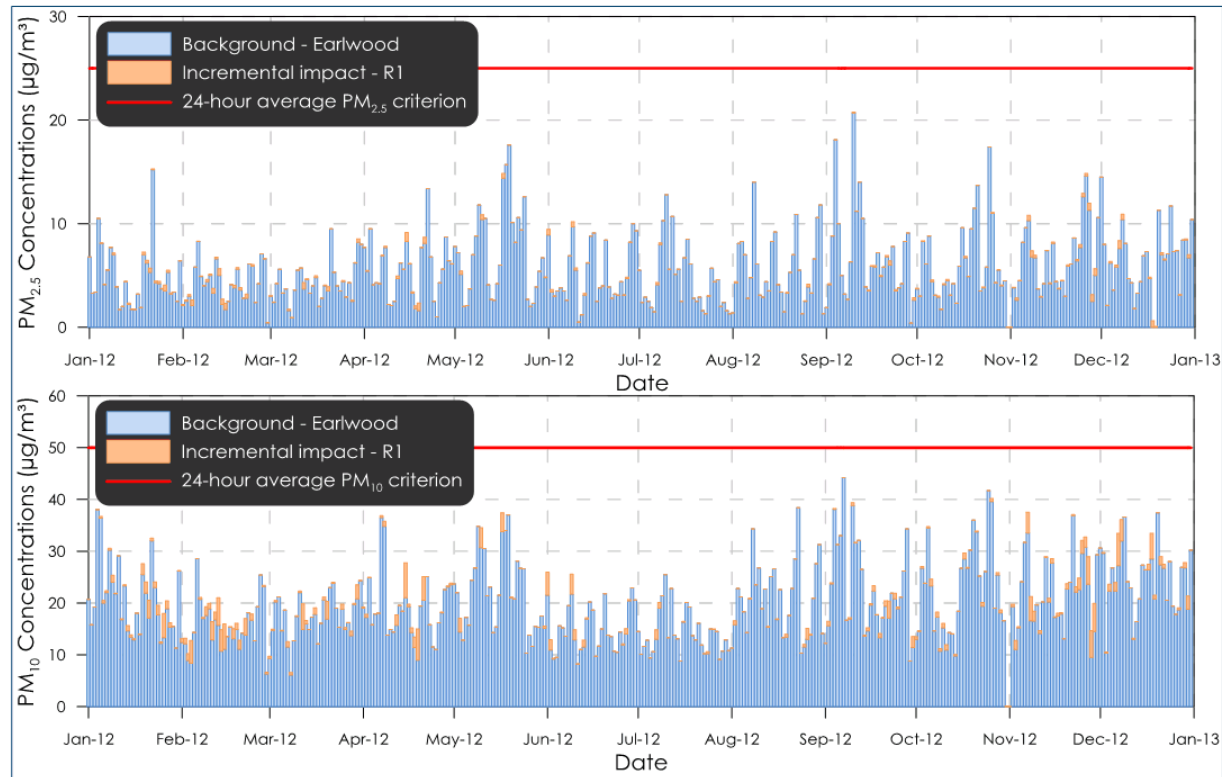


Figure 8-2: Time series plots of predicted cumulative 24-hour average PM_{2.5} and PM₁₀ concentrations for R1 – Peak Scenario

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9 DUST MITIGATION AND MANAGEMENT

The proposed operations at the Project have the potential to generate dust emissions.

To ensure activities associated with the Project have a minimal effect on the surrounding environment and at sensitive receiver locations, it is recommended that appropriate operational and physical mitigation measures should be considered and implemented where feasible and reasonable as listed in **Table 9-1**.

Table 9-1: Potential operational dust mitigation options

Source	Mitigation Measure
General	Activities to be assessed during adverse weather conditions and modified as required (e.g. cease activity where reasonable levels of dust cannot be maintained using the available means)
	Weather forecast to be checked prior to undertaking material handling or processing
	Engines of on-site vehicles and plant switched off when not in use
	Vehicles and plant fitted with pollution reduction devices
	Maintain and service vehicles according to manufacturer's specifications
	Any incidental spills to be cleaned immediately
	Overflow alarms and pressure control valves installed on silos
Stockpiling material	Minimise area and amount of stockpiled material
	Water suppression on stockpiles if material found to be excessively dusty
Material handling	Reduce drop heights from loading and handling equipment where practical
	Dampen aggregates and other material when excessively dusty
	Continuous dust extraction system at loading point
	Cement silos fitted with dust filters
Hauling activities	Sealed driving surfaces of the site to be cleaned regularly
	Apply site speed limits
	Cover vehicle loads when transporting material off- site
	Street cleaning to remove dirt tracked onto sealed roads

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10 SUMMARY AND CONCLUSIONS

This report has assessed the potential air quality impacts associated with the proposed upgrades to the existing concrete batching plant operation.

Air dispersion modelling was used to predict the potential for off-site dust impacts in the surrounding area due to the operation the Project. The estimated emissions of dust applied in the modelling are likely to be conservative and would overestimate the actual impacts.

It is predicted that all the assessed air pollutants generated by construction and operation of the Project would comply with the applicable assessment criteria at all sensitive receivers and therefore would not lead to any unacceptable level of environmental harm or impact in the surrounding area.

The modelled peak operational scenario also indicated that for a short-term basis (i.e. 24-hours) potential incremental dust impacts would be low. On average, the predicted dust impacts in the surrounding environment due to the Project could be considered acceptable for the receiving environment.

Nevertheless, the site would apply appropriate dust management measures to ensure it minimises the potential occurrence of excessive air emissions from the site.

Overall, the assessment demonstrates that even using conservative assumptions, the Project can operate without causing any significant air quality impact at sensitive receivers in the surrounding environment.



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Appendix A

Selection of meteorological year

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The 2012 calendar year has been selected as the meteorological year for the dispersion modelling based on an analysis of long-term data trends in the recorded meteorological data and wind patterns which reflect those patterns experienced in other years.

A statistical analysis of long-term meteorological data from the Sydney Airport AMO is presented in **Table A-1**. The standard deviation of five years of meteorological data spanning 2012 to 2016 was analysed against the long-term measured wind speed, temperature and relative humidity spanning an approximate 60 to 71-year period for the various parameters recorded at the station.

The analysis indicates that 2016 is closest to the long-term average for wind speed, followed by 2012, 2014 and 2015. 2012 is the closest to the long-term average for temperature and 2015 is closest for relative humidity.

Therefore, based on this analysis it was determined that 2012 is generally representative of the long-term trends compared to other years and is thus suitable for the purpose of modelling.

Table A-1: Statistical analysis results of standard deviation from long-term meteorological data at Sydney Airport AMO

Year	Wind speed	Temperature	Relative humidity
2012	0.9	0.4	4.5
2013	1.0	1.0	5.8
2014	0.9	0.9	4.6
2015	0.9	0.8	3.1
2016	0.8	1.1	5.0

A five year annual and seasonal windrose for the Sydney Airport AMO spanning 2012 to 2016 is presented in **Figure A-1**. The windrose indicates little variation when compared to the individual year presented in **Figure 5-2** for the 2012 period. This further suggests that the 2012 calendar year is representative of the available data and is a suitable period for modelling.





Figure A-1: Annual and seasonal windroses – Sydney Airport AMO (2012 to 2016)

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Appendix B
Emission Inventory

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B-1

Table B-1: Emission factor equations

Activity	Emission factor equation	Variable	Control factor
Loading concrete washout	$EF = k \times 0.0016 \times \left(\frac{U^{1.3}}{2.2} \frac{M^{1.4}}{2} \right) \text{ kg/tonne}$	$K_{tsp} = 0.74$ U = wind speed (m/s) M = moisture content (%)	-
Sand transfer	$EF = 0.0011 \text{ kg/tonne}$	-	-
Aggregate transfer	$EF = 0.0035 \text{ kg/tonne}$	-	-
Hauling on sealed surfaces	$EF = k \times (sL)^{0.91} \times (W)^{1.02} \text{ kg/VKT}$	k = 3.23 (g/VKT) sL = road surface silt loading (g/m ²) W = average weight of vehicles (tons)	-
Cement unloading to silo	$EF = 0.0005 \text{ kg/tonne}$	-	-
Weigh hopper loading	$EF = 0.0026 \text{ kg/tonne}$	-	-
Mixer loading	$EF = 0.0008 \text{ kg/tonne}$	-	-
Wind erosion from exposed areas and conveyors	$EF = 850 \text{ kg/ha/year}$	-	40% for wind shielding on conveyor

Table B-2: Emissions Inventory – Average Scenario

ACTIVITY	Total PM emission (kg/year)	Intensity	Units	Emission Factor	Units	Var. 1	Units	Var. 2	Units	Var. 3	Units	Var. 4	Units	Var. 5	Units	Var. 6	Units
Delivering sand and aggregate material onsite (pave)	883	403,200	t/yr	0.0022	kg/t	32	t/load	0.3	km/trip	0.2	kg/VKT	2.0	S.L. (g/m ²)	36	Ave. weight (tons)		
Unloading sand materials to hopper	195	177,600	t/yr	0.0011	kg/t												
Unloading aggregate materials to hopper	790	225,600	t/yr	0.0035	kg/t												
Conveying to storage silo	8	0.009	ha	850	kg/ha/yr												40 % control
Delivering cement material onsite (paved road)	189	76,800	t/yr	0.0025	kg/t	28	t/load	0.3	km/trip	0.2	kg/VKT	2.0	S.L. (g/m ²)	35	Ave. weight (tons)		
Unloading cement to elevated storage silo (pneumat)	38	76,800	t/yr	0.0005	kg/t												
Weigh hopper loading	1,248	480,000	t/yr	0.0026	kg/t												
Mixer loading (central mix)	394	480,000	t/yr	0.0008	kg/t	2.04	WS at drop point	2	M.C. (%)								
Agitator truck travelling onsite (paved road)	1,018	480,000	t/yr	0.0021	kg/t	14	t/load	0.3	km/trip	0.1	kg/VKT	2.0	S.L. (g/m ²)	15	Ave. weight (tons)		
Loading concrete washout	40	19,200	t/yr	0.0021	kg/t	1.77	Ave. (WS/2.2) ^{1.3}	2	moisture content in %								
Transporting concrete washout offsite (paved road)	42	19,200	t/yr	0.0022	kg/t	32	t/load	0.3	km/trip	0.2	kg/VKT	2.0	S.L. (g/m ²)	36	Ave. weight (tons)		
Wind erosion - open stockpile area	8	0.01	ha	850	kg/ha/yr												
Total TSP emissions (kg/yr)	4,854																

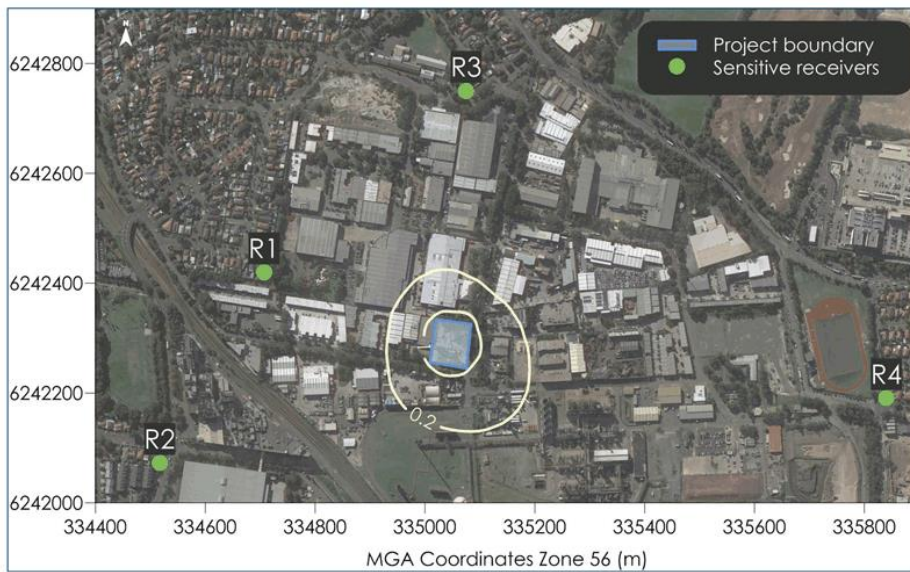
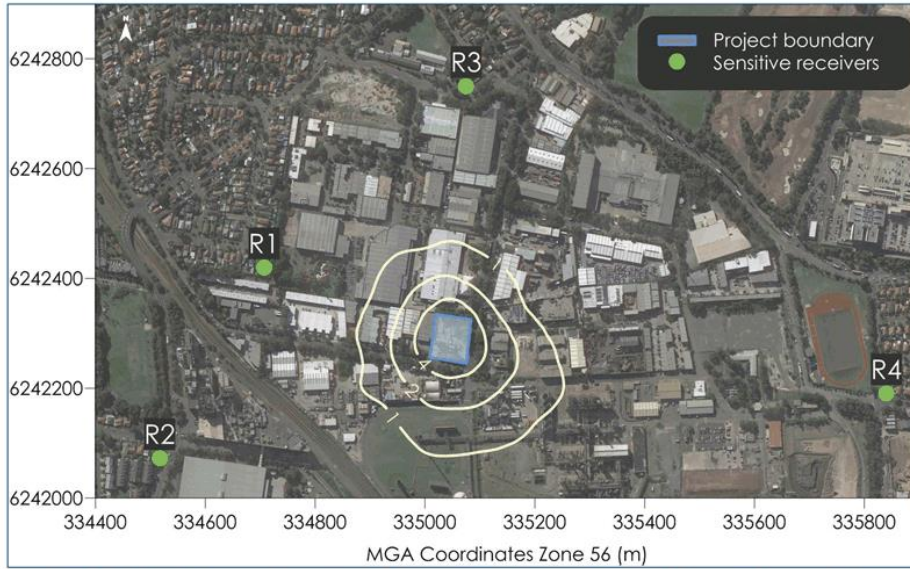
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Appendix C
Isopleth Diagrams

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C-1



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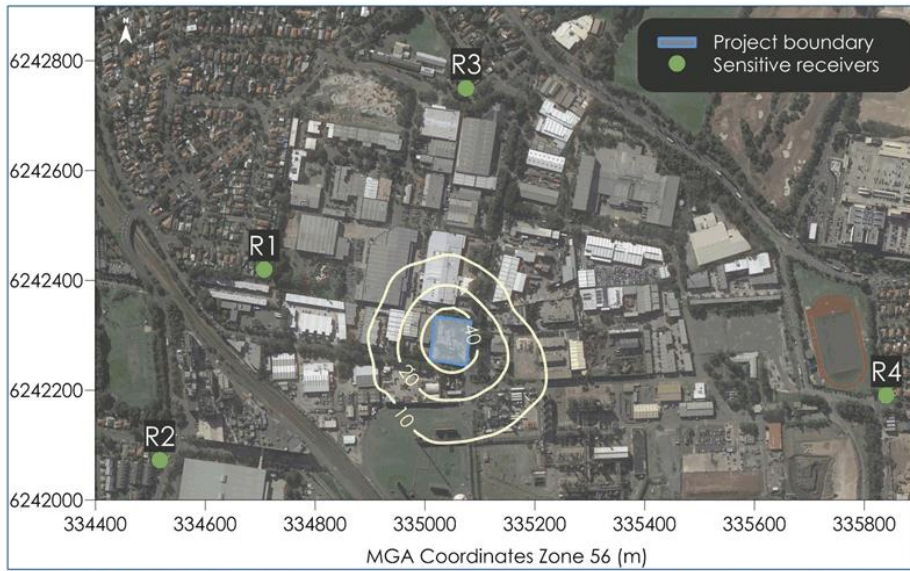


Figure C-3: Predicted incremental maximum 24-hour average PM₁₀ concentrations for Average Scenario (µg/m³)

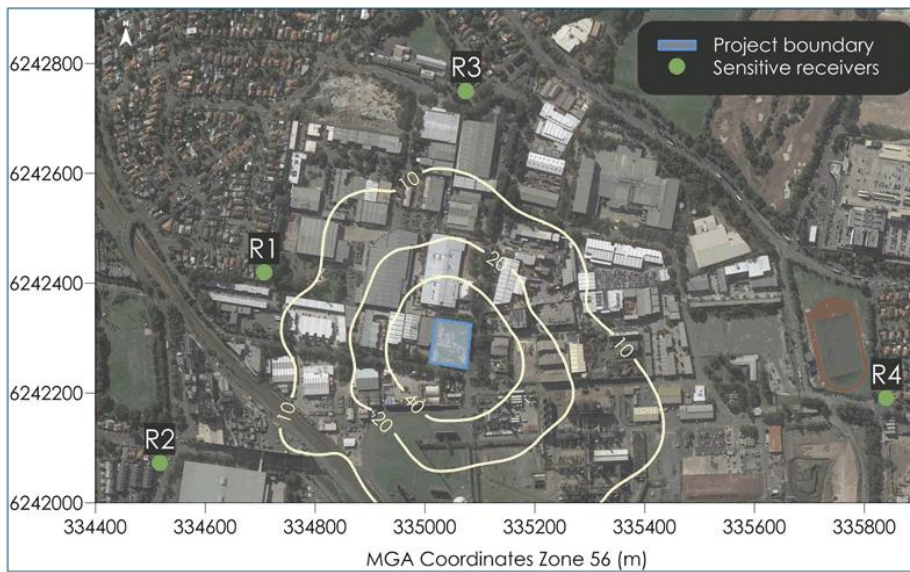


Figure C-4: Predicted incremental maximum 24-hour average PM₁₀ concentrations for Peak Scenario (µg/m³)

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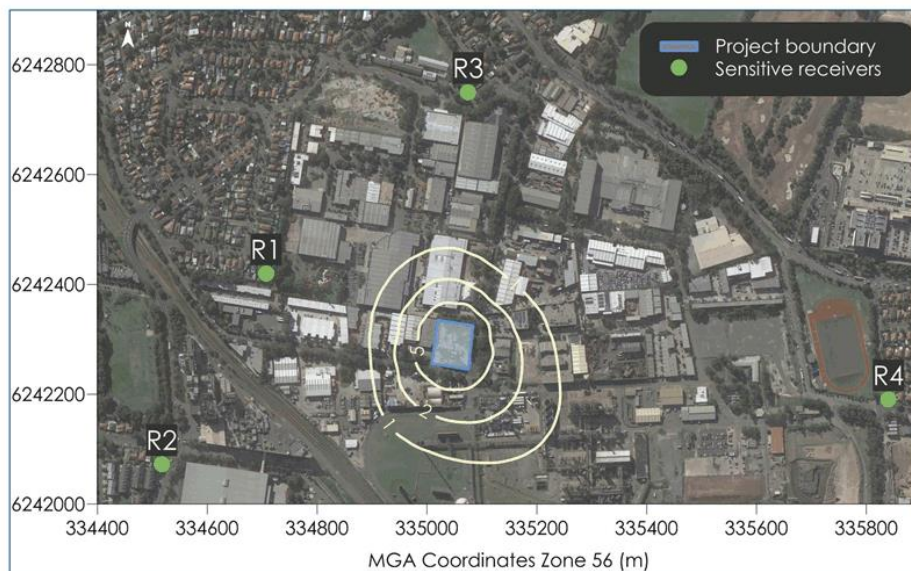


Figure C-5: Predicted incremental annual average PM₁₀ concentrations for Average Scenario (µg/m³)

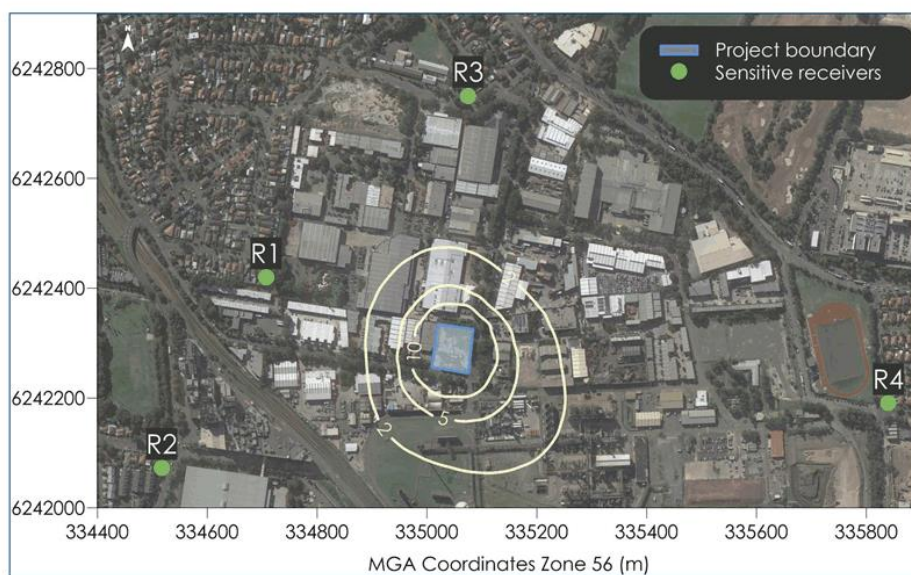


Figure C-6: Predicted incremental annual average TSP concentrations for Average Scenario (µg/m³)

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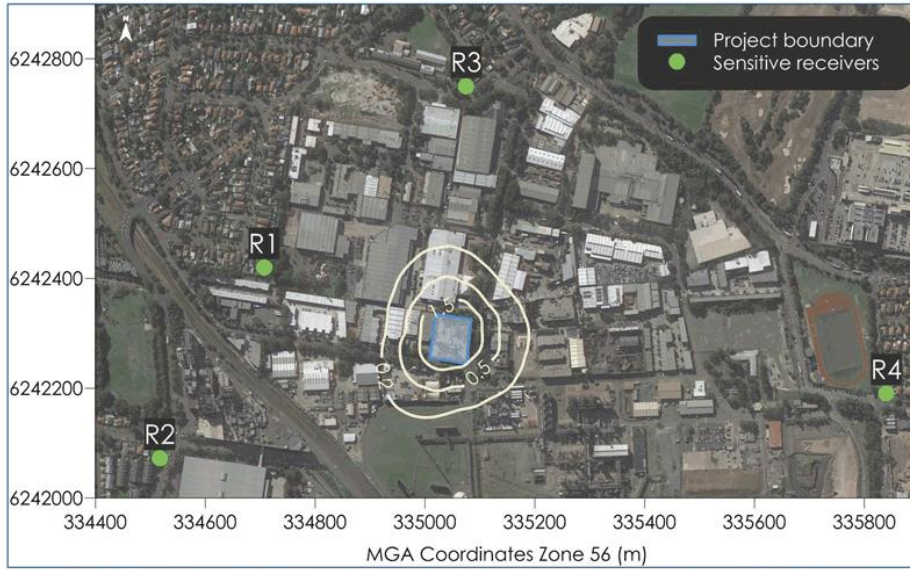


Figure C-7: Predicted incremental annual average dust deposition levels for Average Scenario ($g/m^2/month$)

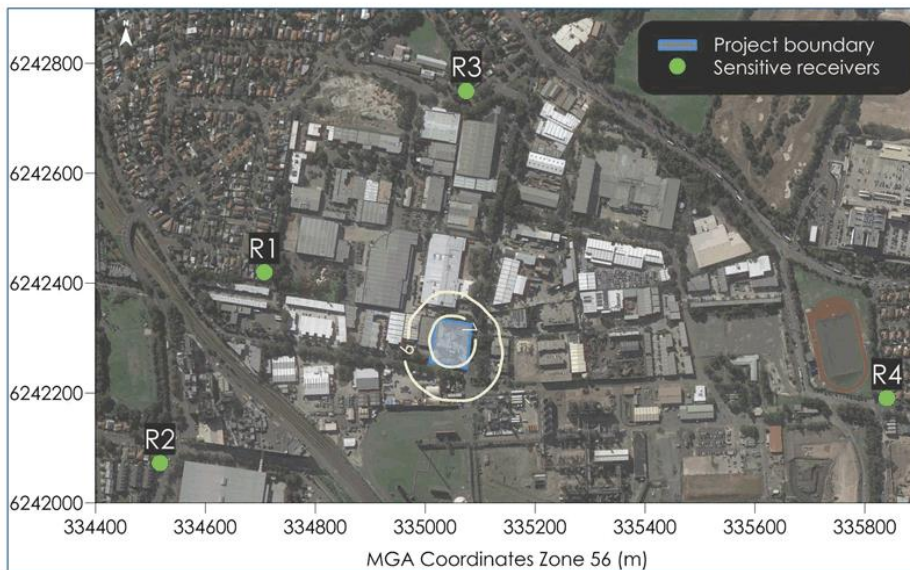


Figure C-8: Predicted cumulative annual average $PM_{2.5}$ concentrations for Average Scenario ($\mu g/m^3$)

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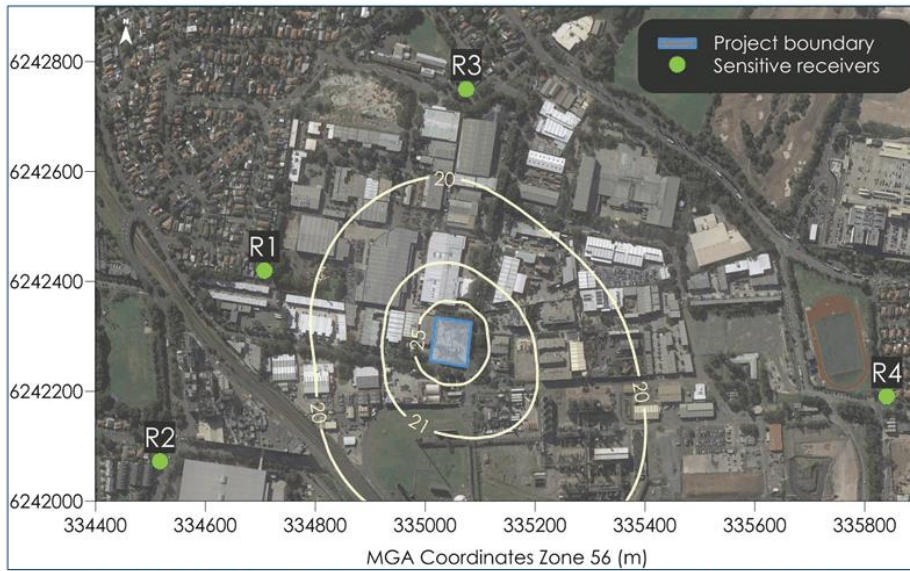


Figure C-9: Predicted cumulative annual average PM₁₀ concentrations for Average Scenario ($\mu\text{g}/\text{m}^3$)

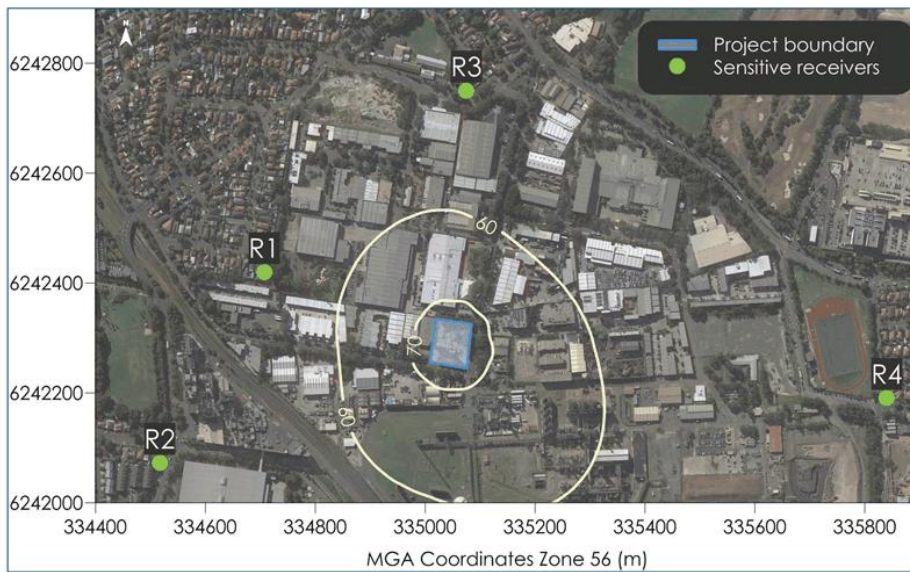


Figure C-10: Predicted cumulative annual average TSP concentrations for Average Scenario ($\mu\text{g}/\text{m}^3$)

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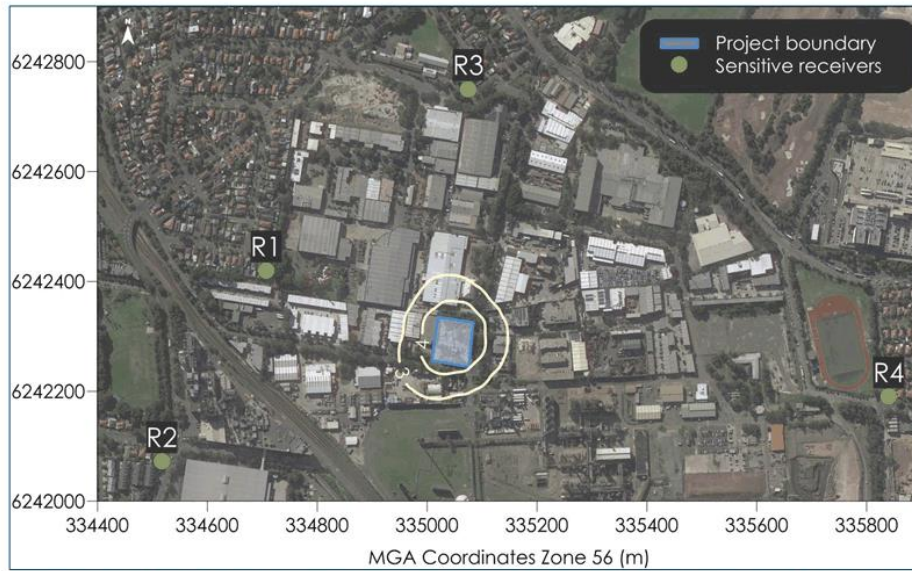
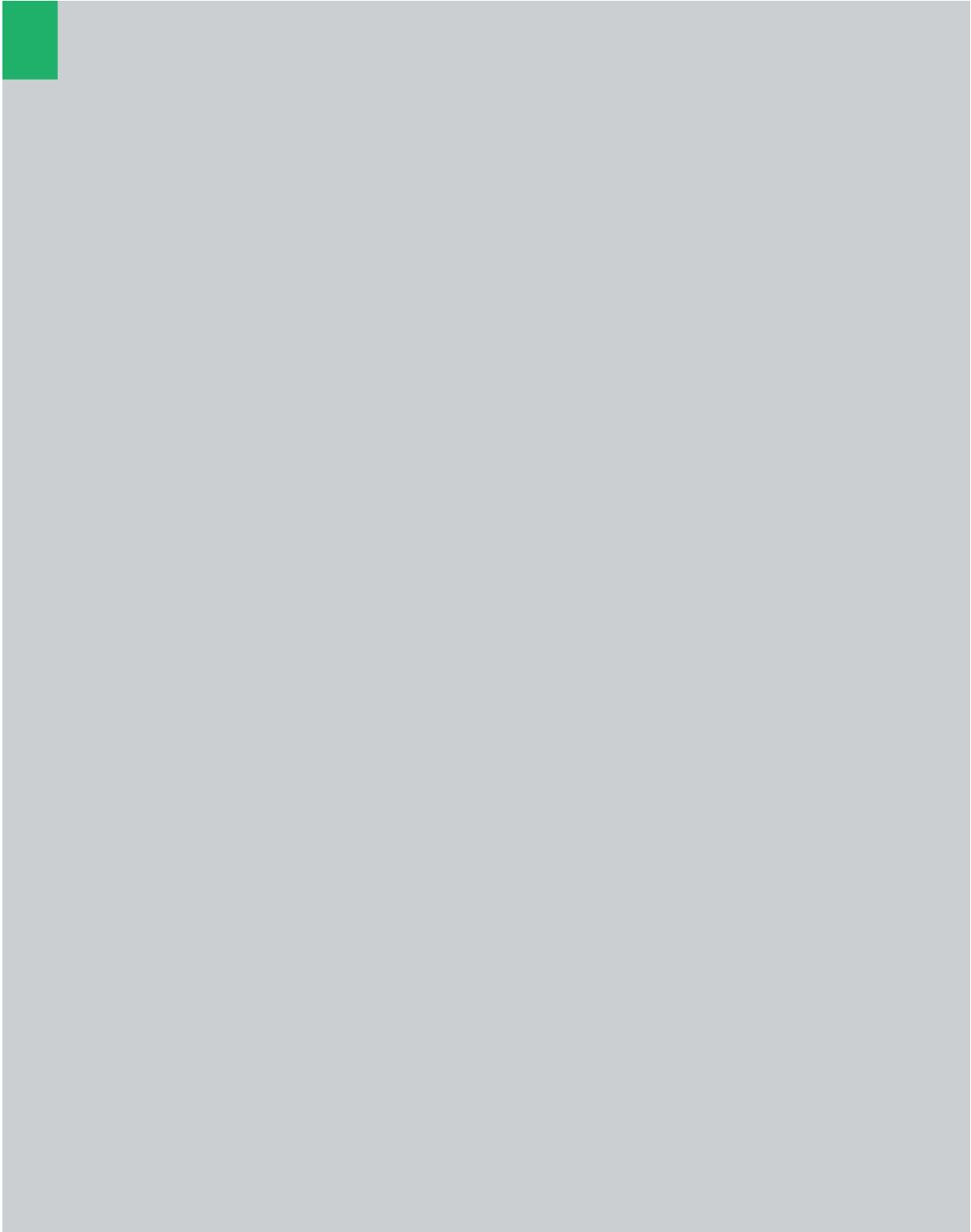


Figure C-11: Predicted cumulative annual average dust deposition levels for Average Scenario (g/m²/month)



APPENDIX E

TRAFFIC AND TRANSPORT ASSESSMENT



FINAL

**TRAFFIC AND TRANSPORT ASSESSMENT REPORT
FOR
BORAL BOTANY
CONCRETE BATCHING PLANT UPGRADE
CORNER OF BAKER STREET
AND ANDERSON STREET
BANKSMEADOW**

Ref. 16167r1

23 November 2017

Prepared By

TRANSPORT & URBAN PLANNING PTY LTD
Traffic Engineering, Transport Planning
Road Safety & Project Management Consultants
5/90 Toronto Parade
P.O. Box 533
SUTHERLAND NSW 2232
Tel: (02) 9545-1411
Fax: (02) 9545-1556
Email: terry@transurbanplan.com.au

TRANSPORT AND URBAN PLANNING PTY LTD

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Boral Botany Concrete Batching Plant Upgrade
Baker and Anderson Street, Banksmeadow

1.0 INTRODUCTION

1.1 Introduction

Boral Resources (NSW) Pty Ltd (Boral) operate an existing concrete batching plant at 1 Baker Street which is located on the corner of Baker Street and Anderson Street, Banksmeadow (**Figure 1**).

Boral proposes to upgrade the existing concrete batching plant to provide a modern up to date facility which will have a higher maximum capacity to service existing construction markets, as well as future markets in south eastern suburbs in and around Banksmeadow.

This report has been prepared as part of an Environmental Impact Statement (EIS) to assess the traffic, transport and parking impacts associated with the proposed upgrade to the concrete batching plant.

The remaining sections of this report document the following;

- Section 2 describes the Boral site and details of the upgrade proposal;
- Section 3 examines the existing traffic conditions in the area;
- Section 4 documents the assessment of the traffic impacts of the upgrade proposal; and
- Section 5 presents the conclusions.

1.2 Authority Requirements

As part of the preparation of the Traffic and Transport Assessment for the Project, consideration was given to the Secretary's Environmental Assessment Requirements (SEARs) from the Department of Planning and Environment, which includes requirements of relevant government agencies including any key issues identified by authorities.

The SEARs and RMS as well as Bayside Council's requirements for Traffic and Transport are shown in Table 1.1 together with the relevant section where the issue is addressed.



TABLE 1.1

SEARS, RMS AND BAYSIDE COUNCIL'S REQUIREMENTS FOR TRAFFIC ASSESSMENT

Authority	Requirement/Issue	Approach/Section Reference
NSW Department of Planning & Environment	i) Details of road transport routes and access to the site. ii) Road traffic predictions for the development during construction and operation; and iii) An assessment of impacts to the safety and function of the road network. iv) Details of any road upgrades required for the development.	Sections 2.2, 2.4 and Figure 4 Section 4.1, 4.2 and 4.5 Section 4.2 No road upgrades are required as Bayside Council will signalise the Baker Street/Wentworth Avenue intersection in the near future.
NSW Roads & Maritime Services (RMS)	i) Daily and peak traffic movements likely to be generated by the proposed development including the impact on nearby intersections and the need/associated funding for upgrading or road improvement works (if required). The key intersections to be examined/.modelled include: <ul style="list-style-type: none"> - Page Street and Ocean Street - Wentworth Avenue and Baker Street; ii) Details of proposed accesses and the parking provisions associated with the proposed development including compliance with the requirements of the relevant Australian Standards (i.e. turn paths, sight distance requirements, aisle widths, etc). iii) Proposed number of car parking spaces and compliance with the appropriate parking codes.	See Section 4.1. No road upgrades are required as Bayside Council will signalise the Baker Street/Wentworth Avenue intersection in the near future. No Boral trucks including agitator vehicles will use the Ocean Street/Page Street route. See Section 4.3 Sections 4.3 and 4.4 Section 4.4

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Boral Botany Concrete Batching Plant Upgrade
Baker and Anderson Street, Banksmeadow

Authority	Requirement/Issue	Approach/Section Reference
Bayside Council	i) Model Intersection of Wentworth Avenue/Baker Street	Section 4.2
	ii) Provide Truck Routes	See Figure 4 and Section 2.4
	iii) All developments that use B Doubles have been required to contribute to Section 94 Plan to upgrade Wentworth Avenue/Baker Street intersection.	Boral currently does not use B Doubles but may use a 19.0 metre B Double in the future. Section 94 Contribution is a matter for Council.
	iv) Traffic report will be required to address cumulative impacts in area.	See Section 4.2
	v) Provide swept path diagrams for manoeuvring within the site.	See Figures 9A-9G and Section 4.3

1.3 This Report

This Traffic and Transport Assessment Report has been prepared in accordance with Austroads Guide to Traffic Management, Part 12, Traffic Impacts of Development and the RTA's (now RMS) Guide to Traffic Generating Developments, October 2002 and addresses all relevant issues as outlined in Table 2.1 of the RMS Guide.

Other relevant standards/guidelines adopted and used during the traffic and transport assessment include:

- Austroads Guide to Traffic Management;
- RTA (now RMS) Austroads Guide Supplements – Austroads Guide to Traffic Management;
- AS2890.1 (2004) – Parking Facilities. Part 1 Off street car parking; and
- AS2890.2 (2002) – Parking Facilities. Part 2 Off Street Commercial Vehicle facilities.

The traffic modelling undertaken as part of this assessment has used SIDRA 7 software, which is an RMS approved traffic model for intersection analysis.

2.0 PROJECT AND SITE

2.1 Site

The Botany Concrete Batching Plant (the site) (**Figure 2**) is located on the corner of Baker Street and Anderson Street in the Banksmeadow industrial area.

Boral operates an existing concrete batching plant on the site.

The site currently has 3 driveways with two (2) driveways in Baker Street and one (1) driveway in Anderson Street. The two driveways in Baker Street are currently used as entry/exit driveways by light and heavy vehicles which operate from the site. The driveway in Anderson Street is predominantly used as the entry driveway for heavy vehicles entering the site.

Anderson Street is a continuation of Baker Street which links to Baker Street via a 90 degree bend.

Baker Street and Anderson Street (east of Ocean Street) provides vehicle and pedestrian access to a range of industrial sites and developments located in the Banksmeadow Industrial area.

2.2 Project

Boral propose to upgrade the concrete batching plant on the site with an up to date modern concrete batching plant facility which will have a maximum capacity of 200,000m³, or 500,000 tonnes per annum (tpa) of concrete (the Project).

As part of the upgrade, Boral are proposing changes to the driveways at the site as follows:

- The northern driveway in Baker Street will be reconstructed and become an entry driveway for heavy vehicles. Some employees will also use this driveway as an entry driveway for parking adjacent the northern boundary.
- The southern driveway in Baker Street will be relocated to approximately 30 metres north of Anderson Street. This driveway will be used by light vehicles as an entry/exit driveway for employee and visitor parking.
- The existing heavy vehicle driveway in Anderson Street will be retained and used as an exit driveway for heavy vehicles.

The Project, incorporating the upgrade, is shown in **Figure 3**.

As part of the Project, Boral is seeking approval to operate 24 hours per day, as required by market conditions.

Twenty four (24) hour operation will only occur on those days determined by market requirements for concrete. Normally the batching plant will operate between 4.30am and 9pm.

Currently a total of 27 persons are employed at the site at the same time. The personnel work generally between 6am to 9pm, subject to market demands.

With the project, up to 32 employees would be on site at the same time. The day and night shifts will be separate, with employees on site during the night shift (i.e. between 7pm and 4.30am) separate from the day time shift personnel.



TRANSPORT AND URBAN PLANNING
TRAFFIC, TRANSPORT & PROJECT
MANAGEMENT CONSULTANTS
5/90 Toronto Parade, Sutherland NSW 2232
Phone 02 9545 1411 Fax 02 9545 1556
admin@transurbanplan.com.au

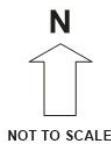
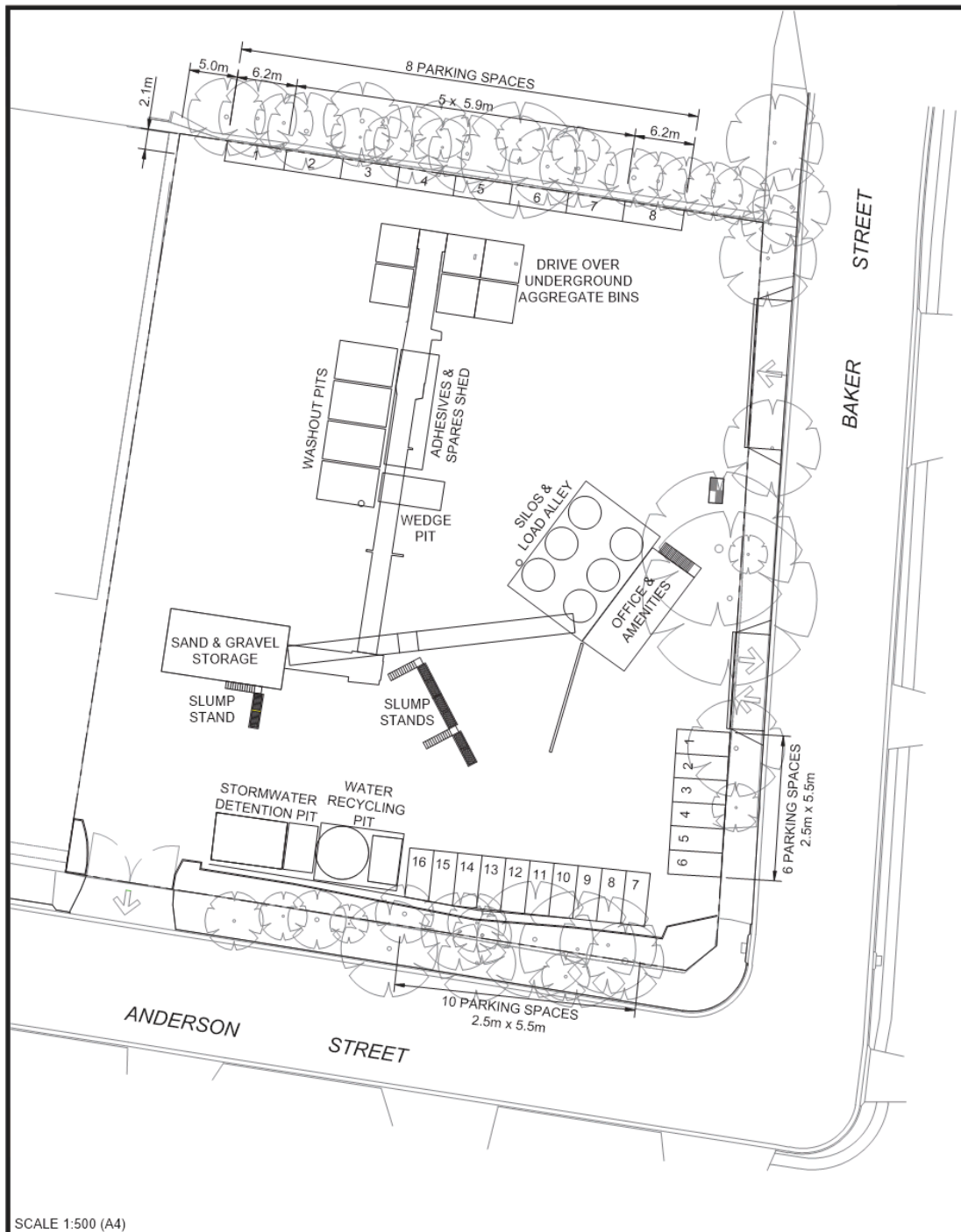


FIGURE 2
BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW
SUBJECT SITE
JOB NO. 16167



SCALE 1:500 (A4)

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TRAFFIC, TRANSPORT & PROJECT
MANAGEMENT CONSULTANTS
 5/90 Toronto Parade, Sutherland NSW 2232
 Phone 02 9545 1411 Fax 02 9545 1556
 admin@transurbanplan.com.au

FIGURE 3
 BORAL CONCRETE BATCHING PLANT UPGRADE
 1 BAKER STREET, BANKSMEADOW

PROPOSAL

JOB NO.16167

Currently there are 5 car parking spaces on the site. As part of the upgrade a total of 24 car parking spaces are proposed for use by employees and visitors.

2.3 Existing and Proposed Operation of Concrete Batching Plant

Table 2.1 summarises the operational parameters of the upgraded concrete batching plant as compared to the existing operation, including the existing and future traffic generation of heavy vehicles.

TABLE 2.1

COMPARISON OF PROPOSED OPERATION TO EXISTING OPERATION OF BORAL'S BANKSMEADOW CONCRETE BATCHING PLANT

Criteria	Existing Concrete Batching Plant Operation	Proposed Concrete Batching Plant Operation
Hours of operation	6am-9pm, Mon-Fri 6am-12pm Sat Nil Sunday	24 hours, 7 days
Operational days per year	313	365
Employee numbers*	27*	32*
Batch plant loads bays	1	2
Annual volumes (m ³)	90,000	200,000
Peak daily volumes (m ³)	600	1,500
Av daily volumes (m ³)	450	800
No. silos	3	6
No. in-ground unloading bins	3	6
No. open stockpiles	1	1
No. slump stands	2	4
Av load size per agitator (m ³)	6	6

Source: Boral

*On site at the same time

HEAVY VEHICLE TRAFFIC GENERATION (LOAD OR ONE WAY TRIPS)

	Existing Operation		Proposed Operation	
	Average Day	Peak Day	Average Day	Peak Day
Aggregate trucks	22	42	50	94
Cement tankers	4	8	10	19
Agitators	60	113	133	250
Trucks transporting concrete waste from site	0.33	1	0.71	1

Source: Boral

2.4 Transport Routes

The transport routes used by the raw material delivery trucks and the concrete waste removal trucks to and from the site, include the wider state road network and Wentworth Avenue to Baker Street and then via Baker Street to the site. The raw materials trucks come from Dunmore, Kurnell and St Peters and 88% of these vehicles arrive and depart from/to the west in Wentworth Avenue. Some 12% of the raw material vehicles arrive and depart from/to the east in Wentworth Avenue and use Bunnerong Road and Foreshore Road to General Holmes Drive.

Concrete agitator vehicles delivering concrete use Baker Street to Wentworth Avenue either turning left or right into Wentworth Avenue and then travelling to their destination using Wentworth Avenue and other state roads and regional roads and or major local roads as appropriate.

Based on the recent 12 months records of the agitator delivery trucks from the site, 58% of deliveries are to the east along Wentworth Avenue and 42% of the deliveries to the west along Wentworth Avenue.

The primary transport routes adjacent the site are shown in **Figure 4**.

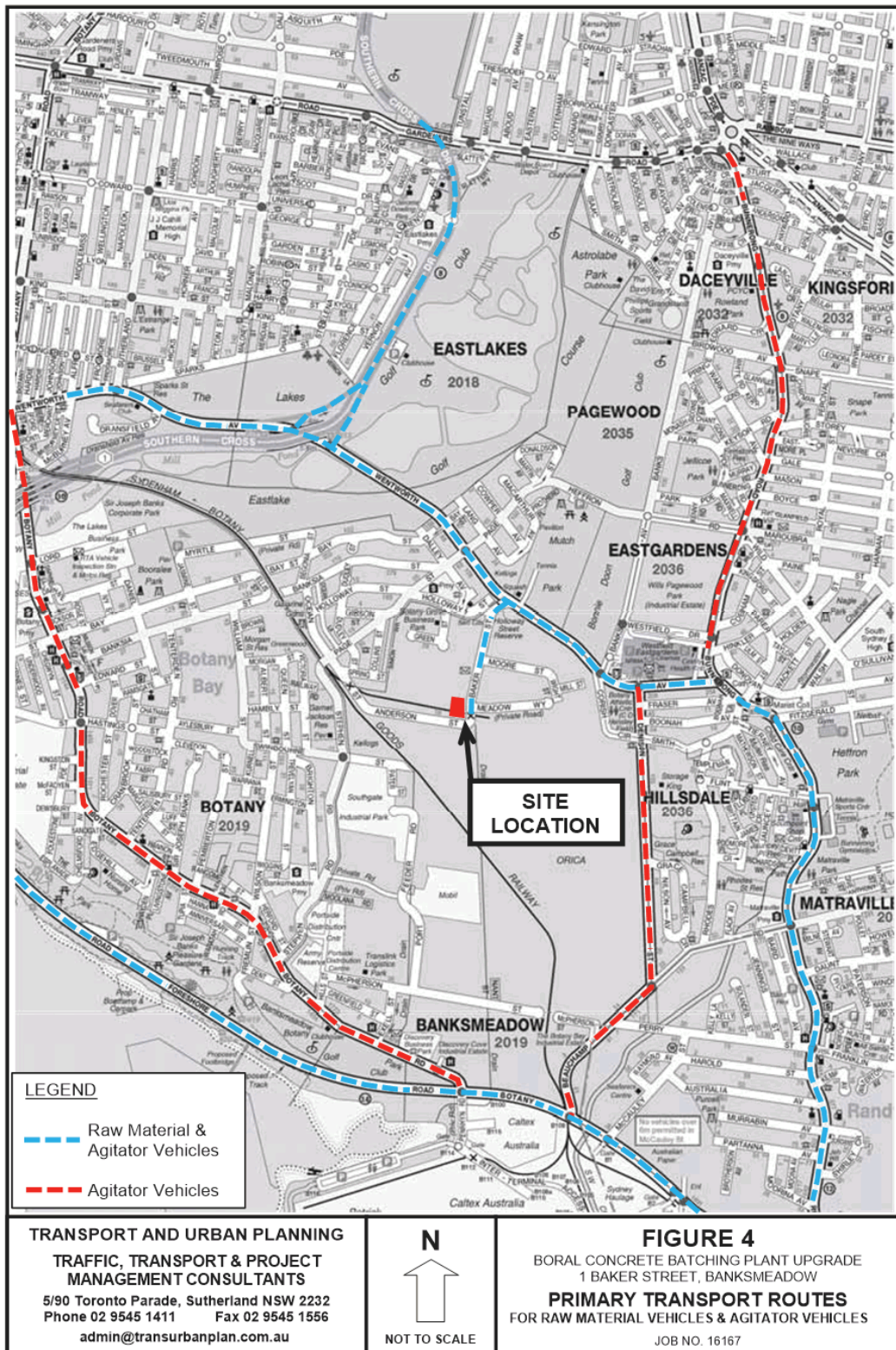
2.5 Heavy Vehicles

Boral's heavy vehicle fleet for Concrete Batching Plants include the following vehicles:

- 14.7 metre long semi trailers and 14.5 metre long truck and dog trailer combinations (i.e. articulated vehicles);
- 14.7 metre long articulated cement tankers (i.e. articulated vehicles);
- Concrete agitator trucks for the delivery of concrete ranging in size from 7.0 metres to 8.8 metres (i.e. rigid vehicles).

Boral have indicated that the following heavy vehicles may be used at the site in the future, with the upgraded batching plant;

- 19 metre long truck and dog combination (articulated vehicle);
- 19 metre long B-double cement tankers; and
- 7.0 to 8.8 metre long concrete agitator vehicles



3.0 EXISTING CONDITIONS

3.1 Existing Road Network

The road network that serves the site is shown on **Figure 1** and includes Baker Street, Anderson Street, Wentworth Avenue, as well as the adjoining state and regional road network.

Baker Street and Anderson Street are local roads that predominantly serve part of the Banksmeadow Industrial area. Both Baker Street and Anderson Street are 12.8 metres between kerbs with footpath verges generally 3.6 metres wide. They provide for one (1) lane of travel in each direction and parking on both sides of the road.

Anderson Street is an extension of Baker Street and connects at its eastern end via a 90 degree bend to Baker Street. At its western end, Anderson Street connects to Ocean Street, which services industrial properties at its eastern end and residential properties at the western end. The residential section of Ocean Street is a light traffic through fare with a 3 tonne limit. Traffic calming is provided in Ocean Street on the edge of the industrial and residential areas. Ocean Street forms a cross junction intersection with Page Street.

As noted in Section 2.4, vehicles accessing the site use a short section of Anderson Street and Baker Street.

There are several local roads which intersect with Baker Street between Anderson Street and Wentworth Avenue including Holloway Street (which has a 3 tonne load limit) and Moore Street and Meadow Way, which are industrial local roads with the latter a private road. All of these streets form T-junction intersections with Baker Street.

The available sight distance at these T-junction intersections is considered to be satisfactory for the operating speed limits at these intersections.

Wentworth Avenue is a four (4) to six (6) lane state arterial road which connects between Botany Road and Bunnerong Road. It has a high level of traffic management including right turn bays at intersections and traffic signals at major intersections.

Baker Street forms a T-junction intersection with Wentworth Avenue. A right turn bay 45 metres long is provided in Wentworth Avenue for the right turn into Baker Street, together with three (3) through lanes in both directions of Wentworth Avenue.

Baker Street is subject to give way control.

The available sight distance at the intersection is good for the operating speed limit and estimated vehicle operating speeds in Wentworth Avenue.

The existing speed limit in Wentworth Avenue is 70km/h. The speed limit in Baker Street and Anderson Street is 50km/h.

The wider state road and regional road network that connects to Wentworth Avenue includes Bunnerong Road, Botany and Foreshore Road, General Holmes Drive/M5 Motorway, Southern Cross Drive and Page Street/Heffron Road/Stephen Road.

Wentworth Avenue is an approved 25 metre B-Double Route. Baker Street and a Section of Anderson Street to No. 3 are approved B-Double routes. The section of Baker Street at Wentworth Avenue is restricted as a 25 metre B-Double route to left turns from Wentworth Avenue into Baker Street and or for left turns out of Baker Street into Wentworth Avenue. B-Double access is currently approved for 1 Moore Street and 3 Anderson Street.

Figure 5 shows the traffic and parking controls on the road network adjacent the site.

3.2 Future Road Network Upgrades

Bayside Council has a proposal to install traffic signals at the intersection of Wentworth Avenue/Baker Street, which will address existing and future vehicle delay for vehicles turning right out of Baker Street into Wentworth Avenue.

As part of the traffic signals, the length of the existing right turn bay in Wentworth Avenue will be extended to 110 metres including taper, as well as kerb changes to the south eastern corner to improve the left turn into Baker Street for B-Doubles.

There have been 11 reported crashes at the intersection, 3 of which were injury crashes in the 5 year period between 2011 and 2015. Five of the crashes were intersection (adjacent approaches) type crashes. The proposed traffic signals should improve the overall road safety at the intersection and address the adjacent approach type crashes.

The adjacent traffic signal controlled intersection of Wentworth Avenue/Page Street will also be upgraded including an additional lane in Page Street (southern approach) and phasing changes, to provide for right turn green arrows for the right turns out of Page Street.

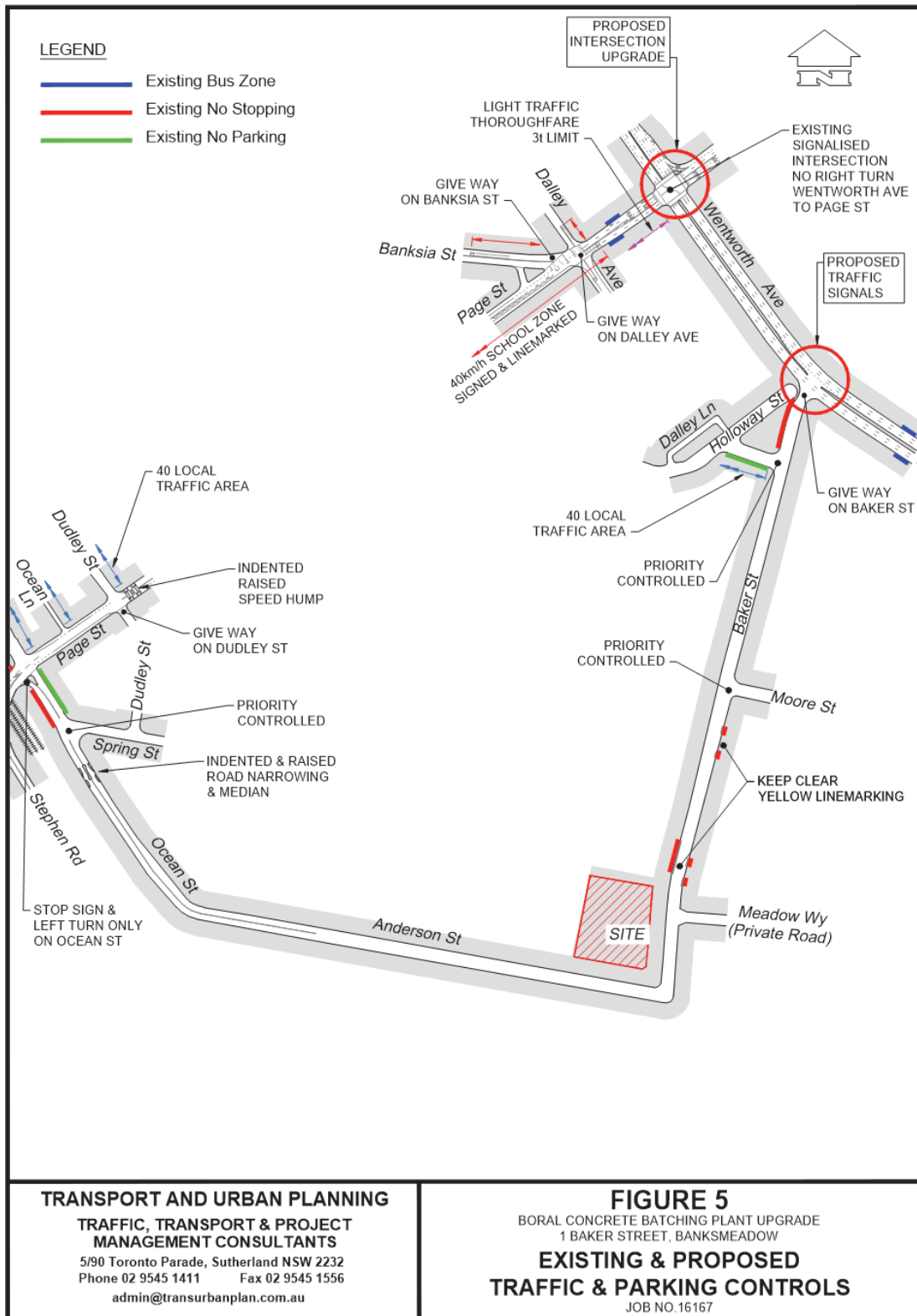
At the time of writing this report Bayside Council could not provide a definitive timeframe for the installation of the traffic signals at Wentworth Avenue/Baker Street intersection and the upgrade works at Wentworth Avenue/Page Street intersection, although these works are expected to occur in the near future.

Other intersection upgrades approved in principle and awaiting construction as part of major residential development works in the area include upgrades to the traffic signal controlled intersection of Bunnerong Road/Heffron and Maroubra Roads and new traffic signals at the intersection of Heffron Road/Banks Avenue.

SMEC Australia Pty Ltd (SMEC) undertook a review of future development in the Botany/Banksmeadow area in April 2015 (i.e. Botany/Banksmeadow Traffic Modelling Review) for City of Botany Bay Council. This report identified a number of road and traffic management improvements required by 2024, including the above improvement works. Transport and Urban Planning Pty Ltd is unaware if the new Bayside Council has adopted all of the SMEC recommended works.

3.3 Existing Traffic Conditions

Concrete batching plants typically are the busiest in the morning periods on weekdays between 7am and lunchtime. These hours coincide with the peak delivery of concrete to building sites in the Sydney Metropolitan Area. The mid morning period typically between 9am and 12 noon are usually the busiest periods. While concrete batching plants continue to operate in the afternoons the volume of concrete transported to various construction sites is much lower in the afternoon period, as compared to the morning period.



To examine the traffic conditions on the road network, for the peak hours of operation of the Botany concrete batching plant, traffic counts were undertaken at the intersections of Wentworth Avenue/Baker Street and in Baker Street at Anderson Street during the 7am to 1pm period on Wednesday 12 October 2016.

The counts at the Baker Street/Anderson Street intersection also included the traffic generation of the Botany concrete batching plant, on that day.

Figure 6 shows the morning peak hour traffic and pedestrian volumes at the intersection of Wentworth Avenue/Baker Street which occurred between 7.45am to 8.45am.

Reference to **Figure 6** shows that:

- Eastbound and westbound through volumes in Wentworth Avenue number 1,333 vehicles per hour (vph) and 1,125 vph. Heavy vehicles comprise around 3% of the total volumes in each direction;
- The right turn into Baker Street numbers 175 vph with around 8.6% of these being heavy vehicles. The left turn into Baker Street number 194 vph, with heavy vehicles making up 3.6% of the total;
- The left turn out of Baker Street numbers 116 vph with heavy vehicles comprising around 27.6% of the total; and
- The right turn out of Baker Street numbers 52 vph with heavy vehicles comprising 13.5% of these vehicles.

During the AM peak hour of 7.45am – 8.45am traffic volumes at the intersection of Baker Street/Anderson Street (**Figure 6**) numbered:

- 107 vph southbound in Baker Street and 118 vph northbound (as counted north of the Boral site); and
- 108 vph eastbound and 101vph westbound in Anderson Street (as counted west of the Boral site).

During the 7.45am – 8.45am peak hour, the concrete batching plant generated a total of 16 vehicles, with 5 inbound vehicles and 11 outbound vehicles. All of these were heavy vehicles.

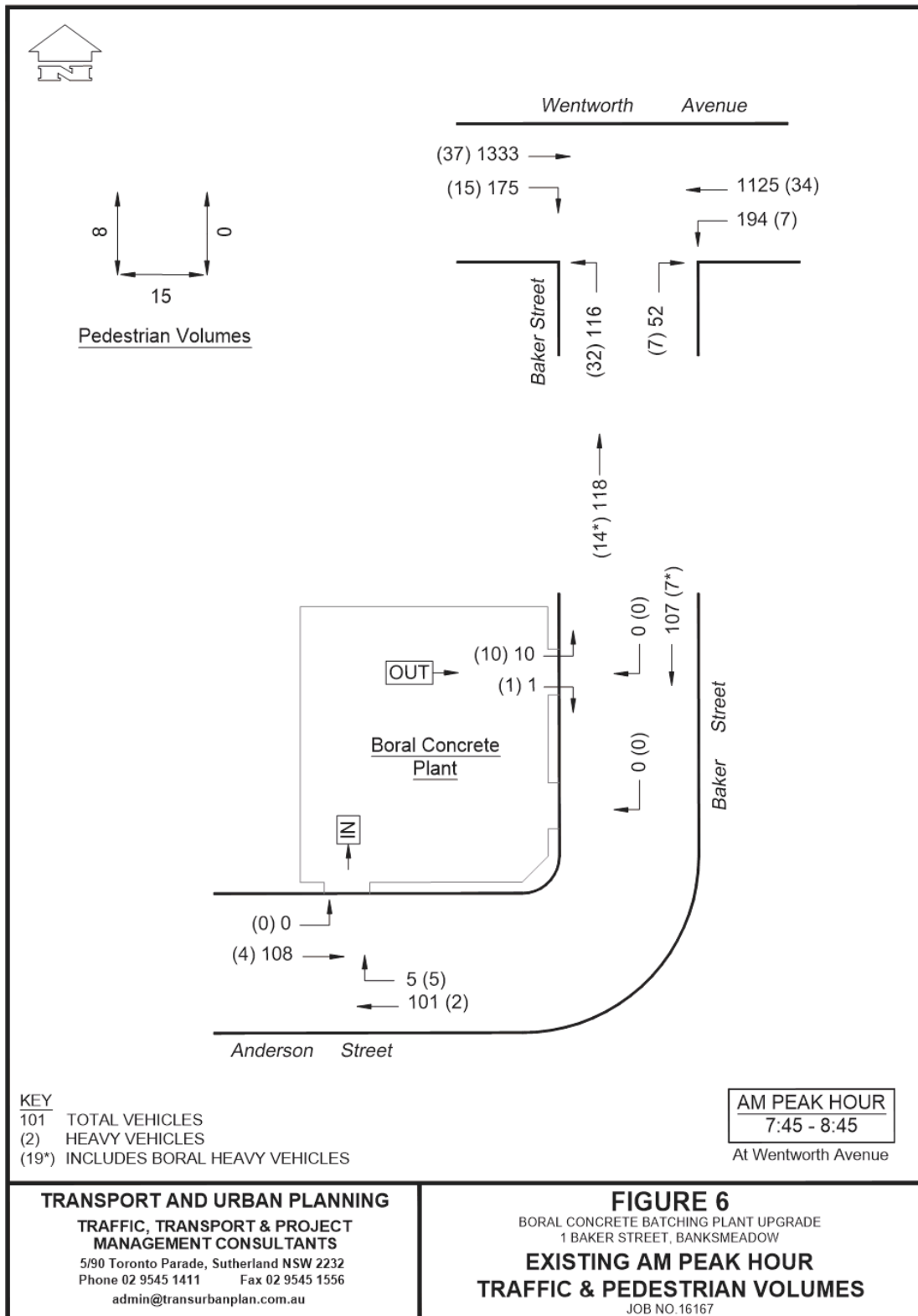
Figure 7 shows the intersection volumes for the above intersections during the 9.30am – 10.30am period.

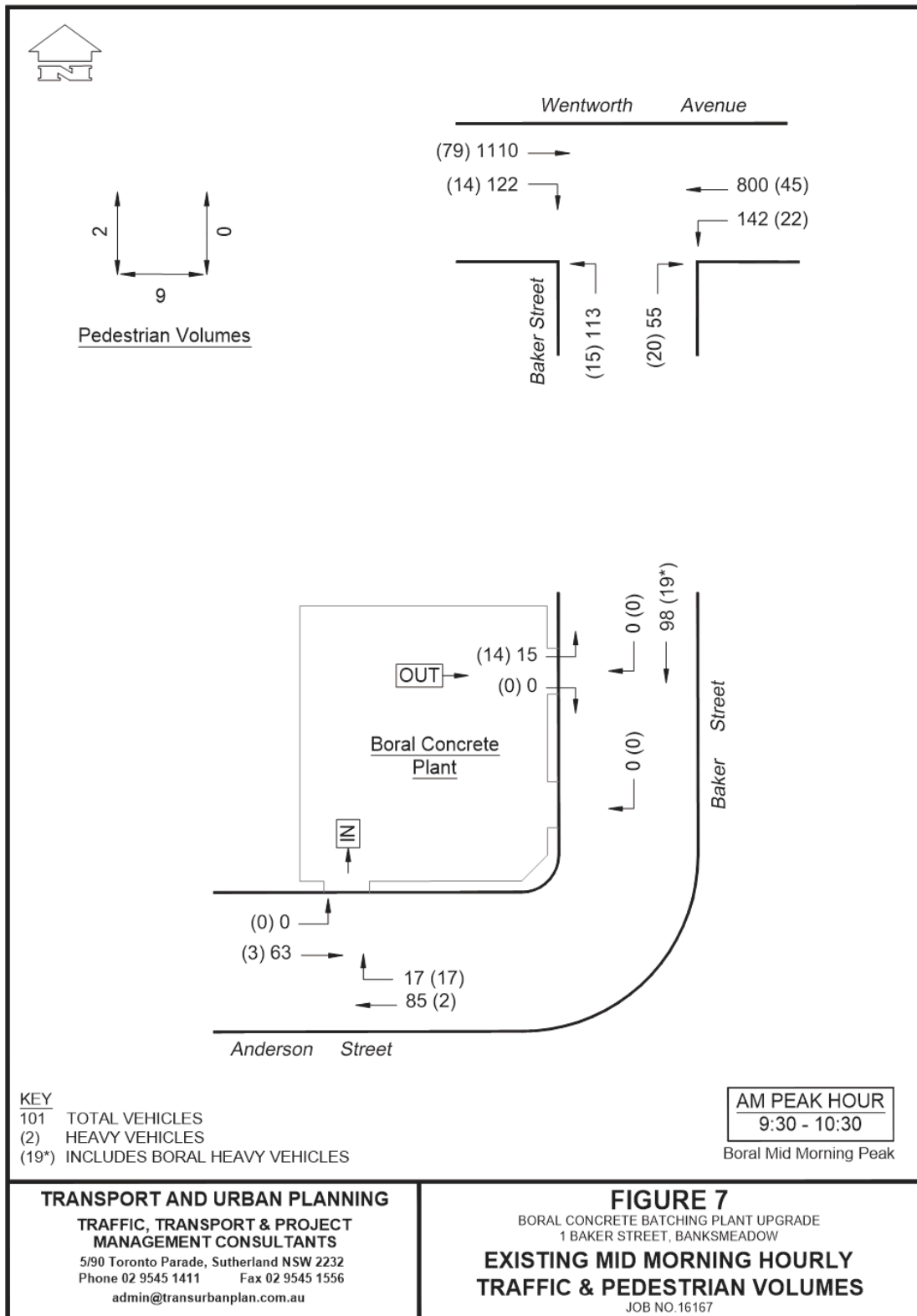
This one hour period coincided with the peak morning traffic generation of the concrete batching plant.

Reference to **Figure 7** shows that volumes at the Wentworth Avenue/Baker Street intersection are lower than during the AM peak hour particularly in Wentworth Avenue.

The traffic volumes are also marginally lower at the intersection of Baker Street/Anderson Street during the 9.30am – 10.30am period.

During the 9.30am – 10.30am period the concrete batching plant generated a total of 32 trips, with 17 inbound and 15 outbound trips. The majority of these trips (31 vehicle trips) were heavy vehicle trips and there was one (1) light vehicle trip.





Traffic conditions in Baker Street during the weekday AM peak hour and mid-morning periods are relatively good, reflecting the relatively low traffic volumes using Baker Street and Anderson Street.

Traffic conditions at the Wentworth Avenue/Baker Street intersection during the commuter AM peak hour of 7.45 – 8.45am reflect the relatively high eastbound and westbound through traffic volumes using Wentworth Avenue, which impacts the right turn movement out of Baker Street.

The right turn into Baker Street and the left turn out of Baker Street experience relatively short vehicle delays as these movements are only required to give way to the westbound through movement in Wentworth Avenue.

The right turn movement out of Baker Street relies on gaps in both the westbound and eastbound through traffic movements in Wentworth Avenue and therefore experiences higher vehicle delays.

3.4 Public Transport

Sydney Buses operate a number of bus services in the Banksmeadow area including:

- 301 bus route which operates between Eastgardens, Mascot, Surry Hills and the City;
- 310 bus route which operates between Eastgardens, Mascot, Redfern and the City;
- 400 bus route which operates between Burwood, Airport, Eastgardens, University of NSW and Bondi Junction; and
- 410 bus route which operates between Rockdale, Eastgardens, University of NSW and Bondi Junction.

The 310 bus service operates along Page Street and bus stops are located between Wentworth Avenue and Dally Avenue.

The 301, 400 and 410 bus services operate along Wentworth Avenue and bus stops for these services are located in Wentworth Avenue east of Baker Street. Details of the above bus routes are contained in Appendix 1.

3.5 Pedestrians

Pedestrian activity along Baker Street and Anderson Street adjacent the site is very light and is typically generated by on street parking and a small number of pedestrians who may walk to and from adjacent fronting developments from Wentworth Avenue.

Figures 6 and 7 show the pedestrian activity at the Wentworth Road/Baker Street intersection during the AM peak hour (7.45 – 8.45am) and the mid-morning peak hour (9.30 – 10.30am). Reference to Figure 5 shows that small numbers of pedestrians cross Baker Street (9 – 15 pedestrians per hour) and Wentworth Avenue (2 – 8 pedestrians per hour) during these times.

Existing safe pedestrian crossing facilities in Wentworth Avenue are available at the Wentworth Avenue/Page Street traffic signals.

The proposed traffic signals at the intersection of Wentworth Avenue/Baker Street will provide additional safe pedestrian crossing facilities across Baker Street and the western side of Wentworth Avenue.

3.6 Bicycle Network

Bicycle routes adjacent to the site include:

- An off road/on road route in Wentworth Avenue; and
- On road routes in Page Street/Heffron Road/Maroubra Road and in Page Street.

Details of bicycle routes in the area are contained in Appendix 1.

4.0 ASSESSMENT OF IMPACTS OF PROJECT

4.1 Traffic Generation

Existing Operation

The existing concrete batching plant generates:

- 87 one way heavy vehicle trips on an average day and up to 165 one way heavy vehicle trips on a peak day. Total two way heavy vehicle trips (i.e. in and out movements) are 174 on an average day and up to 330 heavy vehicle trips on a peak day; and
- 22 one way light vehicle trips per day associated with 19 employee trips and 3 visitor trips. Two way light vehicle trips are 44 trips per day. The employee trips are calculated on a driver rate of 71% which is consistent with the 2011 Journey to Work (JTW) data for the Botany/Banksmeadow area for work trips into this area.

Proposed Operation

Daily volumes generated by the Project are estimated as:

- 195 one way heavy vehicle trips (i.e. 380 two way heavy vehicle trips) on an average day and up to 367 one way heavy vehicle trips (i.e. 734 two way heavy vehicle trips) on a peak day; and
- 27 one way light vehicle trips (i.e. 54 two way light vehicle trips) per day on average. This is based on an average of 23 employee trips adopting a driver rate of 71% of total employees (i.e. 46 two way trips) and 4 one way visitor trips (i.e. 8 two way vehicle trips) per day. The employee vehicle trips are based on an average of 32 employees.

For those days where 24 hour operation will occur, the number of light vehicle trips will be higher given that a night shift will operate on these day and the limited public transportation options during the night period.

It should be noted that the peak day volumes for heavy vehicles is based on 24 hour operation and such peak days, if they do occur, would typically represent less than 5% of operational days per year.

Maximum Hourly Volumes

Table 4.1 shows the hourly volumes generated by the existing concrete batching plant, as well as those for the Project during the peak one (1) hour (i.e. maximum hour).

The maximum or peak one hour for heavy vehicles would occur between 9am and 12pm (noon) which is outside the times when employees trips associated with the concrete batching plant would occur.

Reference to Table 4.1 shows that with the proposed upgrade of the concrete batching plant, up to 49 one way heavy vehicle trips could occur in the maximum or peak hour (i.e. 98 two way heavy vehicle trips with return trip).

This will be an increase of 23 one way heavy vehicle trips (i.e. 46 two way heavy vehicle trips) per hour over the existing operation.

TABLE 4.1**MAXIMUM HOURLY HEAVY VEHICLE TRAFFIC GENERATION (LOAD OR ONE WAY TRIPS) FOR EXISTING AND PROPOSED OPERATION**

	Existing Operation Peak Hour	Proposed Operation Peak Hour	Increase
Aggregate trucks	6	12	+6
Cement tankers	2	3	+1
Agitators	17	33	+16
Trucks transporting concrete waste from the site	1	1	-
TOTAL	26	49	+23

Source: Boral

4.2 Traffic Impacts

The critical traffic impacts will occur during the maximum one hour of operation when up to 98 two way heavy vehicle trips will occur in one hour.

Figure 8 shows the heavy vehicles accessing the site from Wentworth Avenue together with the increase due to the Project in the maximum one hour. As previously noted the increase associated with the Project is an additional 23 heavy vehicles per hour entering and exiting the concrete batching plant (i.e. additional 23 inbound and 23 outbound heavy vehicles per hour).

The heavy vehicles have been assigned to the road network in accordance with the assignment for heavy vehicles detailed in Section 2.4 of this report.

The impact in Baker Street and Anderson Street at the driveways to the site will be relatively minor, given the low volumes using Baker Street and Anderson Street which are less than 110 vph in each direction in the morning peak hour (7.45am – 8.45am) and 100 vph in each direction in the mid-morning peak hour (9.30am – 10.30am).

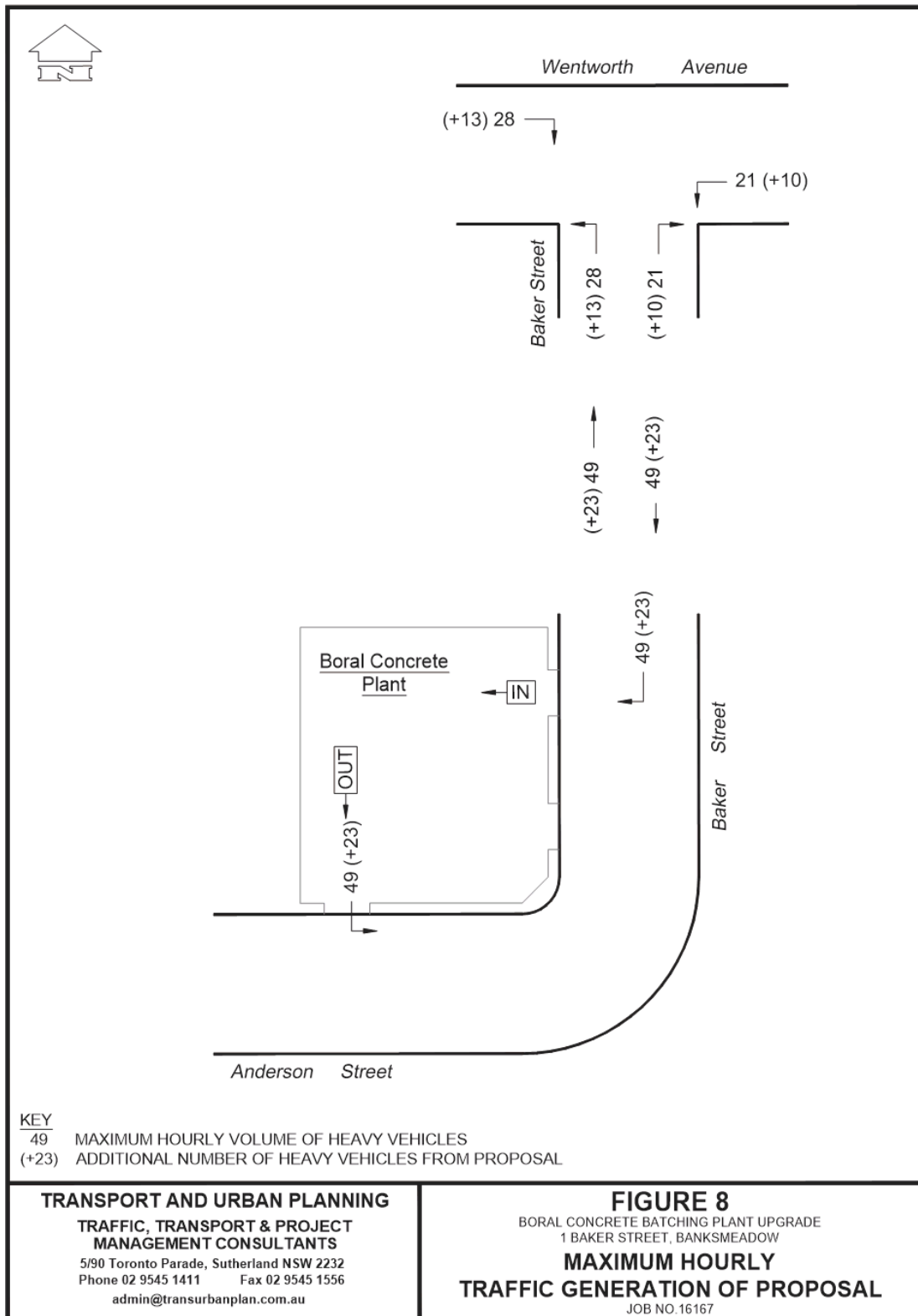
The largest impact will occur at the intersection of Wentworth Avenue and Baker Street, which as previously noted is expected to be signalised in the near future.

To assess the impacts of additional traffic associated with the Project at the intersection of Wentworth Avenue and Baker Street, traffic modelling using the software package SIDRA 7 has been undertaken.

While the maximum hour for the Project is likely to occur in the mid-morning period between 9am and 12.00pm, so that a worst case is examined, the modelling has been undertaken for the AM peak hour (7.45am – 8.45am) using the volumes shown on **Figure 7** as well as the additional heavy vehicles generated by the Project as shown on **Figure 8**.

The modelling assumes that the intersection will be operating under traffic signal control with no parking changes in Wentworth Avenue or in Baker Street at the intersection. A cycle length of 120 seconds has been adopted, as it is assumed that the Baker Street intersection will be co-ordinated with the traffic signals at the adjacent Page Street/Wentworth Avenue intersection.

SIDRA assesses the operational performance of intersections under traffic signal, roundabout or sign control. The best criteria for assessing intersections controlled by



TRANSPORT AND URBAN PLANNING

TRAFFIC, TRANSPORT & PROJECT MANAGEMENT CONSULTANTS

5/90 Toronto Parade, Sutherland NSW 2232
 Phone 02 9545 1411 Fax 02 9545 1556
 admin@transurbanplan.com.au

FIGURE 8

BORAL CONCRETE BATCHING PLANT UPGRADE
 1 BAKER STREET, BANKSMEDAW

MAXIMUM HOURLY TRAFFIC GENERATION OF PROPOSAL

JOB NO.16167

traffic signals are Level of Service (LS), Degree of Saturation (DS) and Average Vehicle Delay (AVD). Table 4.2 shows the Level of Service Criteria for intersections as reproduced from the RTA's Guide to Traffic Generating Developments. The desirable design criteria for intersections is a Level of Service D or better. (i.e. Level of Service A, B, C or D).

For intersections controlled by traffic signals, the Level of Service of the intersection is determined by the average vehicle delay for all vehicles using the intersection and not individual movement delays.

TABLE 4.2

LEVEL OF SERVICE CRITERIA FOR INTERSECTIONS

Level of Service	Average Delay per Vehicle (secs/veh)	Traffic Signals, Roundabout	Give Way & Stop Signs
A	<14	Good operation	Good operation
B	15 to 28	Good with acceptable delays and spare capacity	Acceptable delays and spare capacity
C	29 to 42	Satisfactory	Satisfactory, but accident study required
D	43 to 56	Operating near capacity	Near capacity and accident study required
E	57 to 70	At capacity; at signals, incidents will cause excessive delays. Roundabouts require other control mode	At capacity, requires other control mode
F	> 70	Intersection is oversaturated	Oversaturated, requires other control mode

Source: Table 4.2 Guide to Traffic Generating Developments October 2002. Roads and Traffic Authority

The modelling results for the existing conditions (base case) and those associated with the Project are shown in Table 4.3.

Reference to Table 4.3 shows that the intersection will operate at:

- A Level of Service B operation with Average Vehicle Delays of 19.8 seconds under existing conditions; and
- Level of Service B operation and Average Vehicle Delays of 23 seconds with the upgraded concrete batching plant operating at maximum capacity.

The 95th queue length for the right turn bay in Wentworth Avenue with the upgraded concrete batching plant operating at full capacity is 86 metres, which shows that the right turn can be contained in the proposed right turn bay which will be 110 metres long including taper.

It should be noted that the modelling for the Wentworth Avenue/Baker Street intersection has been undertaken as an isolated intersection and therefore the 95th queue lengths represent the worst case.

In addition, no additional parking restrictions have been assumed in Wentworth Avenue.

The Baker Street traffic signals will be co-ordinated with the adjacent Page Street/Wentworth Avenue traffic signals. SCATS co-ordination manages and reduces queue lengths on the major roads through platooning of traffic and co-ordinated green signals at adjacent intersections. Therefore, the actual queue lengths in Wentworth Avenue are likely to be considerably less than the calculated lengths shown in Table 4.3.

TABLE 4.3

**SIDRA RESULT FOR WENTWORTH AVENUE/BAKER STREET INTERSECTION
WITH TRAFFIC SIGNAL CONTROL UNDER EXISTING CONDITIONS AND WITH
BORAL PROJECT IN AM PEAK HOUR**

Movement	Existing				With the Project			
	DS	AVD	LS	95 th % Queue Length (m)	DS	AVD	LS	95 th % Queue Length (m)
South: Baker Street								
Left	0.219	36.0	C	44.4	0.265	35.4	C	58.0
Through	0.175	51.6	D	21.2	0.265	53.1	D	34.9
East: Wentworth Ave								
Left	0.192	19.4	B	40.1	0.269	21.0	B	52.3
Through	0.876	27.6	B	371.2	0.903	34.0	C	412.9
West: Wentworth Ave								
Through	0.441	6.6	A	101.6	0.441	6.6	A	101.6
Right	0.544	50.4	D	69.5	0.641	54.7	D	86.0
Intersection	0.876	19.8	B	371.2	0.903	23.0	B	412.9

Where: DS Degree of Saturation
 AVD Average Vehicle Delay in seconds
 LS Level of Service
 95thtile Queue Length 95thtile Back of Queue Length in metres
 Cycle Length 120 seconds

The impacts on the wider road network from the additional traffic generated by the upgraded concrete batching plant will be relatively minor.

The additional 23 heavy vehicles per hour arriving and departing the site (i.e. 46 two way trips) will be dispersed over a number of roads including state roads and will represent a very small proportion of total traffic volumes using these roads.

The additional heavy vehicles generated by the Project is not expected to result in a deterioration in road safety. The proposed traffic signals at the intersection of Baker Street/Wentworth Avenue will assist in maintaining road safety at this intersection for vehicles turning into and out of Baker Street.

Future Operation

Future traffic volumes using the Baker Street/Wentworth Avenue intersection will increase due to approved land use changes and developments in the Botany/Banksmeadow area. These developments were identified in the April 2015

SMEC report, but future traffic volume projections for the Baker Street/Wentworth Avenue intersection are not included in the SMEC report.

A large residential development has been approved for 32 Page Street, Pagewood on former industrial land. The Traffic Impact Assessment Report for the development identified a portion of the traffic generated by this development estimated as 47 vph in the AM peak hour may use the Baker Street/Wentworth Avenue intersection.

A concrete batching plant has also been approved for 2 Anderson Street Banksmeadow. Transport routes for this concrete batching plant will be to and from Wentworth Avenue via Baker Street and Anderson Street. The traffic assessment report identified the peak hour on a peak production day would generate 24 inbound heavy vehicles and 24 outbound heavy vehicles (i.e. agitator and delivery vehicles). These vehicles would use the Wentworth Avenue/Baker Street intersection.

A future scenario has been modelled for the intersection using SIDRA 7 incorporating the additional traffic from these developments, together with a 25% increase in through traffic using Wentworth Avenue to account for the other future developments in the Botany/Banksmeadow area. The modelling includes a base case (without the Project) as well as with the concrete batching plant operating at maximum capacity.

As part of the modelling, AM peak hour parking restrictions have been included for both directions of Wentworth Avenue, which will allow use of the kerbside lane in both directions by through traffic. The peak hour parking restrictions will be required to cater for the increase in the through traffic volumes using Wentworth Avenue in the future.

The results of this modelling are shown in Table 4.4 and reveal that the intersection will continue to operate at a Level of Service B operation with Average Vehicle Delay of 19.2 seconds with the additional traffic from the other future developments, as well as with the concrete batching plant operating at maximum capacity.

Queue lengths for all movements at the intersection including the right turn into Baker Street are satisfactory. The through movement traffic queue lengths in Wentworth Avenue in both directions are much lower than calculated for the 2017 scenario, due to the peak parking restrictions, which provide additional capacity in Wentworth Avenue and at the intersection.

Therefore, it is concluded that the Baker Street/Wentworth Avenue intersection will have sufficient capacity to accommodate the additional traffic from the Project, as well as other future developments in the area.

Based on the above, Transport and Urban Planning Pty Ltd concludes that the impacts of the Project do not require any further upgrades to the road network in the area.

TABLE 4.4

SIDRA RESULT FOR WENTWORTH AVENUE/BAKER STREET INTERSECTION WITH TRAFFIC SIGNAL CONTROL FOR FUTURE 2024 CONDITIONS AND WITH THE PROJECT IN AM PEAK HOUR ¹

Movement	2024 Base				2024 Base and Project			
	DS	AVD	LS	95 th % Queue Length (m)	DS	AVD	LS	95 th % Queue Length (m)
South: Baker Street								
Left	0.241	30.1	C	54.2	0.278	29.4	C	66.3
Right	0.300	53.1	D	38.5	0.390	54.4	D	52.9
East: Wentworth Ave								
Left	0.596	30.1	B	164.9	0.627	32.0	C	176.7
Through	0.596	24.0	B	166.3	0.627	25.8	B	175.7
West: Wentworth Ave								
Through	0.400	6.7	A	88.3	0.400	6.7	A	88.3
Right	0.379	29.9	B	63.1	0.446	33.7	C	83.1
Intersection	0.596	17.9	B	166.3	0.627	19.2	B	176.7

Where: DS Degree of Saturation
 AVD Average Vehicle Delay in seconds
 LS Level of Service
 95th% Queue Length 95th% Back of Queue Length in metres
 Cycle Length 120 seconds
¹ Assumes peak hour parking restrictions in Wentworth Avenue

4.3 Vehicle Access and On Site Circulation

The site currently has three driveways and will retain three driveways with some changes as part of the Project. The operation of the driveways will be as follows:

- The northern driveway in Baker Street will be reconstructed as an entry driveway for heavy vehicles and also used by some employees as an entry driveway;
- The existing entry driveway in Anderson Street will be retained but become an exit driveway for heavy vehicles; and
- The southern driveway in Baker Street will be relocated north by 18 metres and used as an entry/exit driveway for employee and visitor parking (ie. light vehicles).

Sight distance at the driveways has been assessed on site and is considered to be satisfactory and meets the Austroads stopping sight distance requirements for the estimated vehicle operating speed in Baker Street and in Anderson Street, adjacent the site.

The location of the driveways are in accordance with AS2890.1 and AS2890.2 requirements.

On site manoeuvring for the trucks has been analysed using the AUTOTURN software. **Figures 9A** and **9B** show an aggregate truck (19.0 metre long truck and dog trailer combination) entering, manoeuvring within the site and then exiting the site. Reference to **Figures 9A** and **9B** show that this manoeuvring is fully in accordance with AS2890.2 requirements and the truck can enter and exit the site in a forward direction.

Boral currently use 14.7 metre long cement tankers, but may use 19.0 metre B Double cement tankers, in the future. **Figure 9C** shows the manoeuvring for a 19.0 metre long B Double cement tanker within the site. Reference to **Figure 9C** shows that B Doubles can enter in a forward direction, manoeuvre within the site and then exit in a forward direction in accordance with AS2890.2 requirements.

Figures 9D, 9E, 9F and **9G** shows the manoeuvring for a 8.8 metre long and 7.0 metre long agitator vehicle on the site. Reference to **Figures 9D, 9E, 9F** and **9G** show that this manoeuvring is satisfactory and in accordance with AS2890.2 requirements.

4.4 Car Parking Assessment

4.4.1 Car Parking Layout

A total of 24 car parking spaces will be provided as part of the proposed upgrade for use by employees and visitors.

The 90° car spaces and the parallel car spaces can and will be designed to AS2890.1 requirements. The 90° car spaces will be a minimum of 2.5 metres wide and 5.4 metres long with a clear aisleway width in excess of 6.0 metres.

Parallel parking spaces will be 2.1 metres wide x 5.9 metres long with additional length for end spaces in accordance with AS2890.1.

4.4.2 Car Parking Provision

Bayside Council relies on the Botany Bay DCP for parking provision for industrial developments. The Botany Bay DCP does not have a parking rate for concrete batching plants, nor does the RMS Guide to Traffic Generating Developments.

The site currently has 5 formal car parking spaces and Boral is proposing to provide 24 car parking spaces on site for use by employees and visitors.

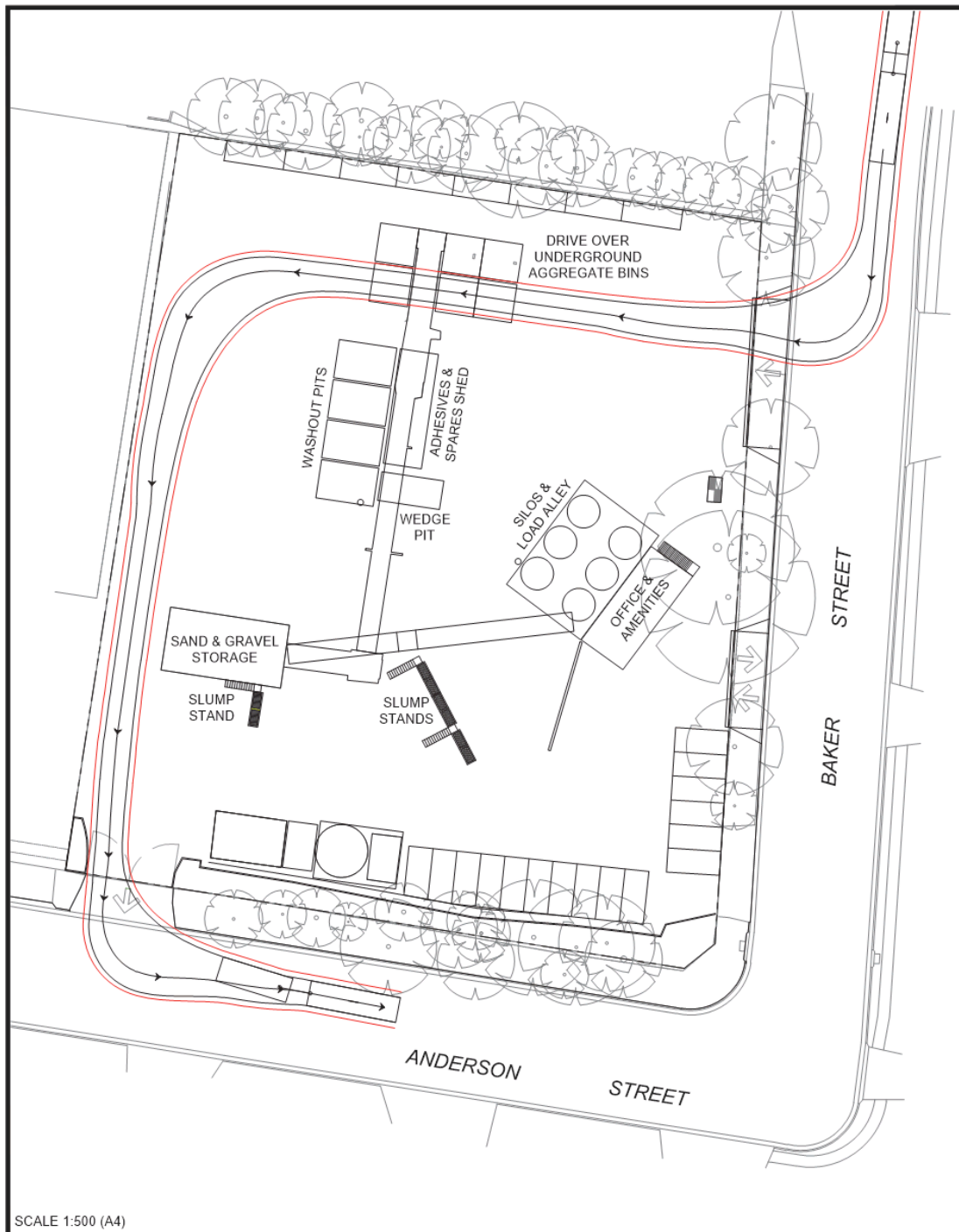
The requirement for visitors is minimal as visitors typically number 3 or 4 persons per day. One (1) visitor space would therefore be sufficient.

The parking provision for employees has been calculated using the 2011 Journey to Work Information for Car Driver Trips into the Botany/Banksmeadow area, which is 71% of total journey to work trips.

The maximum number of employees on site at the same time, with the Project will be 32. No additional parking is required to cater for the night shift (i.e. 24 hour operation) as the night shift will not overlap with the day shift and as such day shift personnel will have left the site making parking spaces available.

Adopting the JTW Data for employee parking for the existing 32 employees, a total of 23 employee spaces is required.

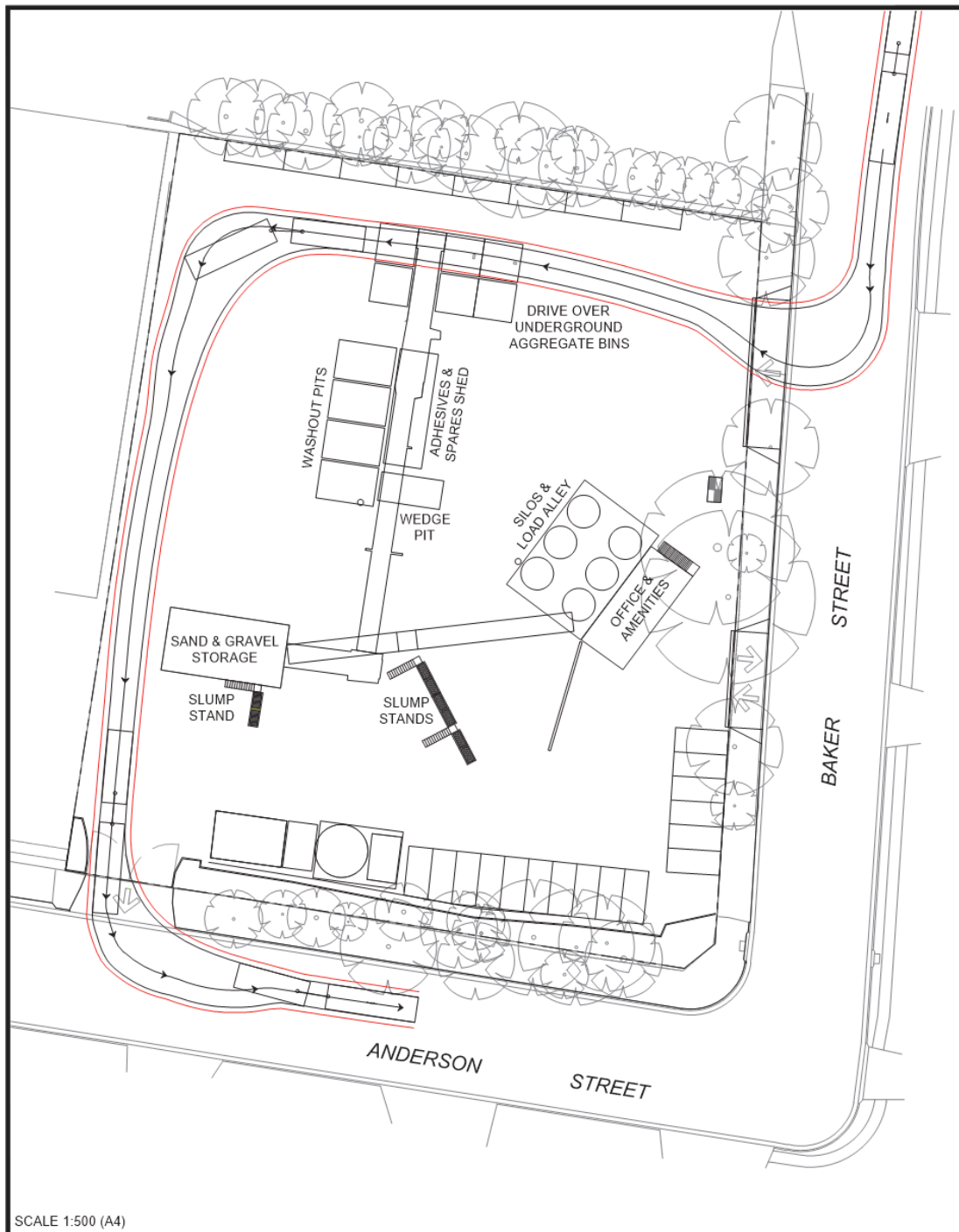
As such, for the purposes of the Project, a total of 24 spaces would be required with 23 spaces for employees and one (1) space for visitors.



SCALE 1:500 (A4)

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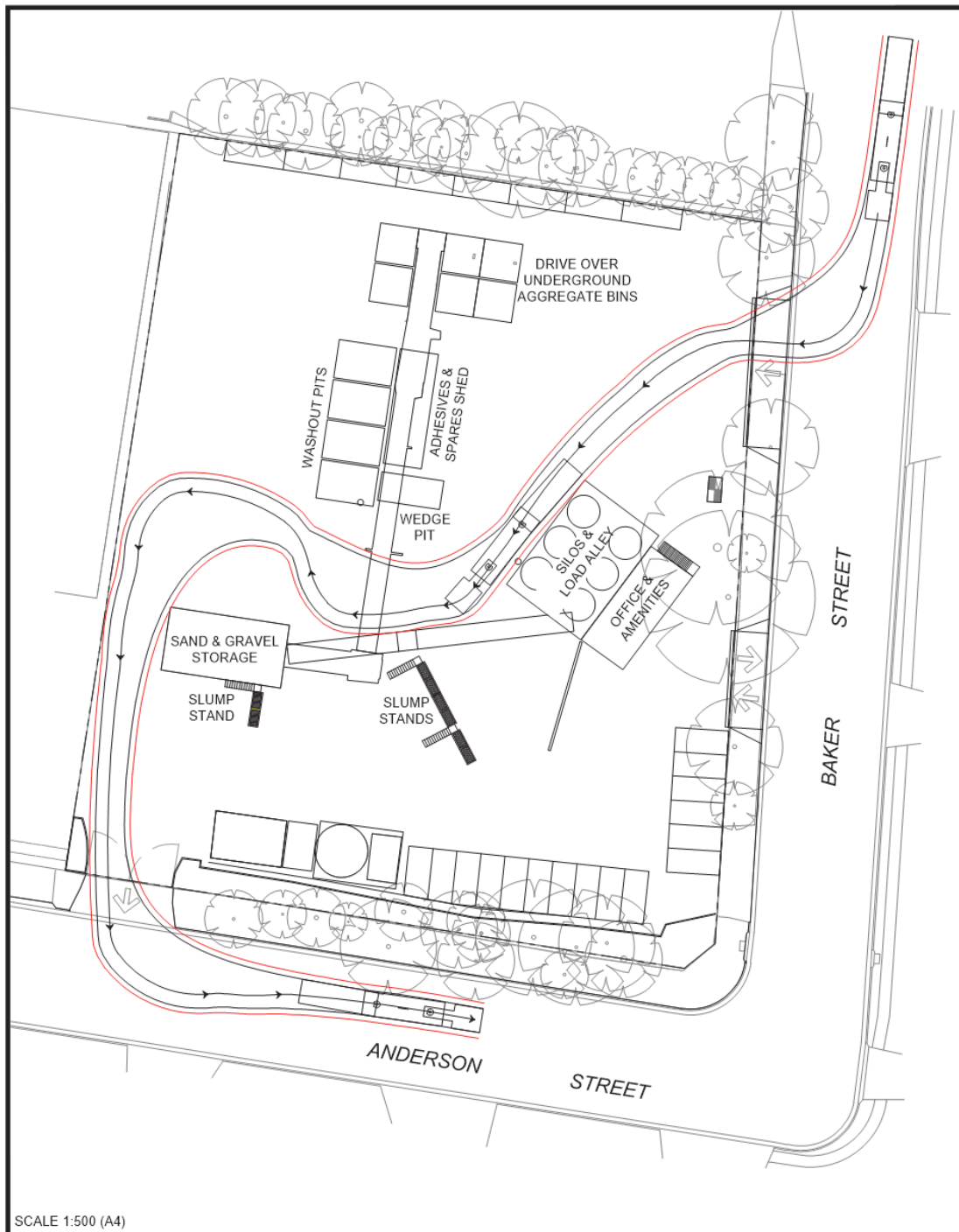
FIGURE 9A
BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW
TURNPATH - 19m AGGREGATE TRUCK
SERVICING AGGREGATE BINS
JOB NO.16167



SCALE 1:500 (A4)

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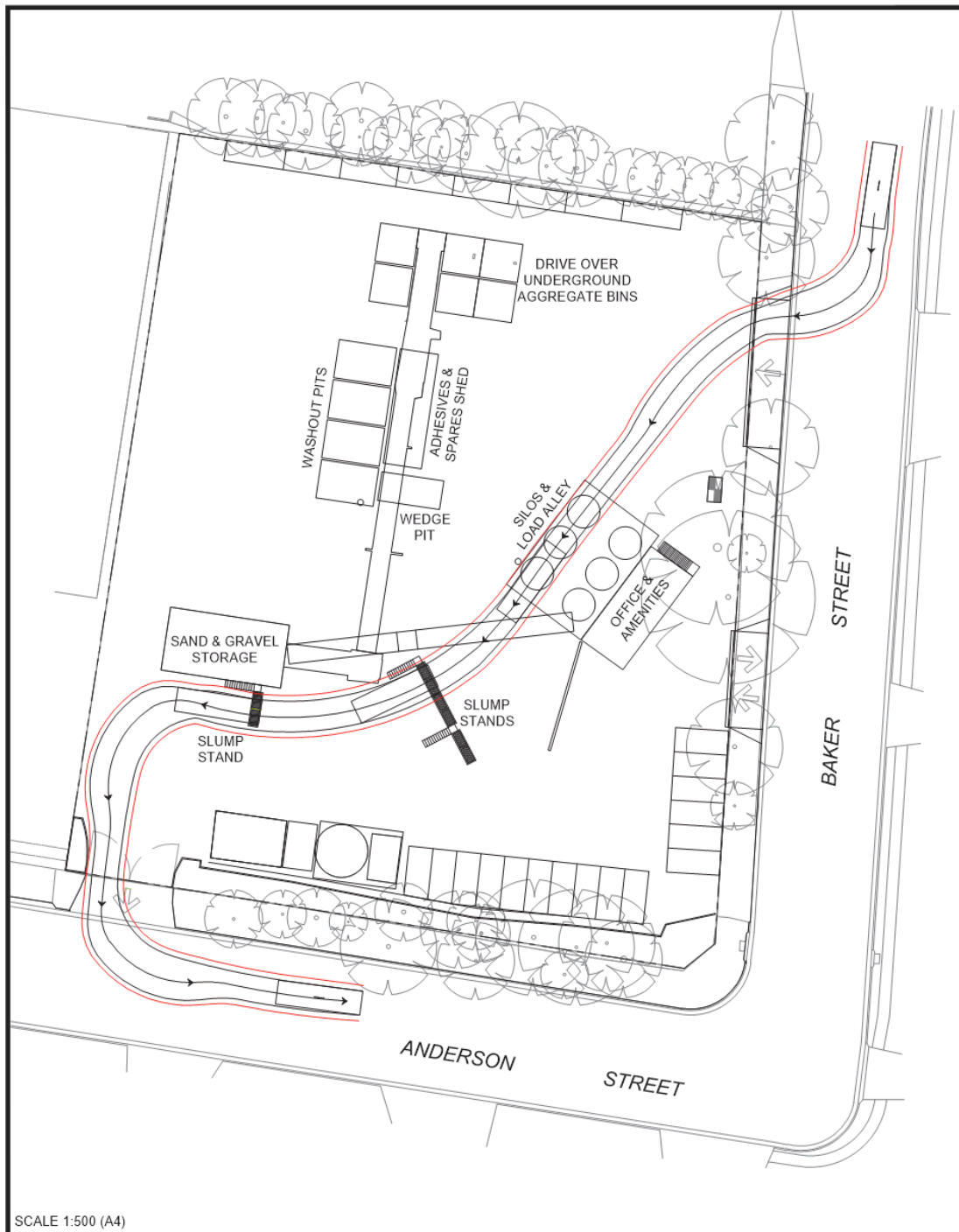
FIGURE 9B
BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW
TURNPATH - 19m AGGREGATE TRUCK
SERVICING AGGREGATE BINS
JOB NO.16167



SCALE 1:500 (A4)

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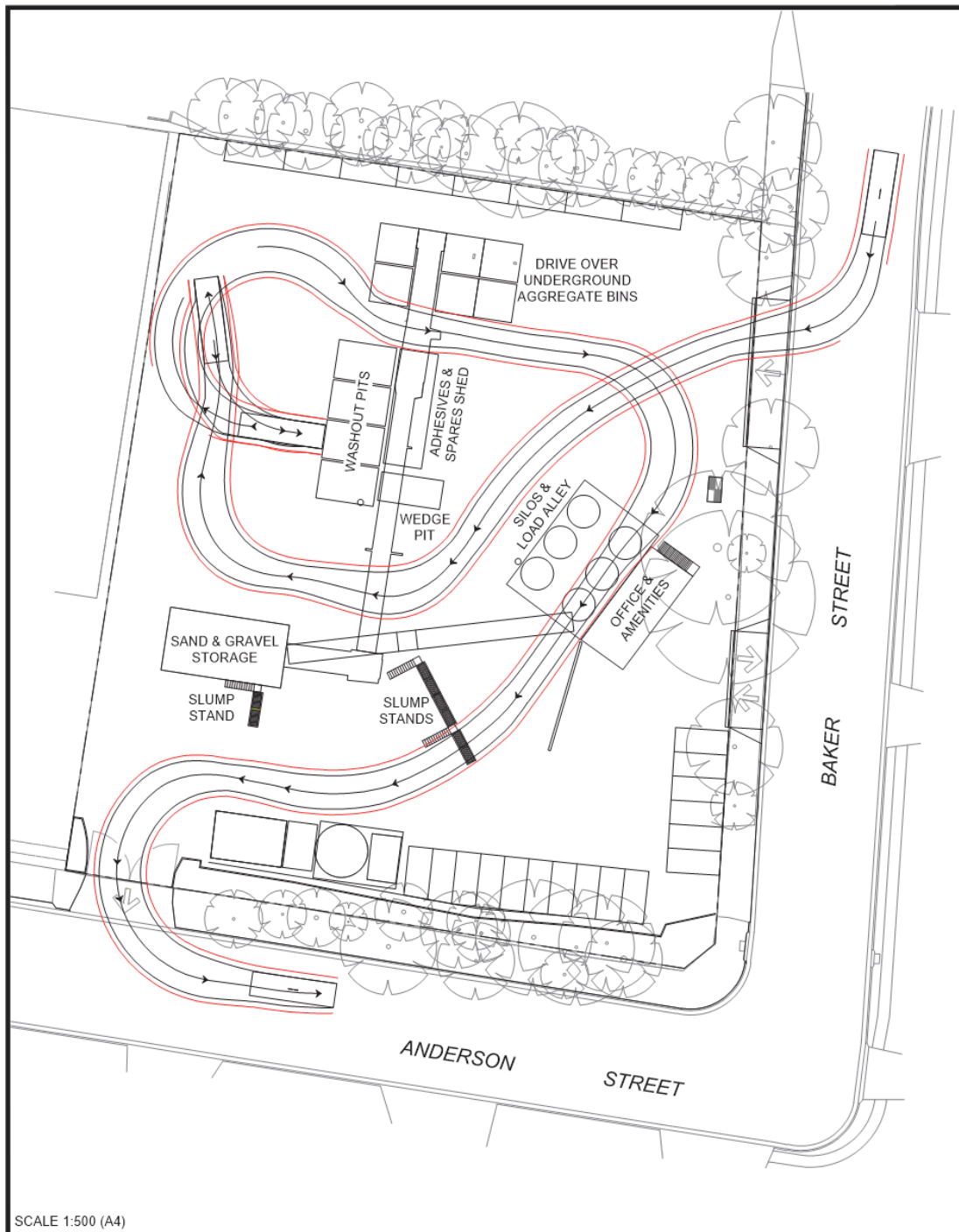
FIGURE 9C
BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW
TURNPATH-19m B-DOUBLE CEMENT TANKER
DELIVERING CEMENT
JOB NO.16167



SCALE 1:500 (A4)

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FIGURE 9D
BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW
TURNPATH - 8.8m AGITATOR
USING LOAD BAY & SLUMP STAND
JOB NO.16167



SCALE 1:500 (A4)

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**TRAFFIC, TRANSPORT & PROJECT
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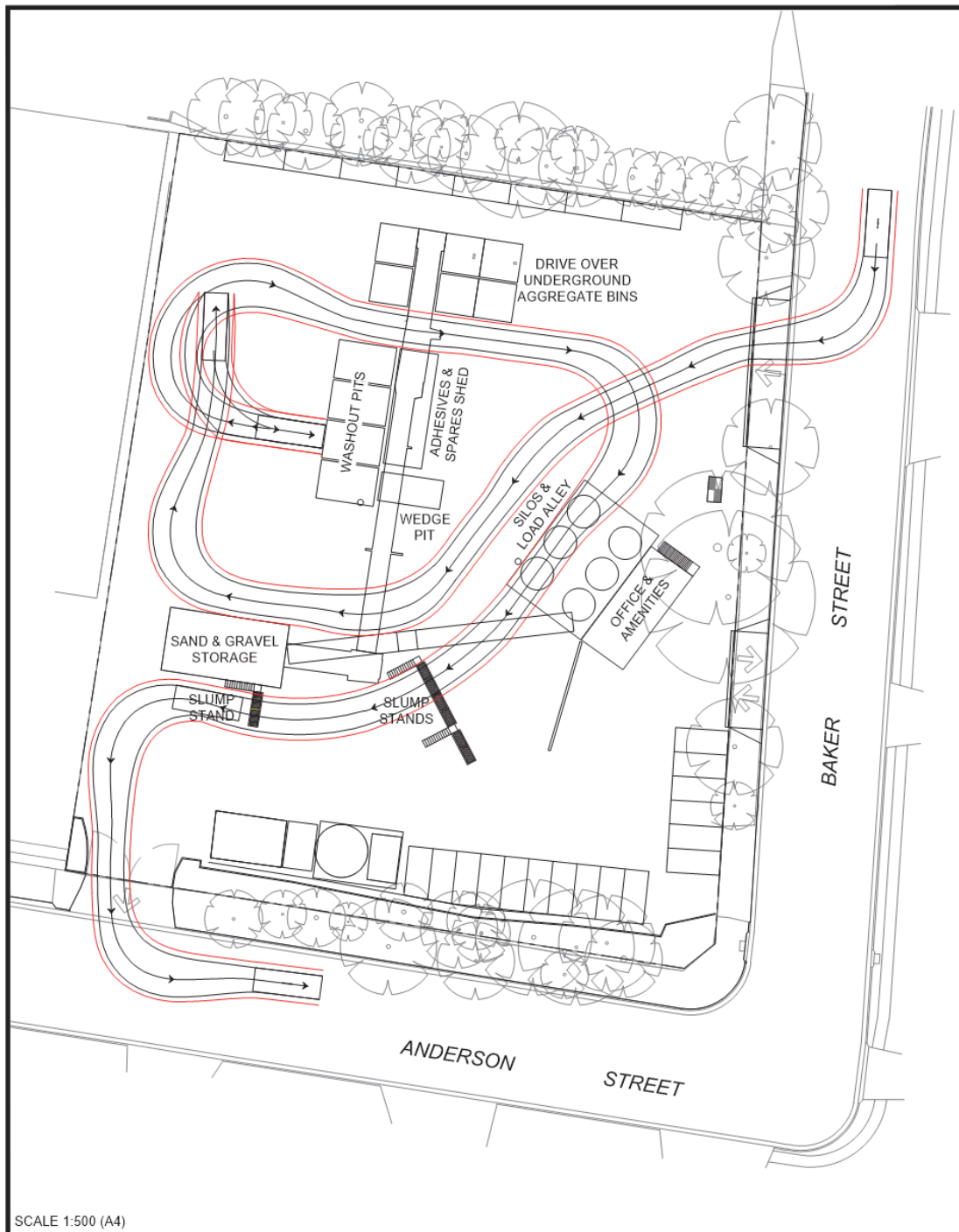
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FIGURE 9E

BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW

**TURNPATH - 8.8m AGITATOR
USING WASHOUT PITS, LOAD BAY & SLUMP STAND**

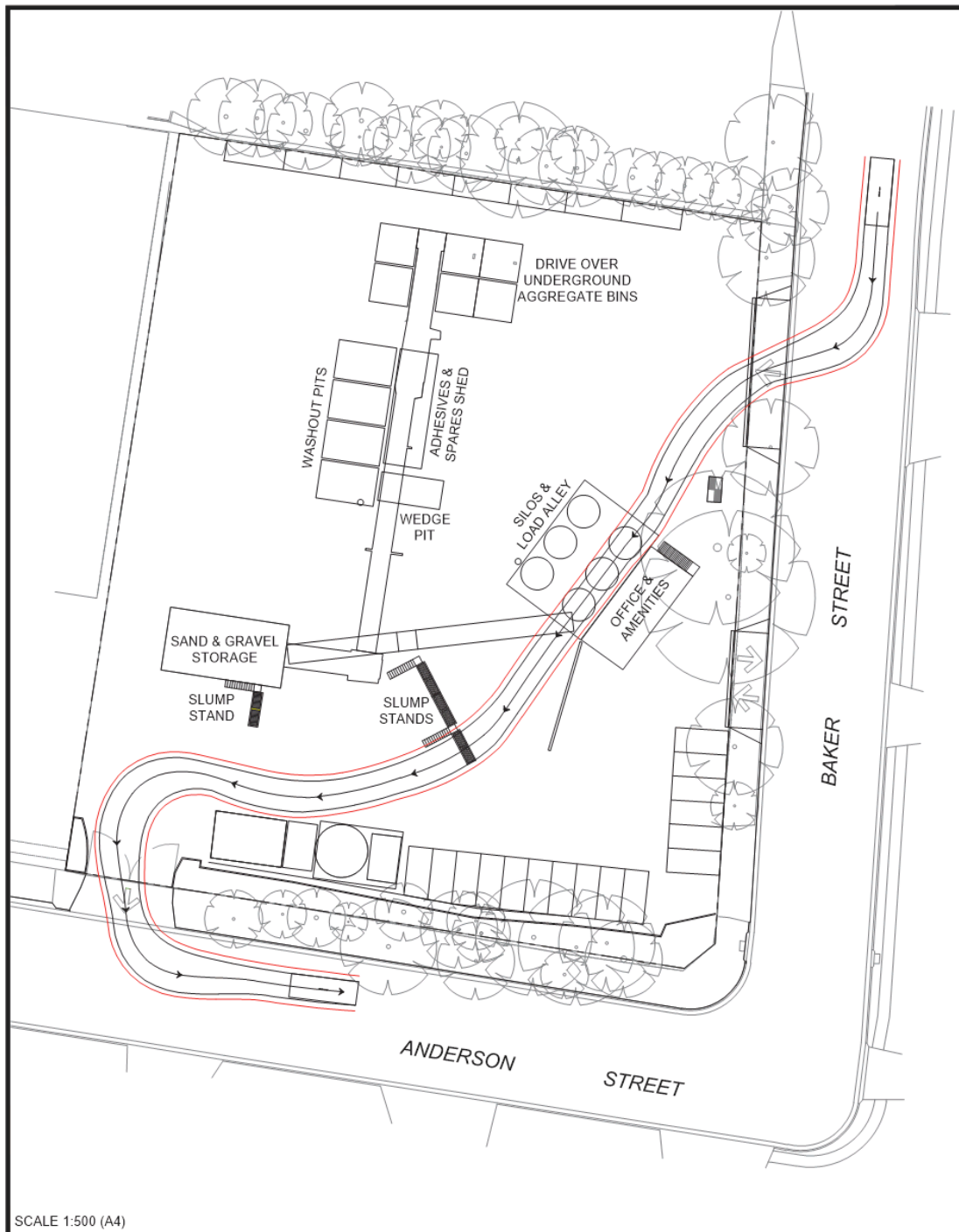
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SCALE 1:500 (A4)

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FIGURE 9F
BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW
TURNPATH - 7m AGITATOR
USING WASHOUT PIT, LOAD BAYS & SLUMP STAND
JOB NO.16167



SCALE 1:500 (A4)

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FIGURE 9G
BORAL CONCRETE BATCHING PLANT UPGRADE
1 BAKER STREET, BANKSMEADOW
TURNPATH - 7m AGITATOR
USING LOAD BAY & SLUMP STAND
JOB NO.16167

Based on the above analysis, it is considered that 24 car parking spaces is adequate for employees and visitor parking.

4.5 Construction Impacts

The work involved in the construction of the Project is expected to take approximately 4-6 months and the concrete batching plant will be closed during construction.

In terms of traffic generation, both the light vehicle trips associated with the construction work force and also the number of heavy vehicles delivering material and components to the site will be significantly less, than the traffic generation of the concrete batching plant in the existing operational phase.

Delivery vehicles will include a range of rigid trucks and 19.0 metre articulated vehicles and these vehicles will use the existing driveways to the site. Any oversize or over height vehicles will have the appropriate permits.

The main construction routes to and from the site will include Baker Street, Wentworth Avenue and the state road network.

5.0 CONCLUSIONS

This report documents the assessment of the traffic and transport impacts of a proposal by Boral to upgrade their existing concrete batching plant at 1 Baker Street, Banksmeadow.

As part of the upgrade works, minor changes will be made to the driveways and on site car parking for 24 cars, will be provided.

Boral are also seeking to operate 24 hours per day for seven days if required by the market demand for concrete.

Vehicle access to and from the site is from Baker Street and Anderson Street. All vehicles will arrive and depart via the intersection of Baker Street/Wentworth Avenue.

Bayside Council are proposing to provide traffic signals at this intersection in the near future and the assessment is based on traffic signals at this intersection.

The upgraded concrete batching plant, when operating at full capacity, has the potential to generate up to 49 heavy vehicle loads per hour (i.e. 98 two way heavy vehicle movements with return truck movement). This will be an increase of 23 heavy vehicle loads (i.e. 46 two way truck movements) from the existing operation.

The assessment of the impacts of these additional heavy vehicles using the Wentworth Avenue/Baker Street intersection has concluded that the impacts will be satisfactory and the intersection will operate at a satisfactory level of service for the foreseeable future.

The impacts on the wider road network of the increased traffic from the Project were also found to be satisfactory with relatively minor impacts.

An assessment of the proposed on site internal vehicle movements has been undertaken using the AUTOTURN program and has found that internal truck manoeuvring is satisfactory and in accordance with AS2890.2 requirements.

Bayside Council does not have a car parking rate for concrete batching plants, nor does the RMS Guide to Traffic Generating Developments.

An assessment of the car parking requirements of the Project, based on employee numbers using the 2011 JTW trip data for the Botany/Banksmeadow area, indicates that the provision of 24 car parking spaces as proposed by Boral will be adequate for employee and visitor parking for the facility.

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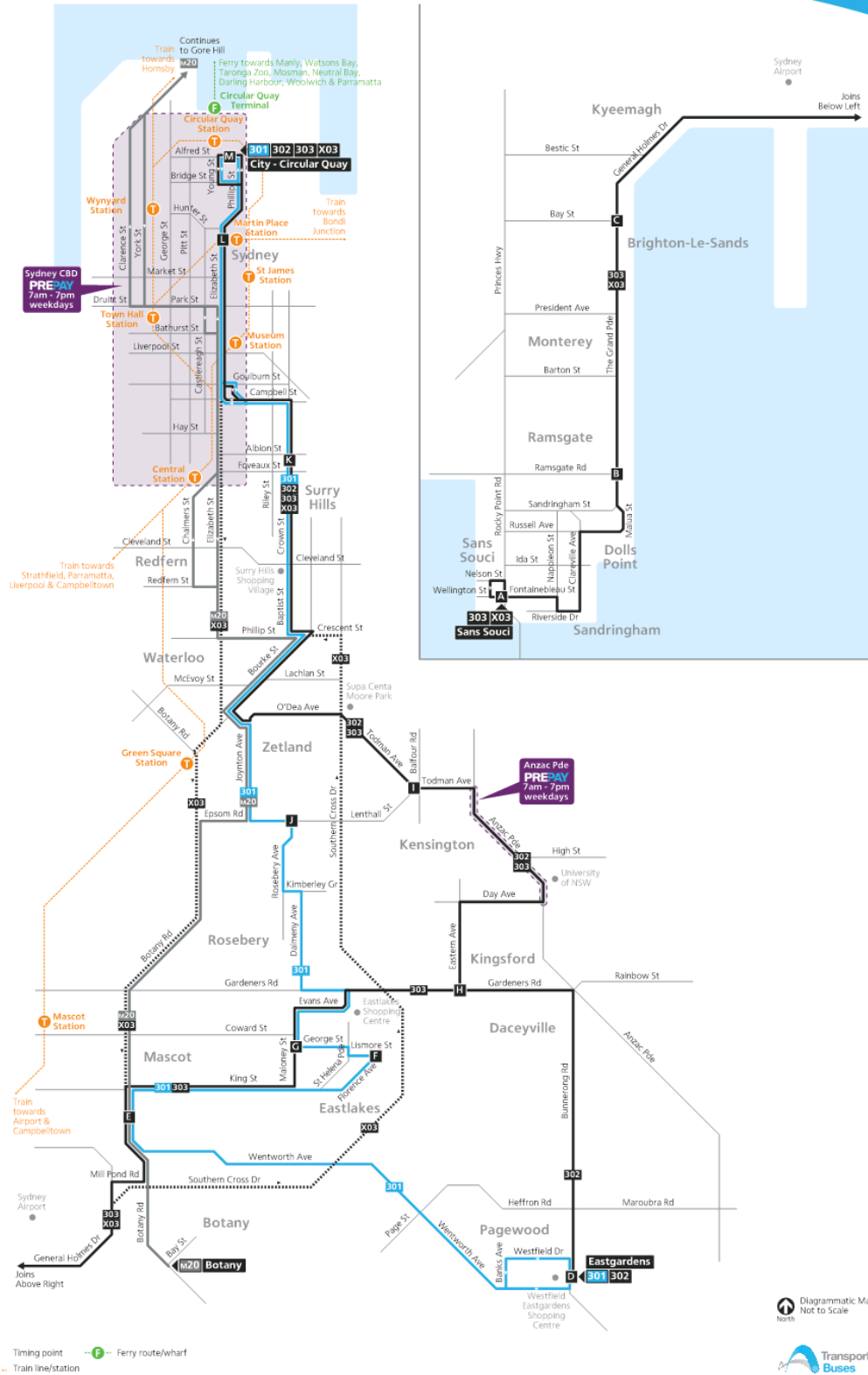
APPENDIX 1


Public Transport Details

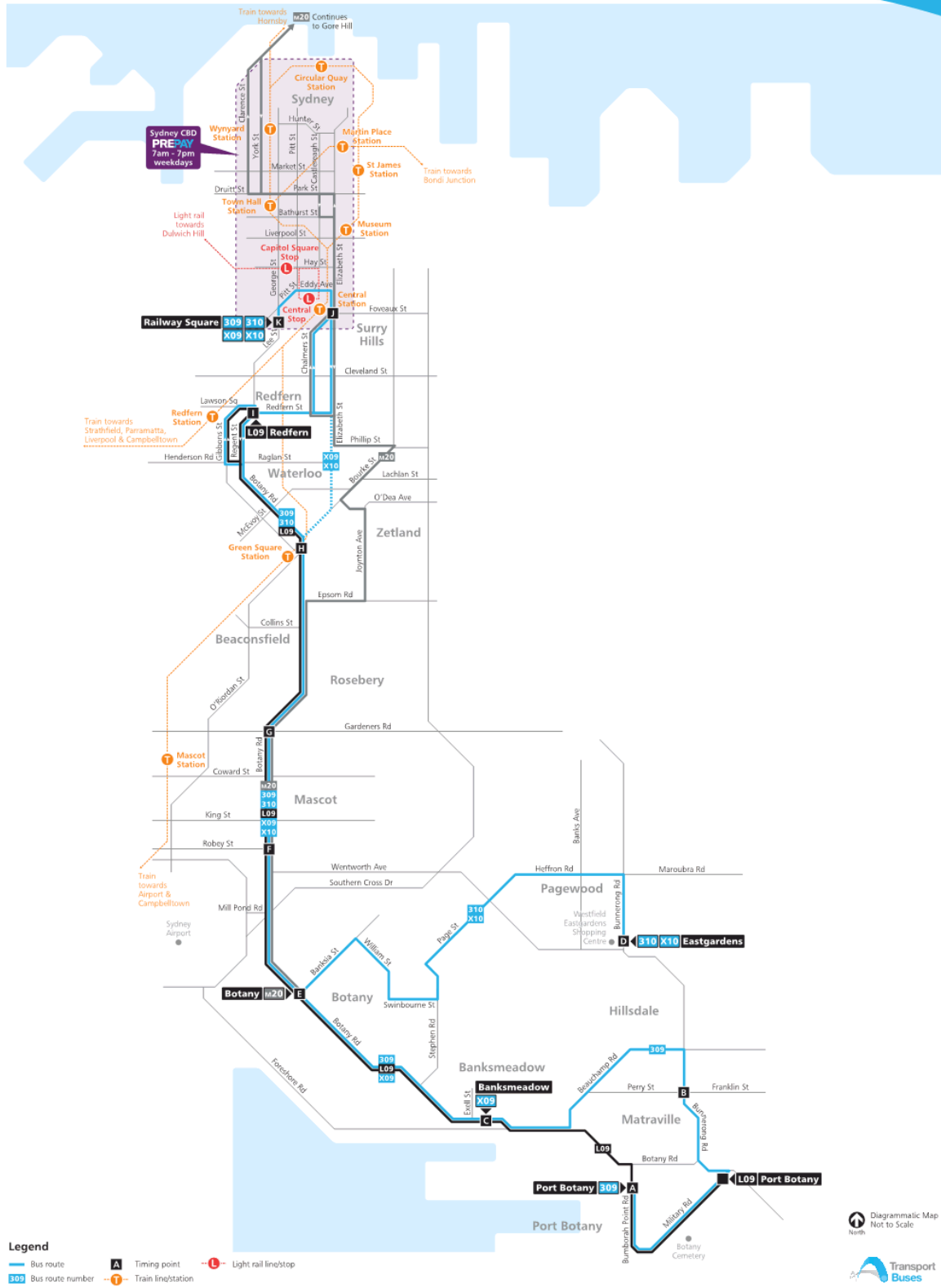
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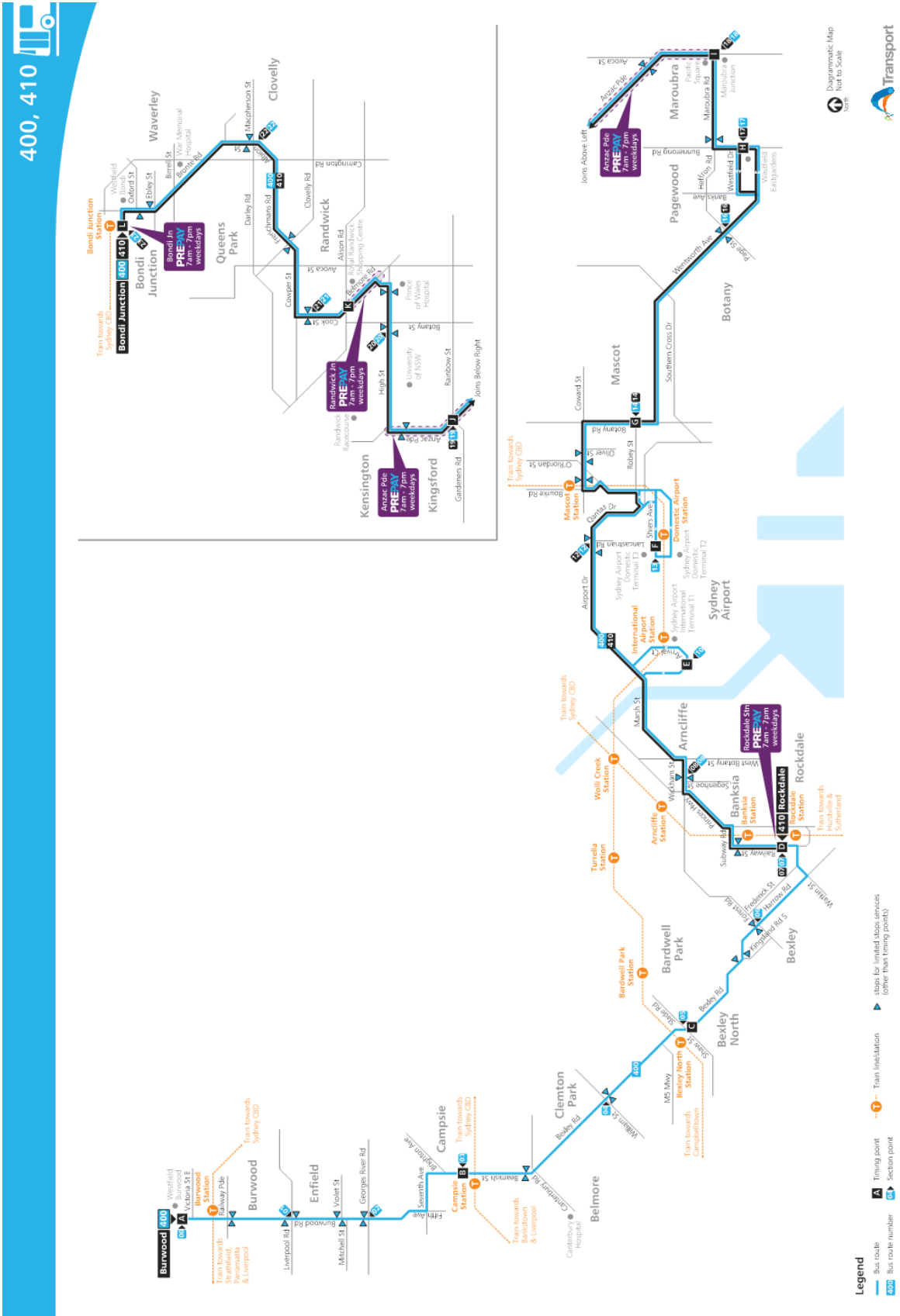
Boral Botany Concrete Batching Plant Upgrade
Baker and Anderson Street, Banksmeadow

Bus route map 301, 302, 303, X03 



Bus route map 309, L09, X09, 310, X10 





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APPENDIX 2

SIDRA Modelling Extracts

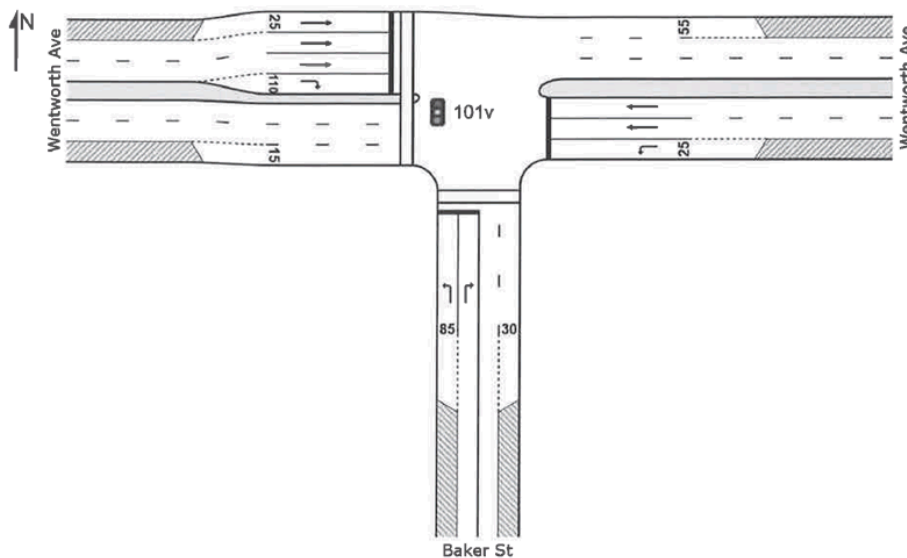
Ref: 16167r1

Boral Botany Concrete Batching Plant Upgrade
Baker and Anderson Street, Banksmeadow

SITE LAYOUT

Site: 101v [Wentworth Ave & Baker St- Ex AM Traffic Signals]

Ex AM
Signals - Fixed Time Isolated



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MOVEMENT SUMMARY

Site: 101v [Wentworth Ave & Baker St- Ex AM Traffic Signals]

Ex AM
 Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

Movement Performance - Vehicles											
Mov ID	OD Mov	Demand Total veh/h	Flows HV %	Deg Satn v/c	Average Delay sec	Level of Service	95% Back of Queue Vehicles veh	Distance m	Prop. Queued	Effective Stop Rate per veh	Average Speed km/h
South: Baker St											
1	L2	116	27.6	0.219	36.0	LOS C	4.8	44.4	0.75	0.76	36.6
3	R2	52	13.5	0.175	51.6	LOS D	2.6	21.2	0.89	0.74	32.0
Approach		168	23.2	0.219	40.9	LOS C	4.8	44.4	0.79	0.75	35.0
East: Wentworth Ave											
4	L2	194	3.6	0.192	19.4	LOS B	5.5	40.1	0.53	0.72	44.5
5	T1	1125	3.0	0.876	27.6	LOS B	51.7	371.2	0.87	0.84	45.8
Approach		1319	3.1	0.876	26.4	LOS B	51.7	371.2	0.82	0.82	45.6
West: Wentworth Ave											
11	T1	1333	2.8	0.441	6.6	LOS A	14.2	101.6	0.41	0.36	62.2
12	R2	175	8.6	0.544	50.4	LOS D	9.3	69.5	0.96	0.89	34.1
Approach		1508	3.4	0.544	11.6	LOS A	14.2	101.6	0.47	0.43	56.8
All Vehicles		2995	4.4	0.876	19.8	LOS B	51.7	371.2	0.64	0.62	49.7

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).
 Vehicle movement LOS values are based on average delay per movement.
 Intersection and Approach LOS values are based on average delay for all vehicle movements.
 SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.
 Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).
 HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

Movement Performance - Pedestrians									
Mov ID	Description	Demand Flow ped/h	Average Delay sec	Level of Service	Average Back of Queue Pedestrian ped	Distance m	Prop. Queued	Effective Stop Rate per ped	
P1	South Full Crossing	50	17.6	LOS B	0.1	0.1	0.54	0.54	
P4	West Full Crossing	50	51.4	LOS E	0.2	0.2	0.93	0.93	
All Pedestrians		100	34.5	LOS D			0.73	0.73	

Level of Service (LOS) Method: SIDRA Pedestrian LOS Method (Based on Average Delay)
 Pedestrian movement LOS values are based on average delay per pedestrian movement.
 Intersection LOS value for Pedestrians is based on average delay for all pedestrian movements.

PHASING SUMMARY

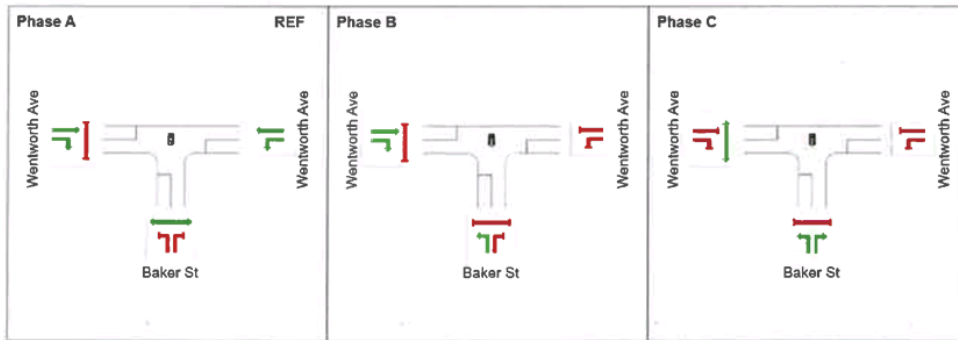
Site: 101v [Wentworth Ave & Baker St- Ex AM Traffic Signals]

Ex AM
 Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

Phase Times determined by the program
 Phase Sequence: 3 phase trailing right turn
 Reference Phase: Phase A
 Input Phase Sequence: A, B, C
 Output Phase Sequence: A, B, C

Phase Timing Results			
Phase	A	B	C
Phase Change Time (sec)	0	73	93
Green Time (sec)	67	14	21
Phase Time (sec)	73	20	27
Phase Split	61%	17%	23%

See the Phase Information section in the Detailed Output report for more detailed information including input values of Yellow Time and All-Red Time, and information on any adjustments to Intergreen Time, Phase Time and Green Time values in cases of Pedestrian Actuation, Phase Actuation and Phase Frequency values (user-specified or implied) less than 100%.



REF: Reference Phase
 VAR: Variable Phase

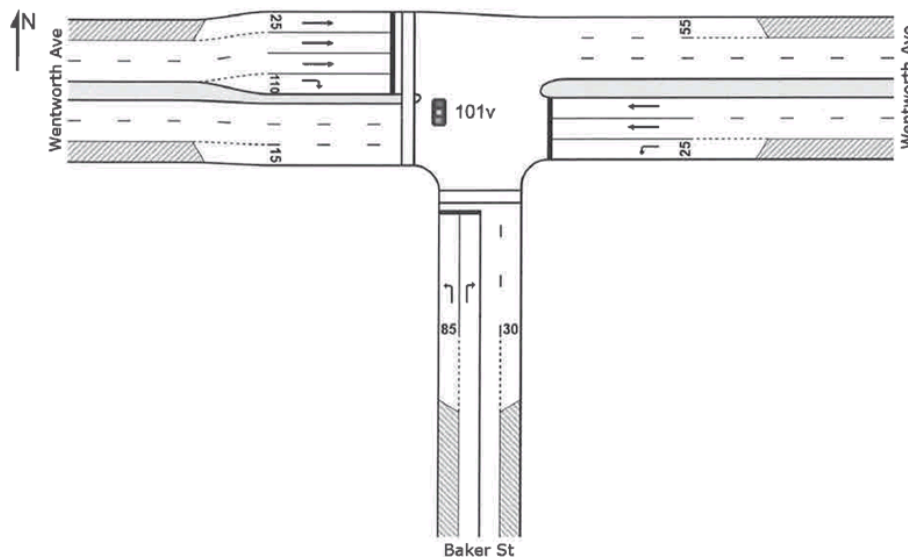


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SITE LAYOUT

Site: 101v [Wentworth Ave & Baker St- AM Traffic Signals & Proposal]

AM with Proposal
Signals - Fixed Time Isolated



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MOVEMENT SUMMARY

Site: 101v [Wentworth Ave & Baker St- AM Traffic Signals & Proposal]

AM with Proposal
 Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

Movement Performance - Vehicles											
Mov ID	OD Mov	Demand Total veh/h	Flows HV %	Deg Satn v/c	Average Delay sec	Level of Service	95% Back of Queue Vehicles veh	Queue Distance m	Prop Queued	Effective Stop Rate per veh	Average Speed km/h
South: Baker St											
1	L2	138	39.1	0.265	35.4	LOS C	5.7	58.0	0.75	0.76	36.7
3	R2	69	34.8	0.265	53.1	LOS D	3.6	34.9	0.91	0.76	31.3
Approach		207	37.7	0.265	41.3	LOS C	5.7	58.0	0.80	0.76	34.7
East: Wentworth Ave											
4	L2	215	13.0	0.269	21.0	LOS B	6.5	52.3	0.56	0.73	43.4
5	T1	1125	3.0	0.903	34.0	LOS C	57.5	412.9	0.90	0.91	42.4
Approach		1340	4.6	0.903	31.9	LOS C	57.5	412.9	0.85	0.88	42.6
West: Wentworth Ave											
11	T1	1333	2.8	0.441	6.6	LOS A	14.2	101.6	0.41	0.36	62.2
12	R2	200	20.0	0.641	54.7	LOS D	10.6	86.0	0.97	0.95	31.8
Approach		1533	5.0	0.641	12.8	LOS A	14.2	101.6	0.48	0.44	55.3
All Vehicles		3080	7.0	0.903	23.0	LOS B	57.5	412.9	0.66	0.65	47.3

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).
 Vehicle movement LOS values are based on average delay per movement.
 Intersection and Approach LOS values are based on average delay for all vehicle movements.
 SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.
 Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).
 HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

Movement Performance - Pedestrians									
Mov ID	Description	Demand Flow ped/h	Average Delay sec	Level of Service	Average Back of Queue Pedestrian ped	Queue Distance m	Prop Queued	Effective Stop Rate per ped	
P1	South Full Crossing	50	18.7	LOS B	0.1	0.1	0.56	0.56	
P4	West Full Crossing	50	51.4	LOS E	0.2	0.2	0.93	0.93	
All Pedestrians		100	35.1	LOS D			0.74	0.74	

Level of Service (LOS) Method: SIDRA Pedestrian LOS Method (Based on Average Delay)
 Pedestrian movement LOS values are based on average delay per pedestrian movement.
 Intersection LOS value for Pedestrians is based on average delay for all pedestrian movements.

PHASING SUMMARY

Site: 101v [Wentworth Ave & Baker St- AM Traffic Signals & Proposal]

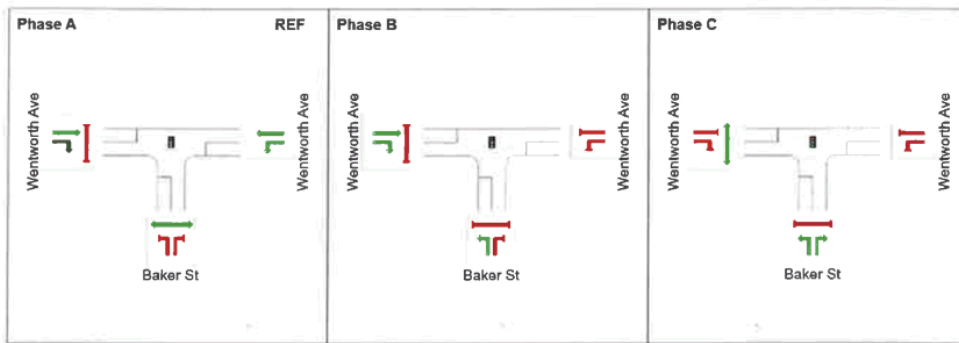
AM with Proposal
 Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

Phase Times determined by the program
 Phase Sequence: 3 phase trailing right turn
 Reference Phase: Phase A
 Input Phase Sequence: A, B, C
 Output Phase Sequence: A, B, C

Phase Timing Results

Phase	A	B	C
Phase Change Time (sec)	0	71	93
Green Time (sec)	65	16	21
Phase Time (sec)	71	22	27
Phase Split	59%	18%	23%

See the Phase Information section in the Detailed Output report for more detailed information including input values of Yellow Time and All-Red Time, and information on any adjustments to Intergreen Time, Phase Time and Green Time values in cases of Pedestrian Actuation, Phase Actuation and Phase Frequency values (user-specified or implied) less than 100%.



REF: Reference Phase
 VAR: Variable Phase

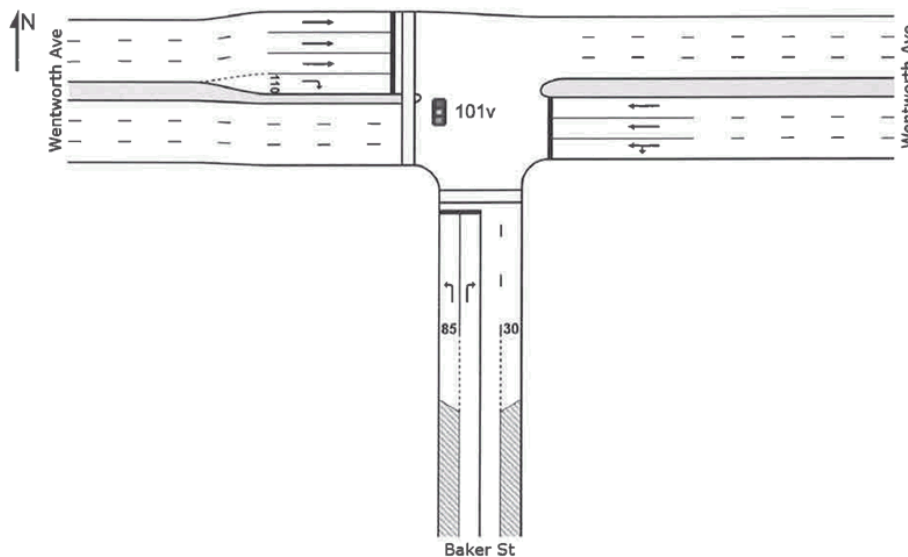


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SITE LAYOUT

Site: 101v [Wentworth Ave & Baker St- 2024 Base AM Traffic Signals]

2024 Base AM
Signals - Fixed Time Isolated



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MOVEMENT SUMMARY

Site: 101v [Wentworth Ave & Baker St- 2024 Base AM Traffic Signals]

2024 Base AM

Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

Movement Performance - Vehicles											
Mov ID	OD Mov	Demand Total veh/h	Flows HV %	Deg. Satn v/c	Average Delay sec	Level of Service	95% Back of Queue Vehicles veh	Distance m	Prop. Queued	Effective Stop Rate per veh	Average Speed km/h
South: Baker St											
1	L2	155	28.4	0.241	30.1	LOS C	5.8	54.2	0.69	0.75	38.9
3	R2	84	22.6	0.300	53.1	LOS D	4.4	38.5	0.91	0.77	31.4
Approach		239	26.4	0.300	38.2	LOS C	5.8	54.2	0.77	0.76	35.9
East: Wentworth Ave											
4	L2	226	8.4	0.596	30.1	LOS C	22.3	164.9	0.78	0.77	42.1
5	T1	1407	3.1	0.596	24.0	LOS B	23.2	166.3	0.78	0.71	47.4
Approach		1633	3.8	0.596	24.9	LOS B	23.2	166.3	0.78	0.72	46.6
West: Wentworth Ave											
11	T1	1667	2.8	0.400	6.7	LOS A	12.3	88.3	0.42	0.38	62.0
12	R2	187	14.4	0.379	29.9	LOS C	8.1	63.1	0.80	0.81	41.2
Approach		1854	4.0	0.400	9.1	LOS A	12.3	88.3	0.46	0.42	59.0
All Vehicles		3726	5.3	0.596	17.9	LOS B	23.2	166.3	0.62	0.57	51.0

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).

Vehicle movement LOS values are based on average delay per movement.

Intersection and Approach LOS values are based on average delay for all vehicle movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

Movement Performance - Pedestrians									
Mov ID	Description	Demand Flow ped/h	Average Delay sec	Level of Service	Average Back of Queue Pedestrian ped	Distance m	Prop. Queued	Effective Stop Rate per ped	
P1	South Full Crossing	50	22.9	LOS C	0.1	0.1	0.62	0.62	
P4	West Full Crossing	50	51.4	LOS E	0.2	0.2	0.93	0.93	
All Pedestrians		100	37.2	LOS D			0.77	0.77	

Level of Service (LOS) Method: SIDRA Pedestrian LOS Method (Based on Average Delay)

Pedestrian movement LOS values are based on average delay per pedestrian movement.

Intersection LOS value for Pedestrians is based on average delay for all pedestrian movements.

PHASING SUMMARY

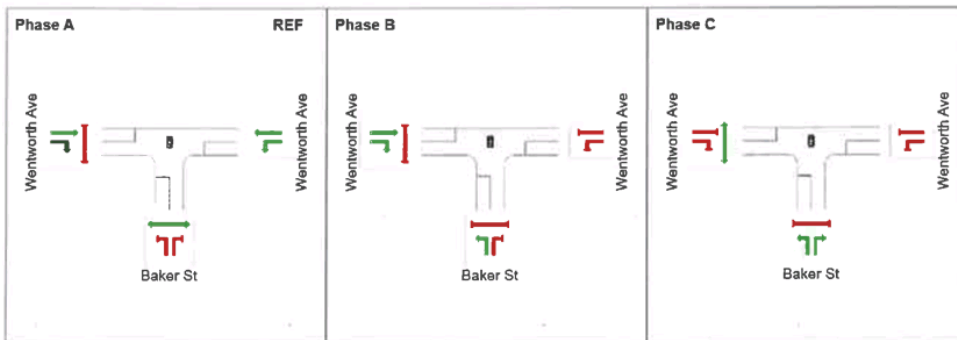
Site: 101 v [Wentworth Ave & Baker St- 2024 Base AM Traffic Signals]

2024 Base AM
 Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

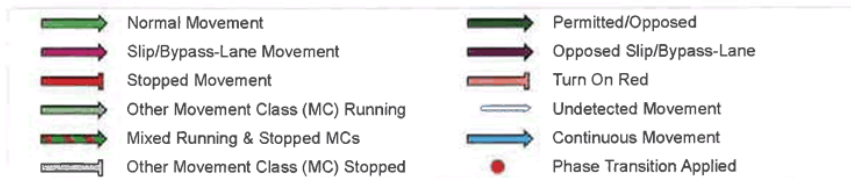
Phase Times determined by the program
 Phase Sequence: 3 phase trailing right turn
 Reference Phase: Phase A
 Input Phase Sequence: A, B, C
 Output Phase Sequence: A, B, C

Phase Timing Results			
Phase	A	B	C
Phase Change Time (sec)	0	64	93
Green Time (sec)	58	23	21
Phase Time (sec)	64	29	27
Phase Split	53%	24%	23%

See the Phase Information section in the Detailed Output report for more detailed information including input values of Yellow Time and All-Red Time, and information on any adjustments to Intergreen Time, Phase Time and Green Time values in cases of Pedestrian Actuation, Phase Actuation and Phase Frequency values (user-specified or implied) less than 100%.



REF: Reference Phase
 VAR: Variable Phase

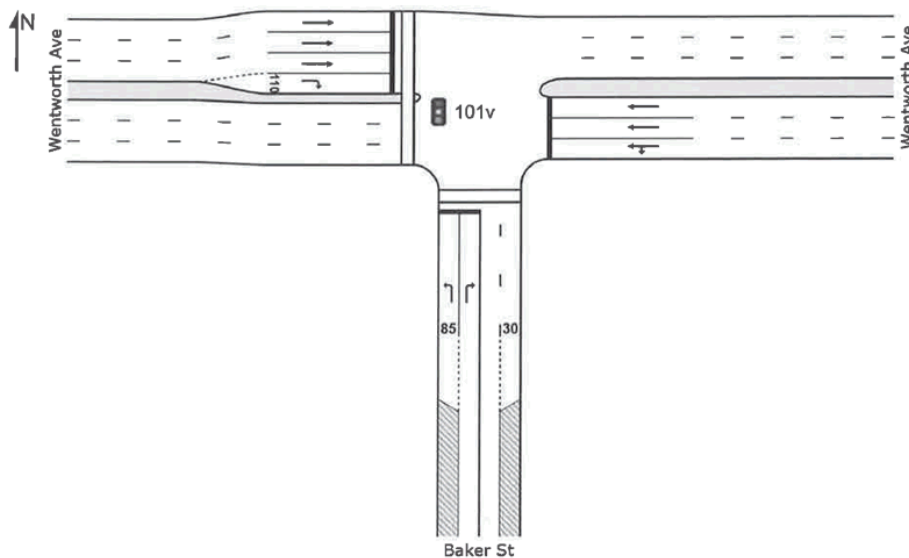


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SITE LAYOUT

Site: 101v [Wentworth Ave & Baker St- 2024 AM Traffic Signals & Proposal]

20224 AM with Proposal
Signals - Fixed Time Isolated



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MOVEMENT SUMMARY

Site: 101v [Wentworth Ave & Baker St- 2024 AM Traffic Signals & Proposal]

20224 AM with Proposal

Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

Movement Performance - Vehicles											
Mov ID	OD Mov	Demand Total veh/h	Flows HV %	Deg Satn v/c	Average Delay sec	Level of Service	95% Back of Queue Vehicles veh	Queue Distance m	Prop. Queued	Effective Stop Rate per veh	Average Speed km/h
South: Baker St											
1	L2	177	37.3	0.278	29.4	LOS C	6.6	66.3	0.68	0.76	39.0
3	R2	101	35.6	0.390	54.4	LOS D	5.4	52.9	0.93	0.78	31.0
Approach		278	36.7	0.390	38.5	LOS C	6.6	66.3	0.77	0.77	35.7
East: Wentworth Ave											
4	L2	237	16.9	0.627	32.0	LOS C	22.9	176.7	0.81	0.79	41.0
5	T1	1406	3.1	0.627	25.8	LOS B	24.5	175.7	0.81	0.74	46.4
Approach		1643	5.1	0.627	26.7	LOS B	24.5	176.7	0.81	0.75	45.5
West: Wentworth Ave											
11	T1	1667	2.8	0.400	6.7	LOS A	12.3	88.3	0.42	0.38	62.0
12	R2	212	24.5	0.446	33.7	LOS C	10.0	83.1	0.86	0.85	38.3
Approach		1879	5.3	0.446	9.8	LOS A	12.3	88.3	0.47	0.43	58.0
All Vehicles		3800	7.5	0.627	19.2	LOS B	24.5	176.7	0.64	0.59	49.8

Site Level of Service (LOS) Method: Delay (RTA NSW). Site LOS Method is specified in the Parameter Settings dialog (Site tab).

Vehicle movement LOS values are based on average delay per movement.

Intersection and Approach LOS values are based on average delay for all vehicle movements.

SIDRA Standard Delay Model is used. Control Delay includes Geometric Delay.

Gap-Acceptance Capacity: SIDRA Standard (Akçelik M3D).

HV (%) values are calculated for All Movement Classes of All Heavy Vehicle Model Designation.

Movement Performance - Pedestrians									
Mov ID	Description	Demand Flow ped/h	Average Delay sec	Level of Service	Average Back of Queue Pedestrian ped	Queue Distance m	Prop. Queued	Effective Stop Rate per ped	
P1	South Full Crossing	50	24.1	LOS C	0.1	0.1	0.63	0.63	
P4	West Full Crossing	50	51.4	LOS E	0.2	0.2	0.93	0.93	
All Pedestrians		100	37.8	LOS D			0.78	0.78	

Level of Service (LOS) Method: SIDRA Pedestrian LOS Method (Based on Average Delay)

Pedestrian movement LOS values are based on average delay per pedestrian movement.

Intersection LOS value for Pedestrians is based on average delay for all pedestrian movements.

PHASING SUMMARY

Site: 101v [Wentworth Ave & Baker St- 2024 AM Traffic Signals & Proposal]

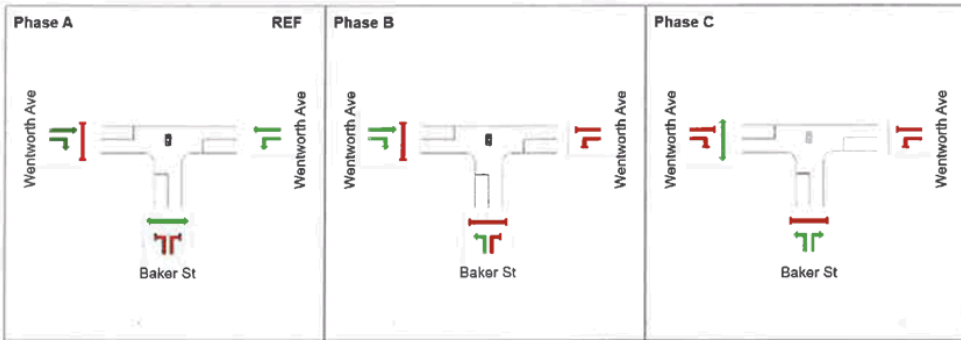
20224 AM with Proposal
 Signals - Fixed Time Isolated Cycle Time = 120 seconds (User-Given Cycle Time)

Phase Times determined by the program
 Phase Sequence: 3 phase trailing right turn
 Reference Phase: Phase A
 Input Phase Sequence: A, B, C
 Output Phase Sequence: A, B, C

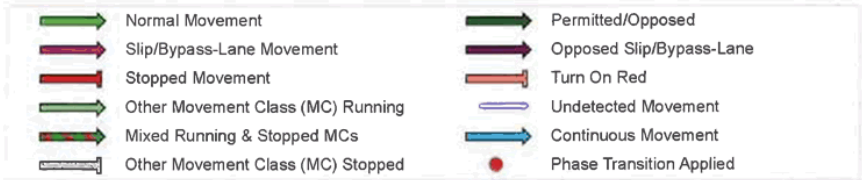
Phase Timing Results

Phase	A	B	C
Phase Change Time (sec)	0	62	93
Green Time (sec)	56	25	21
Phase Time (sec)	62	31	27
Phase Split	52%	26%	23%

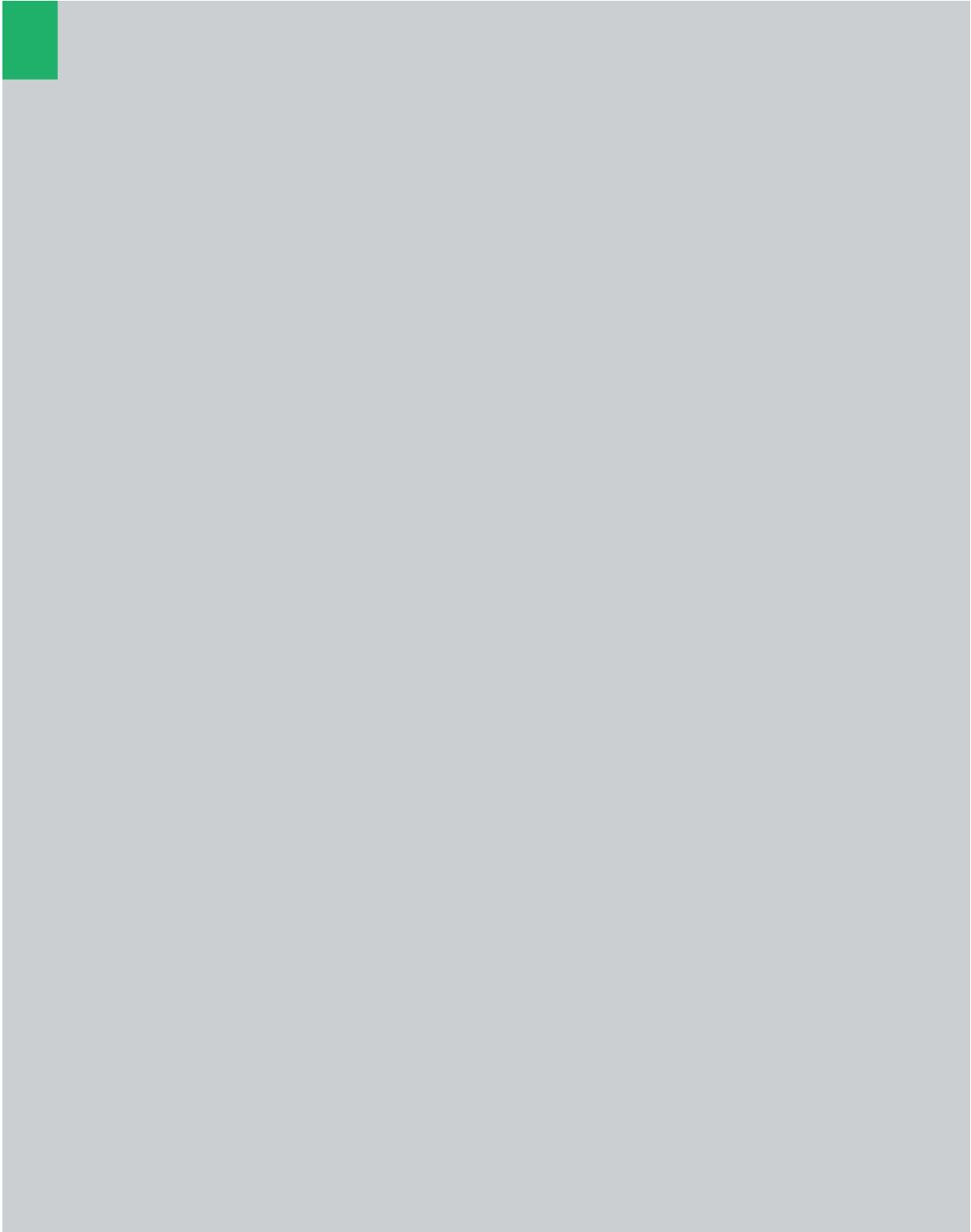
See the Phase Information section in the Detailed Output report for more detailed information including input values of Yellow Time and All-Red Time, and information on any adjustments to Intergreen Time, Phase Time and Green Time values in cases of Pedestrian Actuation, Phase Actuation and Phase Frequency values (user-specified or implied) less than 100%.



REF: Reference Phase
 VAR: Variable Phase



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 Organisation: TRANSPORT AND URBAN PLANNING | Processed: Wednesday, 8 November 2017 10:16:55 AM
 Project: C:\Users\Terry\Documents\16167-Boral.sip7



Bayside Local Planning Panel

18/12/2018

Item No	6.4
Application Type	Development Application
Application No	DA-2018/223
Lodgement Date	31/08/2018
Property	29-31 Campbell Street, Ramsgate
Ward	Rockdale
Owner	Mrs Rose Kam Fung Chiu Chang Mr Phillip Elgemeie Ms Vivianne Elgemeie
Applicant	Cornerstone Design
Proposal	Demolition of existing structures, construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two (2) levels of basement parking.
No. of Submissions	Four (4)
Cost of Development	\$7,143,692
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the panel consider the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 and be satisfied that the variation will result in consistency with the objectives of the height standard and the objectives of the B4 Mixed Use zone and it is therefore in the public interest to vary the control.
 - 2 That the Development Application No. 2018/223 for the proposed demolition of existing structures, construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two (2) levels of basement parking at 29-31 Campbell Street, Ramsgate be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 - 3 That the objector(s) be advised of the Bayside Local Planning Panel's decision.
-

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/223
Date of Receipt:	31 August 2018
Property:	29 Campbell Street, RAMSGATE (Lot B DP 165453) 31 Campbell Street, RAMSGATE (Lot C DP 165453)
Owner(s):	Mrs Rose Kam Fung Chiu Chang Mr Phillip Elgemeie Ms Vivianne Elgemeie
Applicant:	Cornerstone Design
Proposal:	29 & 31 Campbell Street, RAMSGATE NSW 2217 - Demolition of existing structures, construction of a 5 storey residential flat building comprising of 20 apartments and 4 retail tenancies with basement parking
Recommendation:	Approved
No. of submissions:	Four (4)
Author:	Sumeet Badhesha
Date of Report:	10 December 2018

Key Issues

The subject site is zoned B4 Mixed Use under the provisions of the Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed shop top housing development is permissible with consent.

The proposed development seeks to vary the maximum height limit on site by 0.2m - 1.06m (1.25% - 6.63%). The height variation as proposed, is supported in this instance for the reasons outlined within this report.

The development application has been notified in accordance with Council's Development Control Plan 2011. A total of four (4) submissions were received in relation to the proposed development. The concerns raised within these submissions have been addressed within this report.

The proposed development is recommended for approval subject to the conditions attached to this report.

Recommendation

1. That the panel consider the Clause 4.6 request to vary the height standard contained in Clause 4.3 of the RLEP 2011 and be satisfied that the variation will result in consistency with the objectives of the height standard and the objectives of the B4 Mixed Use zone and it is therefore in the public interest to vary the control.
2. That the Development Application No. 2018/223 for the proposed demolition of existing structures, construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two (2) levels of basement parking at 29-31 Campbell Street, Ramsgate be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the objector(s) be advised of the Bayside Local Planning Panel's decision.

Background

History

Subject Site: Council's records do not show any recent or relevant applications for the subject site.

Adjoining Site: Council's records show Development Application DA-2016/205 granted approval for the construction of a five (5) storey mixed use development comprising 20 residential apartments, four (4) commercial tenancies, basement parking and 12 public car parking spaces off Clelland Lane. The approved development via DA-2016/205 was assessed against the proposed development and Council is of the opinion the proposal results in a development which respects the surrounding development and positively contributes to the streetscape, without comprising the amenity of surrounding development.

Proposal

The proposed development seeks development consent for the demolition of existing structures and construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two levels of basement parking. Specifically, the proposed development comprises of the following:

Demolition: Demolition of two existing dwellings and associated ancillary structures

Vegetation removal: Removal of eight (8) trees on the site and one street tree

Construction of a shop top housing development comprising the following:

Lower Basement

17 car spaces (incorporating 2 accessible), 2 motorbike spaces, 2 bicycle spaces, 2 store rooms, a lift, 2 fire exit stairs, meter room, and associated pedestrian and vehicular circulation.

Upper Basement

16 car spaces (incorporating 1 car wash bay and 1 loading/unloading bay), 1 motorbike space, a lift, 2 fire exit stairs, stormwater on-site detention room, cleaners room, and associated pedestrian and

vehicular circulation.

Ground Floor

Four individual retail tenancies, plant and garbage rooms, 2 fire exit stairs and a lift accessed via the residential foyer. The main entrance to the building is off Campbell Street, with secondary pedestrian access points from both Ramsgate Road and Dillon Street.

Vehicular access to the basement level car parking is via a single driveway off Dillon Street.

First Level

This level contains a total of 6 residential units (4 x 2 bedroom units and 2 x 1 bedroom units). Both of the 1 bedroom units are adaptable units. Each apartment has access to a private balcony. One of the two communal open space areas is located on this level. The communal open space area is centrally located within this level and adjoins the communal open area of the adjoining development.

Second Level

This level contains a total of 6 residential units (4 x 2 bedroom units and 2 x 1 bedroom units). Each of these apartments have access to their own private balcony. The central portion of the building contains a void above the first level elevated communal open space/landscape courtyard having dimensions of approximately 12m x 7.57m.

Third Level

This level contains a total of 6 residential units (4 x 2 bedroom units and 2 x 1 bedroom units). Each of these apartments have access to their own private balcony. The central portion of the building contains a void above the first level elevated communal open space/landscape courtyard having dimensions of approximately 12m x 7.57m.

Fourth Level

This level contains a total of 2 residential units (2 x 3 bedroom units). Both units have spacious balconies for the entire length of the units. This level contains the second communal open space area which consists of a common toilet, BBQ facility, landscaping and both roofed and open form areas.

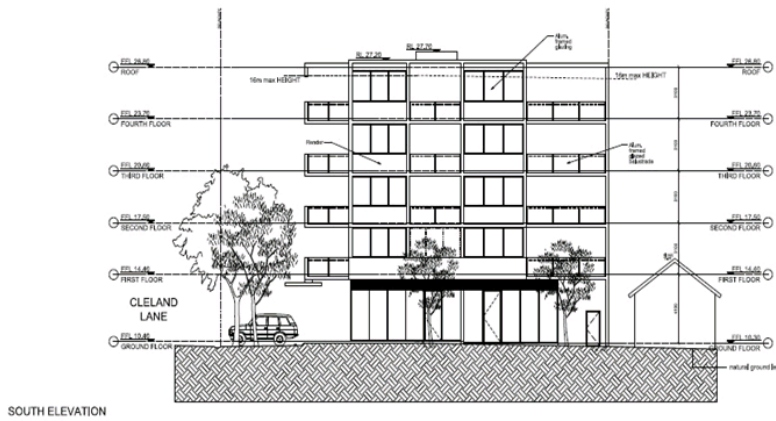
Site Consolidation: It is also proposed to consolidate two existing sites into one allotment, providing a total site area of 943.60sqm.

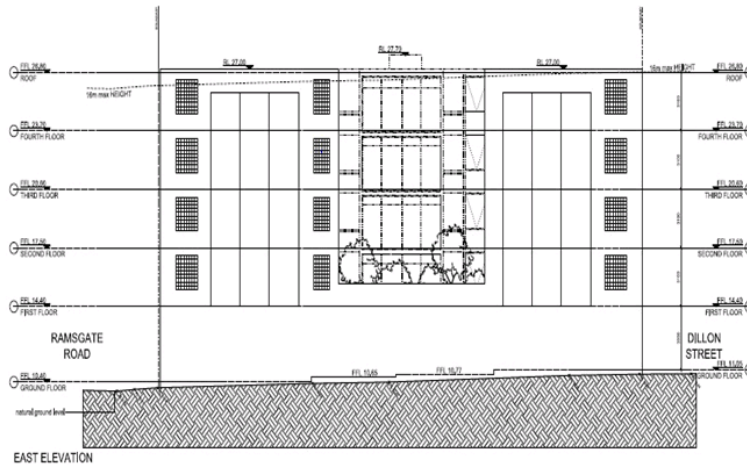
Site location and context

The subject site comprises of two allotments, being 29 and 31 Campbell Street Ramsgate. The site has three frontages, the primary frontage to Campbell Street and secondary frontages to Dillon Street and Ramsgate Road. The site has a surveyed frontage of 36.42m to Campbell Street, a frontage of 25.91m to Ramsgate Road and Dillon Street, and a rear boundary width of 36.42m. The total area of the site is 943.60sqm and with a cross fall of 1.24m from the north western to south eastern corners of the site. The site is currently occupied by two detached dwellings. Numerous vegetation exists both on the site and within Council's road reserve.



To the west of the site is currently a dwelling, however the following shop top housing development (comprising of five storeys with retail on ground floor, and 2 levels of basement parking) has been granted approval via DA-2016/205:





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:

Greater Metropolitan REP No. 2 – Georges River Catchment

The proposal is consistent with Council's requirements for the disposal of stormwater in the catchment. Therefore, it is considered that the proposed development will not significantly impact upon the environment of the Georges River, either in a local or regional context, and that the development is not inconsistent with the general and specific aims, planning principles, planning considerations and policies and recommended strategies. The proposal is consistent with the aims and objectives of the Georges River Catchment Deemed (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 952297M and dated 21 August 2018. The commitments made result in reductions in energy and water consumption. A condition has been imposed on the consent to ensure that these requirements are adhered to.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

The proposed development is located on land with a frontage to a classified road i.e. Ramsgate Road. In this regard, clause 101 - Development with frontage to a classified road, of the SEPP must be

considered before consent can be granted. However, the proposed development involves access to and from the site from Dillion Street, with no vehicular access proposed from Ramsgate Road.

The proposed development is for a residential use that is in proximity to the road corridor for a road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of the RMS), being Rocky Point Road and is potentially adversely affected by road noise or vibration. Accordingly, Clause 102 Impact of road noise or vibration on non-road development, of SEPP Infrastructure is required to be considered as part of this assessment. In accordance with clause 102, the consent authority must not grant consent to the development for a residential use unless it is satisfied that appropriate measures will be taken to ensure that the following noise levels are achieved:

LAeq levels are not exceeded:

- (a) in any bedroom in the building 35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) 40 dB(A) at any time.

The proposal was accompanied by an Acoustic Report, prepared by Noise and Sound Services and dated August 2017, which considered the potential impact of road noise on the proposed development. The report incorporates recommendations to ensure the proposed development complies with the acceptable internal noise levels. A condition of consent is recommended requiring the recommendations to be incorporated into the Construction Certificate plans for the development.

Further, the proposal is not for a traffic generating development. As such, the application has been considered in respect to the SEPP and no additional conditions of development consent are required to be imposed in this regard.

State Environmental Planning Policy No 55—Remediation of Land

The application and submitted documentation has been reviewed by Council's Environmental Scientist who has raised no concerns regarding potential contamination of the site. Council's records indicate the site, and surrounding sites, have a long history of residential use, with no indication of other uses which may have the potential for land contamination. Nonetheless, precautionary conditions have been imposed in the development consent should any new information be discovered during the demolition, excavation and construction stages of the development.

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

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

a. The advice of the Design Review Panel (DRP)

The proposal was referred to the Design Review Panel on 19 October 2018. The DRP raised a few concerns with the proposal, and these were regarding the proposed driveway arrangement, setback of the fourth level from the east side frontage, landscaping modifications, location of garbage areas, and the absence of a signage strategy. No other major concerns were raised by the DRP and the proposal was supported subject to the above minor changes being made.

Revised plans were submitted to Council in November 2018, and these plans addressed the concerns

raised by the DRP. Due to the nature of changes required, the application was not required to be reconsidered by the DRP.

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

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

Principle 1 – Context and Neighborhood Characters

The subject site is zoned B4 Mixed Use and located within the Ramsgate Town Centre, of which a large number of similarly zoned properties remain undeveloped to their full potential. Current planning controls permit shop top housing developments up to a height of 16m, this can accommodate 5 storey developments. Properties to the north of the subject site are zoned R4 High Density Residential and can facilitate redevelopment up to a maximum height of 14.5m. To the south of the site are properties zoned B4 Mixed Use and can facilitate redevelopment up to a maximum height of 16m. To the east of the site are properties zoned R2 Low Density Residential with a maximum height of 8.5m. Five storey residential flat buildings exist to the north of the site and a five storey mixed use development has been approved via DA-2016/205 which is to be attached to the western side wall of the proposed development.

The proposed development provides adequate setbacks from all boundaries, with the 5th level recessed further from the eastern side frontage to manage the interface between the higher density development to the west and low density development to the east. The increased setback on the 5th level also reduces visual prominence, bulk and scale of the development and minimises adverse impacts to the eastern neighbours.

The proposal is deemed contextually appropriate as it does not result in unreasonable adverse impacts to neighbours as discussed in this report and provides an appropriate interface with the R2 zone to the east. The proposal is consistent with both established and emerging building forms and the future desired character of the Ramsgate area.

The DRP raised no objection to the proposal with respect of context and neighbourhood character. The proposal is satisfactory with regards to this principle.

Principle 2 – Built Form and Scale

The DRP noted "that the design achieves an appropriate scale, bulk and height. In particular the Panel notes that the internal courtyard space corresponds to the courtyard of the approved development adjoining the boundary. The height also matches that of the adjacent approved development, and is supported by the Panel despite a minor breach of the height control. The Panel recommends that the roof form to the fourth level be set back a further 1 metre or more from the east in order to achieve a more satisfactory interface with the lower density residential built form to the east."

Comment: The applicant has provided an increased setback from the 5th level as per the recommendation by the DRP. As discussed above within Principle 2, the proposal is found to be of appropriate bulk and scale and respects the surrounding context and development. The proposal has

also taken into consideration the recently approved mixed used development which is to be attached to the western side of the building.

Principle 3 – Density

The DRP raised no objection to the proposal with respect of density. The proposal complies with this requirement and is deemed to be satisfactory with regards to this principle.

Principle 4 - Sustainability

The DRP noted that *"there are further opportunities for including sustainability initiatives such as solar energy generation, rainwater harvesting, etc. In particular, the roof to Level 4 offers excellent opportunities for the incorporation of solar PV"*.

Comment: Energy efficiency is appropriately addressed by the BASIX certificate requirements accompanying the application. The passive solar design of the proposal is appropriate with solar access maximised to the proposed dwellings, their balconies and communal open spaces given the north, east and west aspect of the site, building design and orientation.

Principle 5 – Landscape

The DRP was generally supportive of the proposed landscape design subject to minor modifications to enhance amenity. The recommendations provided by the panel have been incorporated within the revised plans submitted by the applicant.

The proposed landscape design as revised on the ground floor of the development, allows for visual connectivity and passive surveillance between the footpath and retail tenancies. On the first floor of the development, the proposal provides sufficient planting within planter boxes and the consistency of the planter boxes has been improved within the revised design. The landscaping as proposed results in good amenity for the residents and positively contributes to the streetscape.

The panel noted the absence of deep soil planting on the site and is supportive of this due to the site being constrained by three active street frontages and satisfactory greening provided around the site within planter boxes.

The proposal is therefore considered to be satisfactory in relation to this principle.

Principle 6 – Amenity

The DRP noted that "the design generally achieves appropriate amenity outcomes. The Panel recommends that the garbage stores should be relocated away from the front entry and notes that there are large storage areas available in the basement."

The revised plans show the garbage rooms relocated further away from the entrance of the building and appropriately screened from the entrance foyer. It is acknowledged the garbage rooms still remain on the ground floor of the building, however the amended siting of the rooms is considered appropriate.

Solar access & cross ventilation to apartments is maximised, with dwellings oriented to the north, east and west. Appropriate levels of privacy are provided to dwellings on site, with privacy to northern,

eastern and southern neighbours. Refer to discussion on visual privacy below.

Unit layouts are well designed, with appropriately dimensioned living areas and private open spaces. The configuration, layout and design of units, their overall size, spaces & rooms are practical and will allow future users to furnish their homes in a variety of ways. Appropriate storage is also provided within units, with supplementary storage at basement level. Security parking is provided at basement level with direct lift access.

Sufficient and well designed communal open space areas are provided within the development which will encourage social interaction and maximise amenity for future occupants. The proposal is satisfactory in regards to this principle.

Principle 7 - Safety

The DRP recommended additional measures to improve safety and security within the development and the public domain. These included the simplifying the driveway by providing a single driveway, providing a security barrier in the basement between the retail and residential car spaces, and relocating accessible parking bays closer to the lifts.

The above recommended changes have been implemented in the revised design.

The development provides for an easily identifiable, prominent & generous residential lobby entry from Campbell Street, with commercial tenancies comprising individual distinguishable pedestrian entries. Residential apartments & car parking areas on site will be accessible via a secure electronic system and are separated by a barrier. Common areas will be well lit with clearly defined legible pathways. Planting within the planter boxes on the ground floor are of appropriate species and height so as to maximumise surveillance. The proposal is satisfactory with regards to this principle.

Principle 8 - Housing Diversity and Social Interaction

The design of the development and proposed unit mix provides for varied housing choice for a variety of household types. The development is designed to provide two appropriate communal facilities at the first level and rooftop level with various spaces which will encourage and provide opportunities for social interaction between future occupants.

The DRP was supportive of the proposal in regards to this principle.

Principle 9 – Aesthetics

The DRP provided the following comments regarding compliance is generally supportive of the design's aesthetics: *"The Panel is concerned about the use of aluminium cladding, as it may undermine the design intent in referencing mid twentieth century architecture, and notes that a simpler painted finish may be more appropriate. The Panel recommends that the applicant should provide a signage strategy for the building in order to avoid visual clutter. The Panel recommends that this strategy reflects the horizontal banding that is a dominant feature of the design."*

The proposal includes a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed but are not limited to white rendered upper level masonry walls, dark grey rendered masonry walls to the ground floor, planter boxes, columns and walls, glass

balustrades, and metallic copper moulding cladding to window and balcony edges. These materials will provide a modern, contemporary, high quality and visually appealing development on site. To further improve the aesthetics of the building, as raised by the Panel, a condition has been included in the development consent requiring a simpler painted finish to be provided instead of aluminium cladding as originally proposed.

The design appropriately responds to be compatible in its overall bulk, scale, character and context of the recent developments in the area, including the recently approved adjoining development to the west. The building design and materials are appropriate, providing a suitable level of articulation for the scale of the development. The design appropriately articulates both corners and the access to the basement garage is appropriately integrated into the design such that it is not visually dominant. The building has been designed with a high level of casual surveillance. Therefore the proposal provides an appropriate streetscape response as required by the provisions of this clause.

Additionally, periphery planters are provided at the ground, first and fifth levels (along the eastern frontage on the fifth level), incorporating planting capable of growing to a height of 1-1.5m, which will assist in further softening the façade of the development.

c. the Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG)

The proposed development is considered to have performed adequately in respect to the objectives and design criteria contained within the ADG. The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
3B - Orientation	<p>Designed to optimise solar access and minimise overlooking.</p> <p>Shadow impact upon adjoining properties to be considered and when it does not currently receive the required amount of solar access it should not be further reduced by more than 20%.</p>	<p>The site has three frontages, including north and east as such orientation should not impact solar access.</p> <p>The proposed development will result in additional shadowing of the adjoining properties to the east in the afternoon in midwinter, however this is only limited to the front of the sites. During morning, some overshadowing is</p>	Yes

		<p>expected over the site to the west however this site has development approval for a similar mixed use building attached to the western side of the proposed development. Due to the corner location of the site, majority of the overshadowing during all other times of the day is limited to on the road.</p> <p>Therefore the proposed development will not prevent the surrounding properties from achieving a minimum of 3 hours of solar access during midwinter.</p>	
3C - Public Domain Interface	<p>Direct street entry to ground floor apartments.</p> <p>Balconies/windows orientated to overlook the public domain</p> <p>Opportunities for concealment minimised</p> <p>Services concealed</p> <p>Access ramps minimised</p>	<p>The proposal does not contain ground floor apartments.</p> <p>Balconies overlook the public domain.</p> <p>All services are appropriately screened from the public domain.</p> <p>The entry is well considered providing equitable and safe entry.</p>	Yes

<p>3D - Communal and Public Open Space</p>	<p>25% (235.90sq/m) site area as COS</p> <p>50% (117.95sq/m) COS to receive min 2 hours direct sunlight in midwinter 9am - 3pm</p> <p>Equitable Access</p>	<p><u>COS:</u> 110.15sqm first floor COS 132.735sqm fourth floor COS Total = 242.88sqm</p> <p>Achievable</p> <p>Equitable access is provided via a lift and an accessible WC is provided adjacent to the upper level communal open space.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>3E - Deep Soil Zones</p>	<p>Min. 7%, but may not be achievable on sites where non-residential ground floor is proposed. Where compliance is not achieved appropriate stormwater management should be provided.</p>	<p>Nil. However sufficient planting is proposed within planter boxes throughout the site.</p> <p>Council's engineer is satisfied with the stormwater management proposed.</p>	<p>No - discussed above within Principle 5 assessment.</p>
<p>3F Visual Privacy</p>	<p>5-8 Storeys:</p> <ul style="list-style-type: none"> • 4.5m - non habitable rooms • 9m habitable rooms 	<p>Achieved</p>	<p>Yes</p>
<p>3G - Pedestrian Access and Entries</p>	<p>Entry addresses public domain</p> <p>Clearly identifiable</p> <p>Steps and ramps integrated into building design</p>	<p>The entry is clearly identifiable and faces Campbell Street. Steps and access ramps have been integrated within the design of the building.</p>	<p>Yes</p>

<p>3H - Vehicle Access</p>	<p>Integrated into façade Visual impact minimised Entry behind the building line or from secondary frontage. Clear sight lines. Pedestrian and vehicle access separated</p>	<p>Vehicular entry ramp is integrated into the building and from the secondary frontage. Good sight lines will be provided subject to conditions required by Council's engineer. Separate vehicle and pedestrian entries are provided.</p>	<p>Yes - subject to conditions</p>								
<p>3J - Bicycle and car parking</p>	<p>As per Guide to Traffic Generating Developments, or per council requirement, whichever is less. Parking provided off street.</p>	<p>Please refer to Section 4.6 under the RDCP 2011 assessment section of this report</p>	<p>Yes</p>								
<p>4A - Solar and Daylight Access</p>	<p>Min. 70% (14 units) receive 2 hours solar access Max 15% (3 units) have no solar access</p>	<p>70% (14) apartments receive 2 hours of solar access. 15% (3) apartments receives no solar access.</p>	<p>Yes Yes</p>								
<p>4B – Natural ventilation</p>	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>70% (14 Units) are cross ventilated Complies.</p>	<p>Yes</p>								
<p>4C – Ceiling heights</p>	<table border="1" data-bbox="510 1467 877 1608"> <tr> <th colspan="2">Minimum ceiling heights:</th> </tr> <tr> <td>Habitable</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>Mixed use area</td> <td>3.3m for ground and first floor</td> </tr> </table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	Mixed use area	3.3m for ground and first floor	<p>Residential - 2.7m Basement (non-habitable) - 2.8m Mixed use area (ground floor) - 3.3m</p>	<p>Yes</p>
Minimum ceiling heights:											
Habitable	2.7m										
Non-habitable	2.4m										
Mixed use area	3.3m for ground and first floor										

<p>4D – Apartment size and layout</p>	<p>Minimum internal areas:</p> <table border="1" data-bbox="497 331 887 524"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50M²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m² each.</p> <p>Further bedrooms increase minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50M ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>1 bed - 52.07sqm - 53.62sqm 2 bed - 80.18sqm - 84.56sqm 3 bed - 106.26sqm</p> <p>All master bedrooms are a minimum of 10sqm and other bedrooms are a minimum of 9sqm.</p>	<p>Yes</p>		
Apartment type	Minimum internal area														
Studio	35m ²														
1 bedroom	50M ²														
2 bedroom	70m ²														
3 bedroom	90m ²														
<p>4E – Private open space and balconies</p>	<p>Primary balconies as follows:</p> <table border="1" data-bbox="497 766 887 927"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>1 bed</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bed</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bed</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar -POS provided instead of a balcony: min area 15m² and min depth of 3m.</p>	Dwelling type	Minimum area	Minimum depth	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bed	12m ²	2.4m	<p>1 bed - 8.62sqm - 10.02sqm 2 bed - 11.15sqm - 25.60sqm 3 bed - 81sqm</p>	<p>Yes</p>
Dwelling type	Minimum area	Minimum depth													
1 bed	8m ²	2m													
2 bed	10m ²	2m													
3+ bed	12m ²	2.4m													
<p>4F – Common circulation and spaces</p>	<p>Max apartments off a circulation core on a single level is eight.</p>	<p>Max 6 apartments off a circulation core</p>	<p>Yes</p>												
<p>4G – Storage</p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="497 1348 887 1541"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> </tr> <tr> <td>1 bed</td> <td>6M²</td> </tr> <tr> <td>2 bed</td> <td>8m²</td> </tr> <tr> <td>3 bed</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is located within apartment</p>	Dwelling type	Storage size volume	Studio	4m ²	1 bed	6M ²	2 bed	8m ²	3 bed	10m ²	<p>Appropriate inter unit storage provision with additional provided within basement levels.</p>	<p>Yes</p>		
Dwelling type	Storage size volume														
Studio	4m ²														
1 bed	6M ²														
2 bed	8m ²														
3 bed	10m ²														

4H - Acoustic Privacy	<p>Orientate building away from noise sources</p> <p>Party walls limited or insulated, like rooms together</p> <p>Noise sources (e.g. garage doors, driveways) located at least 3m from bedrooms</p>	<p>Acoustic report provided, and recommended conditions will require compliance with the report. In addition, Council's standard condition is proposed requiring adequate acoustic separation between units.</p>	Yes
4J - Noise and Pollution	<p>Site building to maximise noise insulation</p> <p>Noise attenuation utilised where necessary</p>	<p>Acoustic report provided. See above comment.</p>	Yes
4K - Apartment Mix	<p>Variety of apartment types</p> <p>Appropriate apartment mix</p> <p>Different apartments distributed throughout the building</p>	<p>Reasonable mixture of 1, 2 and 3 bedroom units distributed throughout the building.</p>	Yes
4M - Facades	<p>Composition of building elements</p> <p>Defined base, middle and top</p> <p>Building services integrated into the façade</p>	<p>Variety of materials utilised to articulate and define the building. Conditions require services to be integrated into the façade.</p>	Yes
4N - Roof Design	<p>Roof design integrated into the building</p> <p>Incorporates sustainability features</p> <p>May include common open space</p>	<p>Roof design integrated into the building design with simple parapet treatment.</p>	Yes
4O - Landscape Design	<p>Responsive to streetscape</p> <p>Viable and sustainable</p>	<p>Landscape design for roof top terrace and first and ground floor levels landscaped area is acceptable.</p>	Yes

<p>4P - Universal Design</p>	<p>Adaptable housing to be provided</p> <p>Flexible design solutions</p>	<p>Provided as per requirements</p> <p>All apartments are larger than required and which as a result offer more open plan and usable living space options.</p>	<p>Yes</p> <p>Yes</p>
<p>4S - Mixed Use</p>	<p>Provided within appropriate locations</p> <p>Residential circulation areas clearly defined</p> <p>Landscaped communal open space should be provided at podium or roof levels</p>	<p>The subject site is located within the Ramsgate Town Centre and is bound by active street frontages. The development appropriately addresses this.</p> <p>Achieved</p> <p>The development proposes a communal open space on the first floor and another on the roof level (fifth floor)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>4T - Awnings and Signage</p>	<p>Awnings along streets with high pedestrian activity and active frontages</p> <p>Signage should be integrated into the building design</p>	<p>Awnings have been provided around the building over the footpath as the site fronts active street frontages. Awning provided over entry.</p> <p>The revised plans show signage below the awning on the ground floor. The proposed signage is appropriate in terms of size and siting and do not have any negative impacts on the streetscape.</p>	<p>Yes</p> <p>Yes</p>
<p>4U - Energy Efficiency</p>	<p>Adequate natural light to habitable areas</p> <p>Adequate natural ventilation</p> <p>Screened areas for clothes drying</p> <p>Shading on northern and western elevations</p>	<p>Adequate natural lighting and natural ventilation provided.</p>	<p>Yes</p>
<p>4V - Water Management and Conservation</p>	<p>Efficient fixtures/fittings</p> <p>WSUD integrated</p> <p>Rainwater storage and reuse</p>	<p>Council's Development Engineer is satisfied with the proposed management and conservation of water information supplied.</p>	<p>Yes</p>

4W	Discreetly located away from the front of the development or in the basement car park	The revised plans show the garbage rooms relocated further away from the entrance of the building and appropriately screened from the entrance foyer. It is acknowledged the garbage rooms still remain on the ground floor of the building, however the amended siting of the rooms is considered appropriate.	Yes
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Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes	Yes - see discussion
4.3 Height of buildings	Yes	No - see discussion
4.4 Floor space ratio	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	No - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes - see discussion
6.2 Earthworks	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes - see discussion
6.11 Active Street Frontages	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes - see discussion

2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposed development is for shop top housing as it will comprise ground floor retail premises and four levels of residential dwellings above. The aforementioned proposed use is permissible within the subject zoning and is consistent with the below listed objectives of the B4 zone:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

4.3 Height of buildings

As per the RLEP 2011, the maximum permissible height of building for the subject site is 16m.

Given the above and following a manual assessment of the plans, the proposed development comprises a height as follows:

Roof - 15.625m - 16.86m (max. 0.86m or 5.375% variation)

Lift Overrun - 17.06m (1.06m or 6.625% variation)

As evident from the above, the proposed development illustrates both compliance and variations to the height limit applicable. This is a direct result of the natural topography of the site and the design of the proposed development. The above represents a 5.37% - 6.625% variation to the height standard, for a small portion of the development as proposed.

In support of the breach of the height control the applicant has submitted a clause 4.6 variation which was found to demonstrate that the breach of the height control can be supported in these circumstances as compliance with the control is unnecessary and unreasonable and a better planning outcome will result from the proposed breaches of the control. Refer to detailed discussion in response to clause 4.6 below.

4.4 Floor space ratio

The maximum permissible FSR in accordance with this Clause is 2:1 (1,887.20sqm).

Below is a breakdown of GFA per each level of the proposed development:

Lower Basement: Excluded from GFA

Upper Basement: Excluded from GFA

Ground Floor: 298.10sqm

First Floor: 457.60sqm

Second Floor: 454.00sqm

Third Floor: 454.00sqm

Fourth Floor: 221.70sqm

Total GFA = 1,885.40sqm or 2:1

Thus complying with the provisions of this clause.

4.6 Exceptions to development standards

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

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

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

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

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

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

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

The proposed height variation has been assessed below.

Consideration has further been given to the principles established by the Land and Environment court judgement *Four2Five v Ashfield Council* [2015] NSWLEC 90. The judgement established that justification was required in order to determine whether the development standard was unreasonable or unnecessary on grounds other than whether the development achieved the objectives of the development standard. Consideration is to be given to the particular site circumstances of the site and development.

As stated within Clause 4.3 Height of Buildings, the proposal seeks to vary the 16m height standard applicable to the subject site. The height non-compliance on the eastern (Campbell Street) elevation ranges from 0.275m to 0.8m, the southern (Ramsgate Road) elevation ranges from 0.365m to 0.86m, the northern (Dillon Street) elevation ranges from 0.2m to 0.375m, and the western (rear boundary) elevation non-compliance ranges from 0.22m to 0.33m. The centrally located lift overrun exceeds the maximum 16m height limit by 1.06m.

A summary of the key arguments of the applicant's clause 4.6 arguments in respect of the height development standard are as follows;

"

- *The additional height, (above the height allowed under the control) is positioned on the site in a manner that is unlikely to result in significant adverse impacts upon adjacent properties or the public realm by way of overshadowing, visual massing, view loss and privacy impacts.*
- *The level of non-compliance with the building height control is consistent with the degree of variations contemplated and accepted by the consent authority with respect to development in similar situations. This is most evident upon review of the development approval to the sites immediate west (DA-2016/205). In this instance, the proposed development proposed maximum height of 16.17m measured at the Dillon Street frontage, 16.9m measured at the Ramsgate Road frontage and 17.13m at the lift overrun, breaching the standard by 170mm, 900mm and 1130 mm respectively.*
- *The proposed development will result in a better urban design outcome compared to a compliant development and one which better responds to the site's constraints and prominent location compared to a compliant development.*
- *The proposed scale and massing of the building is consistent with the desired future character of the locality resulting in the provision of a high quality building form.*
- *The objectives of the building height standard remain relevant and the proposal is consistent with, or at least is not antipathetic to the objectives of the building height standard, notwithstanding the numerical variation.*
- *The additional height, above the height limit will visually accentuate the subject building (even if only incrementally) and will present a well-considered building of high architectural merit when viewed from the public domain.*
- *The proposal will not set an undesirable precedent in terms of density or height for development.*

- *The proposal satisfies the objectives of the B4- Mixed Use Zone and the objectives of the building height standard. The proposed building height is considered appropriate within the strategic planning context of the zone.*
- *The development as proposed is consistent with the provisions of orderly and economic development."*

The applicants written request is satisfactory in regard to addressing clause 4.6(3). Following a review of the application, it is considered that the height variation as proposed is acceptable for the following reasons:

- The natural topography of the site is as such that the site falls to the south up to 1.22m across the property. The ground floor level of the development has been designed so as to be as close to natural existing ground level as possible. Notwithstanding, in certain locations the ground floor level is raised up to 0.3m to accommodate the ground floor slab, which has further been stepped to minimise building height on site.
- The proposed height of the building is consistent with the height of the recently approved building which is to be attached to the western elevation.
- Given the above, and as a result of the natural topography of the site the flexible application of the height standard is not inappropriate in this instance.
- The proposal is consistent with the objectives of Clause 4.3 – Height of Buildings of Rockdale LEP 2011, in that the development is a high quality urban form & retains appropriate sky exposure and solar access on site and to neighbouring properties.
- The additional height proposed does not result in detrimental environmental planning outcomes, as it does not give rise to adverse solar access, view loss or visual or acoustic privacy impacts on site, or to neighbouring properties.
- The proposal is consistent with the objectives of the zone, providing redevelopment in an accessible location. The proposed development has been designed to appropriately transition with existing building forms and the R2 Low Density residential zone to the front of the site, and minimising adverse impact upon the character and amenity of the surrounding local area. The proposal is consistent with the future desired character of the area as envisaged by the current planning controls.
- The proposal is consistent with the objectives of clause 4.6 and the B4 Mixed Use Zone.
- The height exceedance within the central part of the development is due to the lift overrun. The lift overrun forms an integral part of the proposed development as it is directly related to the functioning and use of the rooftop communal open space area and access to the two units. The structure services the rooftop communal open space area which has been provided to benefit the future occupants of the site. The non compliance relates to feature of the property which will significantly improve the amenity of the occupants. Rooftop elements that depart from the height standard account for a limited portion of the building footprint and are significantly recessed into the site i.e. 9.7m from the western rear boundary, 13.225m from the Campbell Street frontage, 15.66m from the Ramsgate Road frontage and 18.34m from the Dillon Street frontage. In general a 3m high structure is required for a lift cart with approximately 0.6m-1m additional height to permit the installation of the lift overrun which consists of cables / bolts and beams to pull the lift up and down the rails on the back wall. This is an essential piece of infrastructure to enable access to the communal rooftop terrace.

The written submission provided by the applicant in relation to the proposed height variation is satisfactory in the context of Clause 4.6. The height variation does not create an undesirable outcome, the objectives of clause 4.3 and 4.6 have been met and the proposal is deemed to be in the public interest, given the public benefit of orderly development of the site outweighs strict adherence to the

numeric standards presented by the height control of RLEP 2011. The height development standard is deemed unreasonable and unnecessary in this instance for the reasons noted above and there are sufficient environmental planning grounds in which to justify the contravention of the height standard for the site.

5.10 Heritage conservation

The proposed development is located in the vicinity of a local heritage item listed under Schedule 5 of the RLEP 2011 at 107 Ramsgate Road, Ramsgate, item No. I205. The proposed development is sympathetic to the heritage item in terms of building design, materials and streetscape. In this regard, the proposed development does not affect the integrity or character of the heritage item.

Therefore the qualities that makes the heritage item and it's setting significant will not be diminished.

6.1 Acid Sulfate Soil - Class 5

The site is located in a Class 5 area for acid sulfate soils however as the site is not within 500m of Class 1-4 land, the provision does not require any further assessment of the proposed development.

6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. The impacts of the proposed earthworks have been considered in the assessment of this proposal. Conditions of consent have been imposed in the draft Notice of Determination to ensure minimal impacts on the amenity of surrounding properties, drainage patterns and soil stability. The proposal meets the objectives of this clause.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 80 metres to Australian Height Datum (AHD). The proposed building height is at 17.06 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 application has been assessed by Council's engineer as providing appropriate stormwater disposal subject to recommended conditions that have been included in the draft Notice of Determination.

6.11 Active Street Frontages

The subject site is land identified as Active Street Frontage in RLEP 2011 Active Street Frontage Map, and accordingly is subject to clause 6.11. The ground floor of the premises with frontage to Ramsgate Road and Dillon Street have been designed to comprise commercial / retail space, with direct access to the public footpath. Thus, the proposal is considered to satisfy the requirements of clause 6.11.

6.12 Essential services

Services will generally be available on the site. Additional conditions have been incorporated in the draft Notice of Determination requiring consultation with relevant utility providers in regards to any specific requirements for the provision of services on the site.

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

No relevant proposed instruments are applicable to this proposal.

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	Yes - see discussion
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - Mixed use	Yes	Yes - see discussion
4.1.9 Lot size and Site Consolidation - isolated sites	Yes	Yes - see discussion
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.3.1 Open Space and Landscape Design - Mixed Use	Yes	Yes - see discussion
4.3.2 Private Open Space - Residential Flat Building/Shoptop housing	Yes	Yes
4.3.3 Communal Open Space	Yes	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes
4.4.3 Natural Lighting and Ventilation - Mixed Use	Yes	Yes
4.4.4 Glazing - General Controls	Yes	Yes - see discussion
4.4.5 Visual privacy	Yes	Yes - see discussion
4.4.5 Acoustic privacy	Yes	Yes - see discussion
4.4.6 Noise Impact	Yes	Yes - see discussion
4.4.7 Wind Impact	Yes	Yes - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes	Yes - see discussion
4.5.2 Social Equity - Equitable Access	Yes	Yes - see discussion
4.6 Parking Rates - Shop-top Housing	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
4.6 Vehicles Enter and Exit in a Forward Direction	Yes	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes
4.6 Driveway Widths	Yes	Yes
4.6 Traffic - Classified Roads	Yes	Yes
4.6 Access to Parking	Yes	Yes
4.6 Design of Loading Facilities	Yes	Yes - see discussion
4.6 Car Wash Facilities	Yes	Yes
4.6 Pedestrian Access and Sustainable Transport	Yes	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.7 Air Conditioning and Communication Structures	Yes	Yes - see discussion
4.7 Waste Storage and Recycling Facilities	Yes	Yes - see discussion
4.7 Service Lines/Cables	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes - see discussion
4.7 Letterboxes	Yes	Yes - see discussion
4.7 Storage Areas	Yes	Yes - see discussion
4.7 Hot Water Systems	Yes	Yes - see discussion
5.2 RFB Front Setback	Yes	Yes - see discussion
5.2 RFB - Side Setbacks	Yes	Yes - see discussion
5.2 RFB - Rear Setbacks	Yes	Yes - see discussion
5.2 RFB - Apartment Size	Yes	Yes - see discussion
5.2 RFB - Building Design	Yes	Yes - see discussion
5.2 RFB - Building Entry	Yes	Yes - see discussion
5.2 RFB - Lift Size and Access	Yes	Yes - see discussion
5.3 Mixed Use - Front Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Side Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Rear Setbacks	Yes	Yes - see discussion
5.3 Mixed Use - Ground Level Uses	Yes	Yes - see discussion
5.3 Mixed Use - Retail	Yes	Yes - see discussion
5.3 Mixed Use - Building Design	Yes	Yes - see discussion
5.3 Mixed Use - Ground Floor Articulation	Yes	Yes
5.3 Mixed Use - Access to Premises	Yes	Yes
5.3 Mixed Use - Visual Connections	Yes	Yes
5.3 Mixed Use - Awnings	Yes	Yes - see discussion
5.3 Mixed Use - Secured Access to Parking	Yes	Yes

4.1.1 Views and Vista

The site and adjoining properties are relatively flat and contain minimal views out over the curtilage of each parcel of land and the adjacent properties.

The development complies with all relevant requirements except for the maximum height. The non-compliance with the height control is considered acceptable as discussed within Clause 4.6 of the RLEP 2011 section of this report, and does not contribute to view loss. It is acknowledged there is a fixed solid screen to the boundary off Units 1.01 and 1.06 (on the second level) which separates the subject development and recently approved development to the west, however these walls will not have any impacts on the views from the adjoining residential units as the topography of the surroundings is relatively flat and any new two storey development has the potential to block any views from the first floor. Further, the proposed development is set back in further from the side boundaries from the third level and above.

As such, the siting of the proposed building will ensure that there is minimal adverse impact on the surrounding views presently enjoyed by adjacent residents and future residents of the development to the west.

4.1.7 Tree Preservation

The application seeks consent for the removal of 8 trees on site and 1 street tree within Council's road reserve. The application was referred to Council's Tree Management Officer for assessment and no objection was raised to the proposed removal of trees. Council's Tree Management Officer's recommended conditions have been included in the development consent, and which require the retention and protection of street trees (apart from the removal of one tree along the Dillon Street frontage).

4.1.9 Lot size and Site Consolidation - Mixed use

As per the requirements of this clause, for mixed use development with a height of 4 storeys or greater, a minimum frontage width of 18m is required. The subject site comprises a three frontages, all of which are greater than 18m (Ramsgate Road - 25.19m, Campbell Street - 36.42m, Dillon Street - 25.91m) in width and hence and complies with the provisions of this clause.

4.1.9 Lot size and Site Consolidation - isolated sites

The proposed development does not result in the isolation of any adjoining sites. The subject site abuts roads to the northern, eastern and southern boundaries, and No. 80 Ramsgate Road to the western boundary, which has approval for the construction of a mixed use building. The proposal is satisfactory with regards to the requirements and objectives of this clause.

4.2 Streetscape and Site Context - General

The proposed development has been aligned and sited to physically connect to the approved adjoining mixed use building development upon 78-80 Ramsgate Road to the west. The proposed development continues a street wall periphery form of development on the Dillon Street and Ramsgate Road elevations, maintains a central podium courtyard and recesses the top floor of the development which fronts Campbell Street, to allow for an appropriate transition between two land use zones.

The proposal includes a varied palette of colours and materials to create visual interest when viewed from the public domain. Materials proposed but are not limited to white rendered upper level masonry walls, dark grey rendered masonry walls to the ground floor, planter boxes, columns and walls, glass balustrades, and metallic copper moulding cladding to window and balcony edges. These materials will provide a modern, contemporary, high quality and visually appearing development on site.

The design appropriately responds to be compatible in its overall bulk, scale, character and context of the recent developments in the area, including the recently approved adjoining development to the west. The building design and materials are appropriate, providing a suitable level of articulation for the scale of the development. The design appropriately articulates both corners and the access to the basement garage is appropriately integrated into the design such that it is not visually dominant. The building has been designed with a high level of casual surveillance. Therefore the proposal provides an appropriate streetscape response as required by the provisions of this clause.

4.3.1 Open Space and Landscape Design - Mixed Use

An appropriate landscape plan has been provided which shows landscaping to the communal open space areas and the public domain. Conditions of consent are recommended to ensure appropriate landscaping and paving is provided within the public domain. The application was referred to Council's Landscape Architect for assessment and no objections were raised subject to recommended conditions being imposed in the consent.

The proposal provides a total of 17% or 160.50sqm of landscaping on the site throughout the

development, which is greater than the minimum 10% (or 94.36sqm) required.

The relevant provisions of this clause are satisfied.

4.3.3 Communal Open Space

A minimum communal open space area of 5m² per dwelling is required. With 20 dwellings proposed a minimum 100m² of communal open space is to be provided. Each of the 20 dwellings incorporate private open spaces in the form of balconies and terraces. The proposal provides a first level communal open space area of 110.15sqm and a top level area of 132.735sqm, a total of 242.88sqm, complying with the control. Both spaces are appropriately designed and will receive reasonable solar access, notwithstanding the communal open area on level 1 is not oriented to the north.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

Please refer to SEPP 65 assessment section of this report above.

4.4.4 Glazing - General Controls

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

4.4.5 Visual privacy

The proposed development has been designed and sited to minimise the overlooking of adjoining properties. Due to the site being a corner allotment and consisting of three frontages, all units within the building face towards a street/road.

Privacy to Ramsgate Road properties:

A total of 6 two bedroom units (2 per floor) and 1 three bedroom unit face towards Ramsgate Road. Bedroom and bathrooms windows face towards this elevation and are setback by a minimum distance of 24m from the boundaries of the dwellings located on the other side of Ramsgate Road. The living room windows are setback further. The edge of the balconies on this elevation are setback by a minimum of 21m and are off bedrooms and living rooms. Further, the units from this elevation will not be fronting the private open space areas of the dwellings on Ramsgate Road. There is greater than required building separation provided in order to maintain privacy.

Privacy to Dillon Street properties:

A total of 6 two bedroom units (2 per floor) and 1 three bedroom unit face towards Dillon Street. Bedroom and bathrooms windows face towards this elevation and are setback by a minimum distance of 23m from the boundaries of the dwellings located on the other side of Dillon Street. The living room windows are setback further. The edge of the balconies on this elevation are setback by a minimum of 20m and are off bedrooms and living rooms. Further, the units from this elevation will not be fronting the private open space areas of the dwellings on Dillon Street. There is greater than required building separation provided in order to maintain privacy.

Privacy to Campbell Street properties:

A total of 6 one bedroom units (2 per floor), 6 two bedroom units (2 per floor) and 1 three bedroom unit face towards Campbell Street. Living room windows face towards this elevation and are setback by a minimum distance of 20m from the boundary of the dwelling located on the other side of Campbell Street. The edge of the balconies on this elevation are setback by a minimum of 20m and are off bedrooms and living rooms. The units from this elevation will be fronting the private open space area of the dwelling at 82 Ramsgate Road and properties further along to the east, however there is greater

than required building separation provided between the windows and the property boundary of the nearest dwelling (No. 82 Ramsgate Road), which will help maintain adequate privacy. Further, the top floor of the building is setback further in and there is the provision of planter boxes along the edge. The planter boxes and landscaping will further help maintain privacy.

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

4.4.5 Acoustic privacy

Acoustic Reports prepared by Noise and Sound Services for inter tenancy acoustics and road and aircraft traffic noise both dated August 2018 confirm that the proposed development can be designed to achieve appropriate internal acoustic levels in order to mitigate both inter tenancy noise and road and aircraft traffic noise for future occupants.

Given the above, the proposal is considered to be consistent with the objectives and requirements of this clause.

4.4.6 Noise Impact

An acoustic report has been prepared for the application and a condition has been imposed within the consent requiring the recommendations made within the report to be implemented.

4.4.7 Wind Impact

The proposal was accompanied by a Wind Assessment Report, prepared by Windtech and dated 10 August 2018. The report provides wind mitigation measures to be implemented on site for the proposed development.

The proposal will be conditioned to ensure compliance with the recommendations of the report. The proposal complies with the requirements and objectives of this clause.

4.5.1 Social Equity - Housing Diversity and Choice

The proposal is required to provide the following unit mix as per the provisions of this clause.

<i>Control</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Complies</i>
10%-30% Studio - 1 bed	2-6	6 x 1 bed (30%)	Yes
50%-75% 2 bed	10-15	12 x 2 bed (60%)	Yes
10% - 20% 3 bed and/or more	2-4	2 x 3 bed (10%)	Yes

As the proposed development consists of 20 dwellings, a minimum of 2 adaptable dwellings are required to be provided. The proposal includes 2 adaptable dwellings on the first floor.

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

4.5.2 Social Equity - Equitable Access

A minimum of 2 of the units within the development are to be provided as adaptable dwellings. Documents submitted indicate that a minimum of 2 units within the development are provided as

adaptable dwellings i.e First floor Unit 1.03 and Unit 1.04, which complies with the requirements of this clause.

Additionally plans indicate the provision of ramps, lifts and level pathways on site to ensure appropriate access is provided. The proposal has been conditioned accordingly to ensure access for persons with a disability / mobility impairment is provided on site. The proposal is satisfactory in this regard and complies with the provisions of this clause.

4.6 Parking Rates - Shop-top Housing

The proposed development incorporates 6 x 1 bedroom / 12 x 2 bedroom / 2 x 3 bedroom units, in addition to four shops comprising a total commercial floor area of 270.10sqm.

Given the above, 35 car spaces are required to service the proposed development, being 22 residential / 4 visitor / 7 commercial, 1 dedicated carwash bay and 1 dedicated loading/unloading bay. A total of 2 bicycle and 1 motorcycle spaces are also required.

Plans indicate the provision of 35 spaces incorporating a dedicated car wash bay and dedicated loading / unloading bay. 4 bicycle and 3 motorcycle spaces have also been provided.

4.6 Vehicles Enter and Exit in a Forward Direction

The basement has been designed to enable forward entry and exit on site. The proposal is considered to satisfy the requirements of this clause.

4.6 Design of Loading Facilities

Plans indicate the provision of a dedicated van loading / unloading space within the upper basement level. The proposal facilitates loading and unloading on site and as such satisfies the objectives of this clause.

4.6 Pedestrian Access and Sustainable Transport

As per the provisions of this clause 2 bicycle and 1 motorbike spaces are required to be provided for the development. Plans indicate the provision of 4 bicycle and 3 motorbike spaces on site. The proposal complies with the requirements of this clause.

4.7 Air Conditioning and Communication Structures

Details on the location of TV antennas/air conditioning units etc have not been provided. A condition of consent would be required to ensure the proposal achieves compliance with this clause.

4.7 Waste Storage and Recycling Facilities

The revised plans show the garbage rooms relocated further away from the entrance of the building and appropriately screened from the entrance foyer. It is acknowledged the garbage rooms still remain on the ground floor of the building, however the amended siting of the rooms is considered appropriate.

4.7 Laundry Facilities and Drying Areas

Internal laundries are depicted upon submitted plans within residential units. The proposed development complies with the provisions and objectives of this clause.

4.7 Letterboxes

Letterboxes have been provided within the main foyer of the building. The letter boxes are easily accessible from the street.

4.7 Storage Areas

Residential dwellings within the development have been provided with appropriate inter unit storage provision. Additional supplementary storage is proposed at basement level. The proposal is satisfactory in this regard.

4.7 Hot Water Systems

Plans illustrate the provision of central gas hot water plant proposed within the ground floor of the development. The proposal has further been conditioned to ensure that should individual instantaneous gas hot water systems be required for residential units, that they be recessed into the built form and designed to blend into the building. The proposal is therefore consistent with the requirements of this clause.

5.2 RFB Front Setback

This clause requires the front street setback to be consistent with the prevailing setback along the street within the range of 3.9m.

The submitted plans indicate the following front street setbacks along Campbell Street:

Lower basement level - nil - acceptable
Upper basement level - nil - acceptable
Ground floor - nil (verandah) / 2.1m - 3.705m (wall)
First floor-Third floor - nil
Fourth floor - nil (balcony) - 2.1m (wall)

The proposed street setbacks are considered appropriate for the site and are consistent with the prevailing setbacks of adjoining development, particularly the recently approved mixed use building to the west.

5.2 RFB - Side Setbacks

As per the requirements of this clause a minimum 3m side setback is required for buildings up to three storeys, with 4.5m side setbacks for all levels above the third storey.

Plans illustrate the following:

Lower basement level - nil - acceptable
Upper basement level - nil - acceptable
Ground floor - nil (verandah) / 3.14m - 3.89m (wall)
First floor - nil (balcony) / 3m - 3.13m (wall)
Second floor - 3.09m - 3.1m
Third floor - 3.09m - 3.1m
Fourth floor - 3.09m - 3.1m (balcony) / 5.7m - 7.5m (wall)

The side setbacks as proposed provide consistency in built form with the development approved on the site to the west and reduce the mass and bulk of the development. The setbacks as proposed are deemed to be satisfactory and satisfy the objectives of this clause.

5.2 RFB - Rear Setbacks

The development proposed a nil party wall setback from the rear boundary as the building is to be

attached to the recently approved mixed use building to the western elevation. This is considered acceptable.

5.2 RFB - Apartment Size

Please refer to SEPP 65 assessment section of this report above.

5.2 RFB - Building Design

Please refer to SEPP 65 assessment section of this report above.

5.2 RFB - Building Entry

Plans illustrate the provision of a main entrance to the building from Campbell Street. The proposed residential entry is spacious, inviting, accessible and clearly identifiable, providing a direct physical and visual connection between the development and the public domain. The proposal satisfies the requirements and objectives of this clause.

5.2 RFB - Lift Size and Access

The development proposes a centrally located lift and stairs which are easily accessible by all occupants within the building. The lift is accessible from all levels of the building including the basement levels.

The submitted plans indicate the provision of minimum 2m wide communal corridors and breezeways.

5.3 Mixed Use - Front Setbacks

Plans illustrate the following front street setbacks from Campbell Street:

Lower basement level - nil

Upper basement level - nil

Ground floor - nil (verandah) / 2.1m - 3.705m (wall)

First floor-Third floor - nil

Fourth floor - nil (balcony) - 2.1m (wall)

The proposal as designed is satisfactory given appropriate acoustic attenuation is capable of being provided to residential dwellings and the proposed development provides consistency with the existing established building forms surrounding the site. The proposed street setbacks are considered appropriate for the site and are consistent with the setbacks of the recently approved mixed use development on the adjoining site to the west. The development also provides greater setbacks (from the building wall) along the corners of the building the accentuate the street corners.

The proposal is satisfactory in this regard given the above and satisfies the objectives of this clause.

5.3 Mixed Use - Side Setbacks

The matter of side setbacks has been previously discussed within Clause 5.2 RDCP 2011 assessment section of this report.

5.3 Mixed Use - Rear Setbacks

The matter of side setbacks has been previously discussed within Clause 5.2 RDCP 2011 assessment section of this report.

5.3 Mixed Use - Ground Level Uses

The development proposed four retail tenancies which appropriately address all three street frontages. No residential uses are proposed on the ground floor.

5.3 Mixed Use - Retail

As per the provisions of this clause, a minimum of 10% (188.54sqm) of the gross floor area of a mixed use development is to be for retail and/or commercial uses.

Plans illustrate the provision of 272.50sqm (14.45%) of retail floor space within the development in the form of four retail tenancies fronting all three street frontages (Campbell Street, Dillon Street, Ramsgate Road).

The proposal is deemed satisfactory with respect to the objectives of this clause.

5.3 Mixed Use - Building Design

The matter of building design has been previously discussed within this report.

5.3 Mixed Use - Awnings

The development provides awnings along all three street frontages and the design and siting of the awnings is considered appropriate for the site.

S4.15(1)(a)(iv) - Provisions of regulations

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

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

Safety & Security

The development provides for a clearly identifiable and legible building entrance from Campbell Street. The residential entry comprises direct pedestrian access and a high level of visibility to the street. Residential apartments, communal open space & car parking areas will be accessible via a secure system. Common areas are to be well lit with clearly defined pathways. The proposal is considered to be satisfactory in this regard.

Social Impact

The proposal will activate and enhance the public domain and includes residential units of adequate size and mix for the demographics of the locality. Proposed residential units have access to good public transport and the proposal incorporates alternative transportation modes, via the provision of bicycle and motorbike parking. The proposal further provides well designed and located communal areas with facilities which will encourage social interaction between future occupants on site. The proposed development is not considered to result in any adverse social impacts and is satisfactory for the site.

Construction

Construction of the proposed development includes excavation works, piling and the construction of the development. Impacts will be minimized through the use of standard conditions of consent relating to hours of construction, noise, dust suppression traffic management and the like.

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

The relevant matters pertaining to the suitability of the site for the proposed development have been

considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

S4.15(1)(d) - Public submissions

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and a total of four (4) submissions were received. The issues raised in the submission are discussed below:

Issue 1: Construction of the solid privacy walls on the outer edge of the balconies off Units 1.01 and 1.06.

An assessment of the above raised issue has been carried out and the current siting of the balconies is considered appropriate. The protrusion of the balconies positively contributes to the streetscape and overall design of the building. Due to the orientation of the site, the solid privacy walls will not reduce the amount of natural light received to the unit on the adjoining development. The walls positively contribute to maintaining privacy between both developments.

Issue 2: Traffic and Car Parking

The matter of car parking has been previously addressed in this report. The proposal complies with the parking requirements of RDCP 2011. There are not expected to be any adverse impacts in terms of traffic congestion and generation as the proposed development is not listed as a traffic generating development. Concerns have been raised regarding lack of existing infrastructure and road upgrades, however this is a matter outside the scope of the application.

Issue 3: Tree removal and impact on natural fauna

The application was referred to Council's Tree Management Officer and no objection to the removal of the trees was raised. Council's maps and records do not indicate threatened native fauna within or surrounding the site of which may be impacted.

Issue 4: Empty shops on Rocky Point Road and more shops being built

The subject site is zoned for shop top housing and which encourages retail uses on the ground floor. There is no evidence to suggest the scale of the development will have any negative economic impacts on surrounding shops.

Issue 5: Overlooking and Privacy

The matter of visual privacy has been discussed previously within this report. The proposal is satisfactory with respect of visual privacy.

Issue 6: Height of proposed development and number of storeys

The proposal has been assessed against the relevant planning legislation and on its merits. The height proposed is commensurate with recently approved development and anticipated by the height control for the site. Therefore the proposed 5 storeys height is considered appropriate.

S4.15(1)(e) - Public interest

The proposal has been assessed against the relevant planning policies applying to the site having regard to the objectives of the controls.

Whilst the proposal seeks a minor variation to the height limit on site, it is considered that the final

design scheme for the site is satisfactory and that amenity impacts on site and to surrounding properties as a result of the proposed non compliance are not unreasonable.

The proposal is permissible in the zone and provides a mix of residential and commercial tenancies, which will support the future character of the Ramsgate Town Centre.

The proposal will allow the development of the site in accordance with its environmental capacity & will provide for a high quality building that will add architectural value to the existing streetscape. As such it is considered that the development application is in the public interest.

S7.11 Contribution towards provision or improvement of amenities or services

A Section 7.11 Contribution Payment of **\$388,148.53** 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 6 Prohibition of the construction of buildings of more than 150 feet in height in certain areas

The proposed development is affected by the 45.72m Building Height Civil Aviation Regulations, however the proposed building height at 17.06m 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
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Site Analysis Plan Dwg. No. DA 01, Issue A	Cornerstone Design	20/08/2018	31/08/2018
Lower basement plan Dwg. No. DA 02, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Upper basement plan Dwg. No. DA 03, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Site/Ground floor plan Dwg. No. DA 04, Issue B	Cornerstone Design	4/11/2018	7/11/2018
First floor plan Dwg. No. DA 05, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Second floor plan Dwg. No. DA 06, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Third floor plan Dwg. No. DA 07, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Fourth floor plan Dwg. No. DA 08, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Roof Plan Dwg No. DA 09, Issue B	Cornerstone Design	4/11/2018	7/11/2018
South Elevation & East Elevation Dwg No. DA 10, Issue B	Cornerstone Design	4/11/2018	7/11/2018
North Elevation & West Elevation Dwg No. DA 11, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Section A-A Dwg No. DA 12, Issue B	Cornerstone Design	4/11/2018	7/11/2018
Driveway Profile and Demolition Plan, Dwg No. DA 17, Issue A	Cornerstone Design	20/08/2018	31/08/2018
Schedule of Finishes	-	-	31/08/2018
Landscape Plan, Sheet 1 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018
Landscape Plan, Sheet 2 of 2, Rev. A	Zenith Landscape Designs Pty Ltd	6/11/2018	7/11/2018

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 952297M and dated 21 August 2018 other than superseded by any further amended consent and BASIX certificate.
Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
 - (a1) that the plans and specifications for the building include such matters as

each relevant BASIX certificate requires.

Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

Note: For further information please see <http://www.basix.nsw.gov.au>.

6. A separate development application shall be submitted for the specific use/uses of the commercial tenancies. Additional conditions may be imposed on any such consent.

Note: Parking and loading provisions in a mixed use development may preclude certain uses.

7. Balconies shall not be enclosed at any future time without prior development consent.
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.
9. The materials and façade details approved under condition 2 and any other relevant condition of this consent shall not be altered or amended at the construction certificate stage without a prior S4.55 application and approval under the EP&A Act.
10. Parking spaces shall be allocated to residential apartments / non-residential units in the development in the following manner and this shall be reflected in any subsequent strata subdivision of the development:

Allocated Spaces

Studio, 1 bedroom and 2 bedroom apartments = 1 space per apartment

3 bedroom and 3+ bedroom apartments = 2 spaces per apartment

Commercial Units 1 space per 40m2 gross floor area

Non-Allocated Spaces

Residential Visitor Spaces 1 space per 5 apartments

Parking calculations that are not whole numbers must be rounded up to the nearest whole number.

All residential visitor spaces, car wash bays and loading bays shall be labelled as common property on the final strata plan for the site.

Note: This parking allocation condition applies to any Strata Certificate issued with respect to a Consent issued in accordance with Section 4.18(1)(A) of the *Environmental Planning and Assessment Act 1979* or a Complying Development Certificate issued in accordance with Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

11. Lot B DP 165453 and Lot C DP 165453 shall be consolidated.
12. All relevant lighting, including under awning 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. Such lighting to be maintained at all times for the lifetime of the development.

Development specific conditions

The following conditions are specific to the Development Application proposal.

13. Safer by Design

To maximise security in and around the development the following shall be incorporated into the development. Details for the following are to be approved by the Principal Certifying Authority prior to the issue of the Construction Certificate, implemented prior to issue of the Occupation Certificate, and maintained for the lifetime of the development:

- a) Monitored CCTV facilities shall be implemented throughout the development. Areas of focus include the basement car park (including entry and exits), main entry areas to the development and garbage/storage areas.
 - b) A lighting maintenance policy shall be established for the development. Lighting shall be designed to the Australian and New Zealand Lighting Standards. Australia and New Zealand Lighting Standard 1158.1 - Pedestrian, requires lighting engineers and designers to consider crime risk and fear when selecting lamps and lighting levels.
 - c) Security mirrors shall be installed within corridors and on blind corners to enable users to see around blind corners.
 - d) Graffiti resistant materials shall be used to ground level external surfaces.
 - e) Intercom facilities shall be installed at all vehicular and pedestrian entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
 - f) The front window of the ground floor tenancies must be kept free of shelves, and a maximum of 15% of the window display area may be covered with promotional materials to ensure passive surveillance is maintained to and from the tenancies.
14. All loading, unloading and transfer of goods to and from the loading bay and premises shall take place wholly within the property. Loading areas are to be used only for the loading and unloading of goods, materials etc. not for any other purpose.
 15. Parking spaces shall not be enclosed without further approval of Council. The enclosure of car spaces is not permitted unless the enclosure complies with the design requirements of AS2890.1.
 16. The existing and future owners (Registered Proprietor) of the property will be responsible for the operation and maintenance of the detention system. The registered proprietor will:
 - (i) permit stormwater to be temporarily detained by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner, and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make any alterations to the system or elements thereof without prior consent in writing of the Council;
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirements of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
 17. The existing and future owners (Registered Proprietor) of the property will be

responsible for the efficient operation and maintenance of the water treatment devices.

The Registered Proprietor will:

- (i) permit stormwater to be temporarily detained and pumped by the system;
 - (ii) keep the system clean and free of silt, rubbish and debris;
 - (iii) maintain, renew and repair the whole or parts of the system so that it functions in a safe and efficient manner; and in doing so complete the same within the time and in the manner specified in written notice issued by the Council;
 - (iv) carry out the matters referred to in paragraphs (ii) and (iii) at the proprietor's expense;
 - (v) not make alterations to the system or elements thereof without prior consent in writing of the Council.
 - (vi) permit the Council or its authorised agents from time to time upon giving reasonable notice (but at any time and without notice in the case of emergency) to enter and inspect the land for compliance with the requirement of this clause;
 - (vii) comply with the terms of any written notice issued by the Council in respect to the requirements of this clause within the time stated in the notice.
18. All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device shall be disposed of in accordance with the Protection of the Environment Operations Act, 1997.
19. 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.
20. 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.
21. Temporary dewatering of the site to construct the subsurface structure is not permitted.
22. The visible light reflectivity from building materials used on the façade of the building shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A statement demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for the relevant stage of works.
23. Internal height clearance shall be designed throughout the car park and access driveway in accordance with AS 2890.1 and AS 2890.6.
(For parking with people with disabilities any vehicular path of travel to have a clearance of 2.3m minimum and clearance above the parking bay shall be 2.5m minimum).
24. Hot and cold water hose cocks shall be installed to the garbage room.

25. (b) In order to ensure the design quality excellence of the development is retained:
- i) A registered architect is to have direct involvement in the design documentation, contract documentation and construction stages of the project;
 - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
 - iii) Evidence of the design architect's commission is to be provided to Bayside Council prior to issue of the Construction Certificate.
- (c) The design architect of the project is not to be changed without prior notice and approval of Bayside Council.
26. Where natural ventilation fails to comply with the provisions of the Building Code of Australia, mechanical ventilation shall be provided in accordance with Australian Standard, 1668, Part 2.
27. Receptacles are to be provided in commercial development for the disposal of cigarette rubbish. The receptacles are to be located adjacent to the entrances of the buildings on private property. The receptacles are to be attractive and functional and maintenance of the receptacles is the responsibility of the building owner/manager.
28. The design and construction of the off street parking facilities shall:
- (i) Comply with Australian Standards, as follows:
 - AS/NZS 2890.1:2004
 - AS 2890.2:2002
 - AS 2890.3:1993
 - AS/NZS2890.6:2009
 - (ii) Comply with Council's Vehicular Entrance Policy in relation to the design of the access driveways, in particular, the layout of the access driveways shall be provided in the form of a layback in the kerb and gutter.
29. General landscape Conditions:
- (a) All soft landscape areas are to be maintained for a minimum period of twelve (12) months in accordance with the approved Maintenance Schedule provided as part of the landscape documentation.
 - (b) All landscape areas on slab shall be automatic irrigated. Irrigation system shall be linked to the stormwater drainage system.
30. Trees located within the footprint of the proposed buildings may be removed.
31. The proposed carwash bay must be graded to an internal drainage point and connected to the sewer with the approval of Sydney Water.
32. The approved Landscape Concept Plans prepared by Zenith Landscape Design (Drawing numbers 18-3785L02 and L01, Revision A, dated 6th November 2018) shall comprise detailed landscape documentation to be submitted to and approved by Bayside Council Landscape Architect prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments:
- a) At least three (3) native or ornamental trees of at least 45 litre pot size and capable of growing to a minimum height of three (3) metres shall be planted in First Floor RL 13.90. Trees shall be located in planter box of a minimum depth of 800mm.

- b) A minimum soil depth of 800mm is required for planted areas with trees on common open space of fourth level, RL 23.20 and on first floor level, RL 13.90. Minimum soil depth of 600mm for small feature shrubs on podiums or roof-tops or any other concrete slab.
 - c) Landscape planting on ground level frontage setbacks shall not impede the views to Public Street. (CPTED principle). Shrubs and feature plants between private and public domain should remain under 900mm to assist with the natural surveillance.
 - d) Maintenance Schedule to outline the general requirements needed to maintain the landscape works to an acceptable standard for 12 months. This schedule must include weeding, watering, fertilising, replacement of dead or stolen plants, mulch replacement, and so. Any requirements specific to the site must be included.
33. A Public Domain Frontage Works application shall be submitted separately to Council, with Civil and Landscape works plans prior issue of Construction Certificate. As per Rockdale Street Tree master Plan Dillon Street shall be planted with two (2) Callistemon 'Dawson River Weeper', and Campbell Street with three (3) Angophora floribunda. All street trees shall be supplied in a minimum pot size supplied shall be not less than 200 Litre. Trees supplied shall be healthy and vigorous, free of pest and disease, free from injuries. Trees provided shall conform to NATSPEC guide.
34. Bicycle and motorbike spaces within the development shall be depicted as common property within any future subdivision plan for the development.

Prior to issue of the construction certificate

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

35. A Construction Management Plan (CMP) shall be prepared in accordance with the requirements of all relevant regulatory approval bodies. Prior to the commencement of works the Certifying Authority shall be satisfied that the Construction Management Plan has obtained all relevant regulatory approvals. The Construction Management Plan shall be implemented during demolition, excavation and construction.

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

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

Copies of the CMP and TMP shall be submitted to Council.

36. The following fees shall be paid to Council prior to the issue of a Construction

Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

- i. A Footpath Reserve Restoration Deposit of \$37,678.48. 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.
37. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
 38. An application for 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.
 39. The connection of stormwater drainage pipes to the existing kerb inlet pit in Ramsgate Road must be inspected by Council prior to backfilling. Payment is required prior to the issue of the Construction Certificate for inspection of the connection and/or alteration to the Council pipeline. If payment is made after the end of the financial year the amount is to be adjusted in accordance with Council's adopted fees and charges. Where the inspection is unsatisfactory, each additional inspection will incur an extra charge .
 40. A Section 7.11 contribution of \$388,148.53 shall be paid to Council. Such contributions are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of any compliance certificate, subdivision certificate or construction certificate. The contribution is calculated from Council's adopted Section 7.11 contributions plan in the following manner:

Open Space	\$47,712.26
Community Services & Facilities	\$9,213.77
Town Centre & Streetscape Improvements	\$4,695.48
Pollution Control	\$13,467.84
Local Infrastructure and Facilities	\$312,866.56
Plan Administration & Management	\$192.62

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.

41. Prior to the issue of the Construction Certificate the sum of \$1100.00 is payable to Council for removal and replacement of the street tree. 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.
42. If Council is appointed as the Principal Certifying Authority (PCA) then structural engineer's details shall be submitted prior to the issue of the Construction Certificate; such structural drawings shall be certified by the Structural Engineer that the design complies with the relevant S.A.A. Codes for the following:
- i. the footings of the proposed structure;
 - ii. the footings of the slab-on-ground (having due regard to the possible differential settlement of the cut and fill areas);
 - iii. all reinforced concrete floor slabs;
 - iv. all reinforced concrete stairs;
 - v. the piers to natural ground or rock, detailing the size and position of the piers;
 - vi. the proposed retaining wall;
 - vii. the work required to stabilise the excavation;
 - viii. the work required to stabilise the footpath area;
 - ix. the design of each roof truss type showing the layout of each truss on a marking plan and the method of connecting each truss to its supporting members of the method of bracing;
 - x. all structural steel work;
 - xi. first floor joists;
 - xii. fire rated ceilings/fire protective ceilings.
43. Prior to the issue of the Construction Certificate a certificate from a practicing Structural Engineer, registered with NPER, shall be submitted to Council stating that the subsurface structural components located on the boundary of the public road, including but not limited to the slabs, walls and columns, have been designed in accordance with all SAA Codes for the design loading from truck and vehicle loads.
44. The development shall achieve the following minimum equivalent AAAC Star Rating within the below specified areas of the development.
- 3 Star for tiled areas within kitchens, balconies, bathrooms and laundries. Tiled flooring within corridors, living areas and bedrooms is not permitted.
 - 4 Star for timber flooring in any area.
 - 5 Star for carpet in any area.

The development shall comply with the Building Code of Australia requirement for walls dividing occupancies.

A report shall be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate. The report is to include BCA requirements and details of floor/ceilings between residential apartments. Floor coverings within apartments shall be identified within the report. A suitably qualified acoustic engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership is to certify that the details provided in the said report satisfy the requirements of this condition, with the certification to be submitted to the Principal Certifying Authority for approval prior to the issue of any Construction Certificate for the relevant stage of works.

45. Where the front fence is greater than 1200mm in height, the vehicular entry gates are to be set back a minimum of 1 car space from the boundary and may only open inwards. The return fences on each side are to be splayed at an angle of 45 degrees to the boundary. Details of the gates to be included in the documentation accompanying the Construction Certificate.
46. Compliance with Council's Development Control (DCP) 2011 in relation to requirements for access. Compliance with this condition will require the design and fitout of the commercial/retail areas to be in accordance with Australian Standard 1428.1-2009.

Note: Compliance with Council's Development Control Plan (DCP) 2011 and the Building Code of Australia does not necessarily guarantee that the development meets the full requirements of the Disability Discrimination Act (DDA) 1992. It is the responsibility of the applicant to make the necessary enquiries to ensure that all aspects of the DDA legislation are met.

47. The applicant shall confer with Ausgrid to determine if any of the following:
 - a) If an electricity distribution substation is required;
 - b) if installation of electricity conduits in the footway is required; and
 - c) if satisfactory clearances to any existing overhead High Voltage mains will be affected.

Written confirmation of Ausgrid's requirements regarding the above listed shall be obtained prior to issue Construction Certificate.

All low voltage street mains in that section of the street/s adjacent to the development shall be placed underground. This shall include any associated services and the installation of underground supplied street lighting columns where necessary. The applicant shall confer with Ausgrid to determine Ausgrid requirements. Written confirmation of Ausgrid's requirements shall be obtained prior to issue Construction Certificate.

The relocation of the existing electricity supply pole within the road reserve at Dillon Street 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.

48. Any building proposed to be erected over or near the existing Sydney Water pipeline is to be approved by Sydney Water. A copy of Sydney Water's approval and requirements are to be submitted to Council prior to issuing a Construction Certificate.
49. 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](#)

50. 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.
51. Detailed plans of the proposed access driveway on Dillon Street and onstreet parking along Dillon Street, Campbell Street and Ramsgate Road associated with the subject development (onstreet parking, speed hump and traffic signs and parking bay dimensions) should be in accordance with AS2890.1, AS 2890.5 for on street parking, road rules and Austroads Guidelines.
- i) That the driveway off Dillon Street is construction with a 90degree angle to the boundary line with a maximum width of 5.5m at the boundary.
 - ii) That the existing parking limit is retained.

Where a Private Certifier issues the Construction Certificate the plans shall be submitted to Council's Traffic Committee for approval prior to Construction Certificate being issued.

52. Geotechnical - Adjoining buildings founded on loose foundation materials

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

- (a) All recommendations contained in the report prepared by Eswnman Pty Ltd., Ref: ESWANPR2018262, Dated 15 August 2018 shall be implemented.
- (b) Provide a certificate that the construction certificate plans are satisfactory from a geotechnical perspective and
- (c) Confirm that the proposed construction methodology
 - To prepare a Construction Methodology report demonstrating that the proposed construction methods (including any excavation, and the configuration of the built structures) will have no adverse impact on any surrounding property and infrastructure. The report must be submitted 4 of 9 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.

53. Any subsurface structure within the highest known groundwater table/rock + 0.5m shall be designed with a waterproof retention system (i.e. tanking and waterproofing) with adequate provision for future fluctuation of the water table. The subsurface structure is required to be designed with consideration of uplift due to water pressure and "flotation" (buoyancy) effects. Subsoil drainage around the subsurface structure must allow free movement of groundwater around the structure, but must not be connected to the internal drainage system. The design of the subsurface structure, tanking and waterproofing, and subsoil drainage shall be undertaken by a suitably experienced Chartered Professional Engineer(s).
Design details and construction specifications shall be included in the documentation accompanying the Construction Certificate **for the relevant stage of works.**
54. The low level driveway must be designed to prevent inflow of water from the road reserve. The assessment of flows and design of prevention measures shall be in accordance with the requirements of Rockdale Technical Specification Stormwater Management. Details shall be included in the documentation presented with the Construction Certificate application.
55. A visitor car space shall also operate as a car wash bay. A tap shall be provided. A sign shall be fixed saying 'Visitor Car Space and Car Wash Bay'. The runoff shall be directed and treated as per Rockdale Technical Specification Stormwater Management. Details shall be provided with the plans accompanying the Construction Certificate.
56. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted to Principal Certifying Authority for assessment and approval. Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Notes:

1. The detailed plans are required to incorporate an oil interceptor for the driveway and basement carpark surface runoff in accordance with Rockdale Technical Specification Stormwater Management, section 7.5.4.
 2. To implement any required drainage measures on the base of Geotechnical Engineer's advice on the drainage under the floor slab and basement walls.
 3. Recheck and clearly define proposed Rain Tank location and headroom below.
57. Prior to the issue of a Construction Certificate, an application is to be made for Property Address Allocation and payment of associated fees is required to be made to Council. All new addresses will be allocated in accordance with AS/NZS 4819:2011 Rural and Urban Addressing Standard and Section 5.2 of the NSW Address Policy.

The form is available for download at:

<https://www.bayside.nsw.gov.au/services/development-construction/building-or-altering-property/commonly-used-forms>

Derivation and production of address data components are governed by the NSW Addressing User Manual to ensure consistency of application.
http://www.gnb.nsw.gov.au/__data/assets/pdf_file/0007/199411/NSW_AUM_July2018_Fina

58. Prior to the issue of a Construction Certificate, the following design changes are to be made:
- a) The aluminium cladding on the external of the building is to be replaced with a simpler painted finish.
 - b) The windows off the living room (facing the common open space) within Units 1.01, 1.06, 4.01 and 4.02 are to have a minimum sill height of 1.7m.
59. Prior to the issue of the Construction Certificate, details of the proposed street awning, including plans and sections, must be provided to the Principal Certifying Authority. The details must include:
1. The street awning(s) must be setback 600mm from the kerb line, 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.
 2. All stormwater is to be collected and connected to Council's 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.
 3. The awning(s) must be designed 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.
 4. 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.
 5. 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.

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.

Prior to commencement of works

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

60. 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.

61. 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.

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

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

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

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

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

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

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

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

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

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

63. 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.
64. 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.
65. Prior to the commencement of work, Tree Protection Zones shall be established in accordance with AS4970-2009 (Protection of trees on Development Sites) with protective fences at least 1.8 metres high erected outside the drip lines from the trunks of each street tree which are required to be retained. The protective fences shall consist of chain wire mesh temporary fence panels securely mounted and braced to prevent movement, shall be in place prior to the commencement of any work on site and shall remain until the completion of all building and hard landscape construction. Excavations for services, waste bins, storage of materials and equipment, site residue, site sheds, vehicle access or cleaning of tools and equipment are not permitted within the Tree Protection Zones at any time.
66. 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.
67. 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.
68. 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.
69. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.
70. Where clearances to any existing overhead High Voltage mains are affected, the builder shall make arrangements with Ausgrid for any necessary modification to the electrical network in question. These works shall be at the applicant's expense.

Ausgrid's requirements under Section 49 Part 1 of the Electricity Supply Act 1995 shall be met prior to commencement of works or as agreed with Ausgrid.

During demolition / excavation / construction

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

71. 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.
72. 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.
73. For Class 2, 3 and 4 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
 - i. after excavation for, and before the placement of, any footing, and
 - ii. prior to covering waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - iii. prior to covering any stormwater drainage connections, and
 - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

74. 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.
75. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
76. 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.

77. 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.

78. 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.
79. 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.
80. 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.
81. 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.
- 82. 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.
- 83. The existing Callistemon street trees located at the front of the property in Campbell Street and Ramsgate Road are not to be removed or pruned, including root pruning, without the written consent of Council.
- 84. Trees located within adjoining properties or Council's nature strip shall not be removed or pruned without the written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011.
- 85. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.
- 86. There are existing underground electricity network assets in Dillon St. Special care should be taken to ensure that driveways and any other construction activities within the footpath do not interfere with the existing cables in the footpath. It is recommended that the assets be located and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safe work Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.
- 87. 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 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 an NSW approved landfill or to a recipient site.
- 88. 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.

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.

89. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
90. Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory, or wherever directional signage such as lifts or building directories or information is provided to those buildings where access and facilities for people with disabilities has been provided. Such signage shall have regard to the provisions of AS1428.1 and AS1428.2.
91. Tactile differentiation on floor surfaces indicating change of gradient shall be provided to those buildings where access and facilities for people with disabilities has been provided. This includes the external parts of the building, eg. access walkways and ramps. Such differentiation shall have regard to the provisions of AS1428.4.
92. 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.
93. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
94. A by-law shall be registered and maintained for the life of the development, which requires that :
 - (a) balconies are not to be used as clothes drying areas, storage of household goods and air-conditioning units that would be visible from the public domain;
 - (b) an owner of a lot must ensure that all floor space within the lot complies with the acoustic conditions for floors specified in this consent;
 - (c) Notwithstanding subclause (b), in the event that a floor covering in the lot is removed, the newly installed floor covering shall have a weighted standardized impact sound pressure level not greater than L'nT,w 45 measured in accordance with AS ISO 140.7 and AS ISO 717.2. A test report from a qualified acoustic engineer employed by a firm eligible to membership of the Association of Australian Acoustical Consultants shall be submitted to the Owners Corporation within 14 days of the installation of the new floor covering demonstrating compliance with that standard. In the event that the standard is not complied with, the floor covering shall be removed and replaced with a floor covering that conforms to that standard in accordance with any directions given by the Owners Corporation.

Proof of registration of the By Law shall be submitted to Council prior to the issue of the Occupation Certificate.

95. Damage to brick kerb and/or gutter and any other damage in the road reserve shall be repaired using brick kerb and gutter of a similar type and equal dimensions. All works shall be to Council's satisfaction at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
96. Ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place shall be removed forthwith.
97. 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.
98. 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.
99. The underground placement of all low voltage street mains in that section of the street/s adjacent to the development, and associated services and the installation of underground supplied street lighting columns, shall be carried out at the applicant's expense. The works shall be completed and Ausgrid's requirements shall be met prior to issue of the Occupation Certificate.
100. 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.
101. 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".
102. 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.
103. The width of the double driveway off Dillon Street at the boundary shall be a maximum of 6 metres and a minimum of 5.5m. The driveway is to be constructed with a 90 degree angle to the boundary line.
104. In relation to safe egress, a warning system and speed humps will be provided proposed to ensure pedestrian safety in lieu of splayed walls.

"Giveaway to Pedestrians" at both driveway locations upon exit and a speed hump within the exit lane for the northern access point.

OR

The eastern (exit) side of the driveway shall be replaced by a see-through screen (mesh or similar material) for a distance of 3.5 metres from the property boundary. The driveway is set back 2.0 metres from the eastern boundary with a landscape zone between the driveway and boundary. Low-level landscaping shall be provided in

this zone (less than 1.0 metres high). Thus a 3.5 x 2.0metre sight line splay will be provided for vehicles exiting the site.

105. The dedication to Council of 1.5m X 1.5m corner splay at the intersection of Dillon Street and Ramsgate Road with Campbell Street.

Council requires proof of lodgement of the signed Subdivision/Strata Certificate and 88B Instrument with the Land Titles Office.

106. Suitable vehicular bollards shall be provided at shared areas of adaptable parking spaces to have suitable vehicular bollards.
107. 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.

108. 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.
109. 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.
110. A certificate is to be provided to Council that all wet areas have been effectively waterproofed (prior to tiling) in accordance with AS3740 and the product manufacturer's recommendations.
111. A Landscape Architect shall provide a report to the certifying authority (with a copy provided to Council, if Council is not the principal certifying authority) stating that the landscape works have been carried out in accordance with the approved plans and documentation.
112. Prior to occupation or use of the premises, a qualified mechanical engineer shall certify that the mechanical ventilation/air conditioning system complies in all respects with the requirements of Australian Standard 1668, Part 1 & 2.
113. Prior to occupation, a chartered professional engineer shall certify that the tanking and waterproofing has been constructed in accordance with the approved design and specification. A copy shall be provided to Council if council is not the Principal Certifying Authority.
114. 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.
115. The underground garage shall be floodproofed to a minimum of 500mm above the 1% Annual Exceedance Probability Gutter flow level. The levels shall be certified by a registered surveyor prior to construction of the driveway or other openings.
 116. A positive covenant pursuant to the Conveyancing Act 1919 shall be created on the title of the lots that contain the stormwater detention facility to provide for the maintenance of the detention facility.
 117. The pump system, including all associated electrical and control systems, shall be tested and inspected by a suitably qualified and experienced person. Records of testing shall be retained and provided to the certifying hydraulic engineer and/or PCA upon request.
 118. 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 arrester pit as detailed in Rockdale Technical Specification Stormwater Management shall be provided prior to discharge of stormwater from the site.

119. Signs shall be displayed adjacent to all stormwater drains on the premises, clearly indicating "Clean water only - No waste".
120. Acoustic Attenuation
Prior to the issue of an Occupation Certificate, the following is to be prepared, undertaken and submitted to Council:

A. Testing and evaluation of the wall insulation system and floor system is to be carried out at post construction stage by a suitably qualified acoustical engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to confirm compliance with conditions of this consent. A report is to be submitted to the PCA and Council, prior to the issue of the Occupation Certificate. The report is to include details & finishes of the walls and floors separating apartments.

B. Acoustic recommendations in relation to traffic contained in the report prepared by Noise and Sound Services dated August 2018 and acoustic recommendations in relation to floors and walls contained in the report prepared by Noise and Sound Services dated August 2018 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.

Roads Act

121. 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.
122. Where applicable, the following works will be required to be undertaken in the road reserve at the applicant's expense:
- i) construction of a concrete footpath along the frontage of the development site;
 - ii) construction of a new fully constructed concrete vehicular entrance/s;
 - iii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - iv) reconstruction of selected areas of the existing concrete Footpath/vehicular entrances and/or kerb and gutter;
 - v) construction of paving between the boundary and the kerb;
 - vi) removal of redundant paving;
 - vii) construction of kerb and gutter.
123. In addition to the works in the road reserve listed above, the following modification and/or improvement works to the road and drainage in Dillon Street will be required to be undertaken at the applicant's expense:
- i) That the existing parking limit is retained.
 - ii) On street, car parking spaces shall be sealed and lined marked.
 - iii) Road and Parking signs shall be installed.
- Note:** Detailed plans of the works are required to be submitted to Council for assessment and approval pursuant to Section 138 of the Roads Act 1993, prior to the issue of the Construction Certificate.
124. 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.
125. All driveway, footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken in accordance with Council's Subdivision and Civil Works Construction Specification (AUS-SPEC 1). Amendment to the works specification shall only apply where approved by Council.

Where a conflict exists between design documentation or design notes and AUS-SPEC 1, the provisions of AUS-SPEC 1 shall apply unless otherwise approved by Council.

126. 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.
127. 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.
128. 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/shop number shall be prominently displayed at the front of the development. The street number shall be a minimum of 120 mm in height to assist emergency services and visitors to locate the property. The numbering shall be erected prior to commencement of operations.
- b. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- c. *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. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- f. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:

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

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

- g. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
- Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Protection of the Environment Operations (Waste) Regulation 2005.
- h. 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".
- i. All site works shall comply with the occupational health and safety requirements of the NSW WorkCover Authority.
- j. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.
- k. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents and all roadworks/regulatory signposting associated with the proposed development shall be at no cost to Council or RMS.
- l. The water from the rainwater tank should not be used for drinking, Sydney Water shall be advised of the installation of the rainwater tank.



STATEMENT OF ENVIRONMENTAL EFFECTS

Demolition of existing dwellings and ancillary structures and the construction of a shop top housing development over basement parking.

Address: 29-31 Campbell Street, Ramsgate

Prepared for: Youssef Corp 2 Pty Ltd

Date: 29 August 2018



CONTACT			
Bernard Moroz	Managing Director	bernard@bmaurban.com	+61 2 80678644

This document has been prepared by:



Bernard Moroz

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BMA Urban
ACN 623 236 608
Suite 5, Level 24
300 Barangaroo Avenue,
Sydney NSW 2000

www.bmaurban.com



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1. Introduction

This Statement of Environmental Effects (SEE) has been prepared for Youssef Corp 2 Pty Ltd by Bernard Moroz & Associates Pty Ltd – (hereafter referred to as BMA Urban).

The proposal involves the demolition of the two existing dwellings and ancillary structures to enable the construction of a five (5) storey shop top housing development over basement car parking. The building is to contain a total of four (4) retail tenancies and twenty (20) apartments while the dual basement contains parking for thirty-five (35) vehicles, secure apartment storage areas and lift access to the retail tenancies and residential apartments above.

The proposed new development has been designed in a “u-shape” so as to provide strong addresses to all three street frontages while maximising opportunities for natural sunlight access and cross flow ventilation to the proposed apartments. The proposal is consistent with the objectives of Zone B4 Mixed Use and is generally compliant with the development standards prescribed within Rockdale Local Environmental Plan 2011 (RLEP 2011), with the exception of the development standard related to height. This variation allows for a higher quality residential product without creating any adverse impacts or compromising the development potential of neighbouring properties. A written variation request prepared pursuant to Clause 4.6 is provided at Annexure A.

The proposal is also consistent with the design criteria prescribed in the Apartment Design Guide (ADG) in relation to the size of dwellings and associated private open space areas, solar access and cross ventilation thresholds, car parking requirements and so on.

The Statement of Environmental Effects has been prepared having regard to the following plans, reports and documents that accompany the Development Application:

Document:	Prepared by:	Dated:
Survey Plan	W Buxton Pty Ltd	19 June 2018
Architectural Plans	Cornerstone Design	20 August 2018
Landscape Plans	Zenith Landscape Design	16 August 2018
Hydraulic Plans	Alpha Engineering	28 August 2018
Acoustic Report	Noise and Sound Services	August 2018
Acid Sulfate Soils Report	ESWNMAN Pty Ltd	17 July 2018
Traffic Report	Terrific Pty Ltd	15 August 2018
Geotechnical Report	ESWNMAN Pty Ltd	15 August 2018
Access Report	Accessible Building Solutions	17 August 2018
Quantity Surveyor	QPC & C	29 August 2018
Wind Statement	Windtech	10 August 2018

This Statement has been divided into five sections. The remaining sections include a locality and site analysis; a description of the proposal; an environmental planning assessment; and a conclusion.

2. Site Analysis and Context

This section contains a description of the following: The Locality; Site Description; Existing Built Form and Landscaping and Existing Character and Context.

2.1 The Locality

The subject site is located within the Local Government Area (LGA) of Georges River. The subject site is located in reasonable proximity to the Sydney CBD (15.9km), Kingsford Smith Airport (7.8km) and Ramsgate Beach (1.3km).



Figure 1: Aerial view of the site
Source: Six Maps

Subject site 



Figure 2: Location Map
Source: Six Maps

Subject site 



2.2 Site Description

Located on the western side of Campbell Street on the intersection with Dillon Street and Ramsgate Road, the subject site identified as 29-31 Campbell Street, Ramsgate. The location of the site is identified in Figures 1 and 2 above where it is outlined in red in the aerial images provided.

The site presents a consolidated frontage width of 36.42m to Campbell Street, 25.91m frontages to both Dillon Street and Ramsgate Road and a western boundary length of 36.42m. The site presents a consolidated area of 943.6.2m² and a slight crossfall from the north-western corner RL 10.61 to the south-eastern corner of the site RL 9.57. A detailed Land Survey has been submitted with the development application that indicates boundary lengths, site area and the location of existing structures on each allotment (Figure 3).

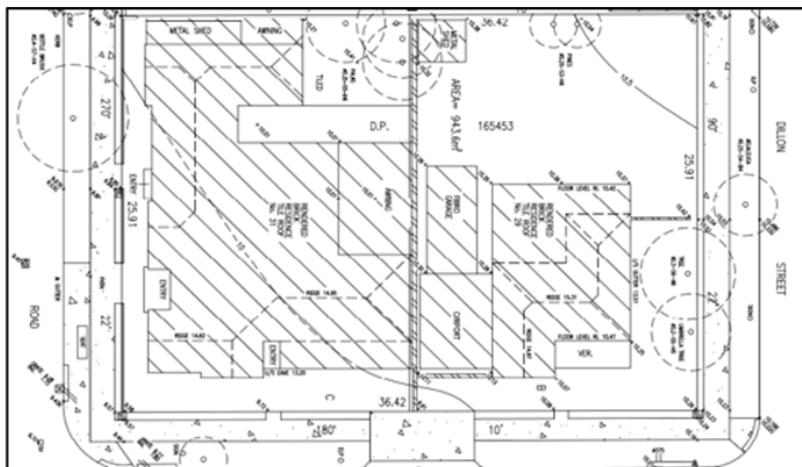


Figure 3: Land Survey
Source: W Buxton Pty Ltd

2.3 Existing Built Form and Landscaping

Existing site improvements include two (2) single storey rendered dwellings both of which are provided with vehicular access directly off Campbell Street. Figures 4 through to 7 below illustrate the nature of the current site conditions.



Figure 4: The subject site as viewed from Campbell Street



Figure 5: As previous



Figure 6: The subject site as viewed from Ramsgate Road



Figure 7: The subject site as viewed from Dillon Street

2.4 Site Surrounds

The site is adjoined to its immediate west by 80 Ramsgate Road currently occupied by a two storey weatherboard dwelling and detached garaging, presenting frontages to both Ramsgate Road and Dillon Street (Figures 8 and 9). On this site, and on the neighbouring site identified as 78 Ramsgate Road which currently forms part of a Council public parking lot, an application has been approved for the construction of a five (5) storey mixed use development comprising 20 residential apartments, four (4) commercial tenancies with basement parking (DA-2016/205).

To the east of the site across Campbell Street and to the north of the site across Dillon street, single storey detached dwellings occupy the sites (Figures 10 and 11). To the south of the site across Ramsgate Road, a single storey dwelling with pronounced attic form and a building identified as the "Sans Souci Literary Institute" occupy the sites (Figures 12 and 13).



Figure 8: 80 Ramsgate Road, as viewed from Ramsgate Road



Figure 9: 80 Ramsgate Road, as viewed from Dillon Street



Figure 10: 82 Ramsgate Road, as viewed from Campbell Street



Figure 11: No's 6 and 8 Dillon Street, as viewed from Dillon Street



Figure 12: 105 Ramsgate Road, as viewed from Ramsgate Road



Figure 13: 107 Ramsgate Road, as viewed from Ramsgate Road

Along Dillon Street to the west of the site, a number of more recently constructed multi-storey building's occupy the sites (Figures 14 and 15).



Figure 14: 284-290 Rocky Point Road, as viewed from Dillon Street



Figure 15: 2-4 Dillon Street, as viewed from Dillon Street

3. THE PROPOSAL

3.1 Description

The proposal involves the demolition of the two existing dwellings and site improvements to enable the construction of a five (5) storey shop top housing development over basement car parking. The development will comprise of a total of four (4) retail tenancies and twenty (20) residential apartments while the dual basement contains parking for thirty-five (35) vehicles, secure apartment storage areas and lift access to the retail tenancies and residential apartments above. The proposed development is most accurately depicted in the architectural plan set prepared by Cornerstone Design submitted as part of this application.

3.2 Demolition and Earthworks

The subject Development Application seeks consent for demolition of all existing structures on the site, and also seeks consent for earthworks including excavation to facilitate the basement levels which are works that are ancillary to the primary works for which consent is sought.

3.3 The Built Form

3.3.1. Gross Floor Area and Floor Space Ratio

The proposed development has a gross floor area (GFA) of 1,887.05m² which equates to a floor space ratio of 2:1 on the 943.6m² site.

The floor space ratio and gross floor area of the proposed development have been measured according to the definitions of those terms prescribed in the LEP dictionary.

3.3.2. Building Height

The proposed development is five (5) storeys in height, with a maximum building height of RL 27.2 metres AHD or 17.06m to the topmost point of the lift overrun.

3.3.3. Building Setbacks

Front Setback/Rear Setback

The proposed development observes a ground level setback to the retail component of the building ranging from 2.1m to 3.705m (Campbell Street), 3.89m (Dillon Street) and 3.14m (Ramsgate Road). The units above (first floor) are aligned to the street boundary along Campbell Street, range from 1.98m to 5.43m (Dillon Street) and range from 2.9m to 5.55m along Ramsgate Road. The proposal will directly adjoin the approved, but yet to be constructed, neighbouring building along the western elevation. Along this elevation, a break between the two building wings has also been provided reflective of, and in line with, that observed on the future adjacent building. In this location, a 7.57m setback is provided to edge of the service core. From the second building level and to the respective levels above, setbacks to both Campbell Street and to the western boundary remain identical to those provided on the ground floor level. Along both Ramsgate Road and Dillon Street, setbacks of 3.09m to Dillon Street and 3.1m to Ramsgate Road are provided.

3.3.4. Photomontage



Figure 16: Photomontage (Viewed from Ramsgate Road)

Source: Comerstone Design



Figure 17: Photomontage (Viewed from Campbell Street)
Source: Cornerstone Design

3.3.5. Dwelling Types (Residential)

The proposal contains a total of twenty (20) residential apartments comprising a combination of single, two and three bedroom apartments, distributed across four levels. A breakdown of apartment types is as follows:

RESIDENTIAL UNIT MIX:
 1 BEDROOM APARTMENTS = 4 = 20%
 2 BEDROOM APARTMENTS = 14 = 70%
 3 BEDROOM APARTMENTS = 2 = 10%

Figure 18: Unit breakdown
Source: Cornerstone Design

3.3.6. Pedestrian Access

The primary pedestrian access to the residential component of the building is centrally located along the Campbell Street frontage. Access to the four (4) retail uses on the ground floor is made available from this location and also directly off Dillon Street and Ramsgate Road.

3.3.7. Vehicular Access and Parking

Vehicular access to the site is proposed to be provided from the north-western corner of the site's frontage to Dillon Street. A total of thirty-five (35) car parking spaces are proposed over two basement levels. A traffic and parking assessment has been prepared by Terrafic Pty Ltd that confirms that the parking, access and circulation arrangements proposed satisfy

applicable requirements of the consent authority as well as relevant aspects of the Australian Standards.

[3.3.8. Servicing](#)

Separate bin storage rooms are provided on the ground floor catering individually for both residential and retail uses.

[3.3.9. Landscaping and Deep Soil](#)

Given that the proposed development provides active street frontages along the public interface elevations, deep soil to the site could not be provided. In lieu of deep soil, the proposal incorporates a number of landscape planter beds. Furthermore, the planting of five (5) indigenous street trees is proposed in addition to the street trees already being retained.

[3.3.10. Stormwater and Drainage](#)

A detailed Stormwater Drainage Plan prepared by Alpha Engineering and Development accompanies this application.

During construction, stormwater will be managed through the installation of the following:

- Sediment fencing
- A temporary sediment trap
- Defined and secured excavation stockpile area; and
- Straw bale bunds

[3.3.11. Acoustic Design](#)

Noise and Sound Services have prepared an Acoustic Assessment which accompanies this application. This report provided recommendations in relation to acoustic measures required to achieve acceptable levels of internal amenity, to apartments particularly relevant to those that will present a frontage to Ramsgate Road.

4. Planning Controls

The following planning instruments are applicable to the proposed development:

- State Environmental Planning Policy No. 55 - Remediation of Land;
- State Environmental Planning Policy (BASIX) 2004;
- State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas);
- Rockdale Local Environmental Plan 2011;
- Rockdale Development Control Plan 2011.

The relevant provisions and controls of the above Instruments and Plans are summarised in the following sections of this SEE.

5. S4.15 Evaluation of the EP&A Act, 1979

5.1 S4.15(1)(a) of the EP&A ACT 1979

(i) Section 4.15(1)(a)(i)

The provisions of any Environmental Planning Instrument

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The purpose of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) is to ensure that land which is contaminated is identified and appropriately remediated so as to be suitable for the proposed development.

Clause 7 of SEPP 55 states:

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

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

A historical review of the site indicates that the site has been used for residential purposes since 1943 and there is no indication of any other use (Figure 20). In this regard, the provisions of SEPP 55 are considered to be satisfied.



Figure 19: Historical Aerial
Source: Six Maps

Subject site 

4.1.2 State Environmental Planning Policy (Infrastructure) 2007

Clause 45 – Determination of development applications (Other development)

Clause 45 of the ISEPP requires the consent authority to refer a Development Application to the electricity supply authority as the development to be carried out is within 5m of an exposed overhead electricity power line. The building façades to both Dillon Street and Ramsgate are located outside of this zone of influence. In this regard, the provisions of this Clause are considered to be met.

Clause 101 Development with Frontage to a Classified Road

The proposed development is subject to the provisions of Clause 101 of the State Environmental Planning Policy (Infrastructure) SEPP due to the site having a frontage to Ramsgate Road, which is a Classified Road.

Clause 101 (2) of the Policy states that:

Council must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*

- (ii) the emission of smoke or dust from the development, or
- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The proposed development has been designed with vehicular access from Dillon Street. The Traffic and Parking Assessment prepared by Terrafic concludes that the proposal will have no unacceptable impact on the safe and efficient operation of Ramsgate Road.

Furthermore, and in response to Clause 101 (2) (c), an Acoustic Assessment accompanies this application, providing recommendations in relation to the management of acoustic impacts from passing traffic, so as to ensure an acceptable level of residential amenity.

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

Clause 102 of the Policy applies to the proposal, which incorporates a building for residential use adjacent to Ramsgate Road.

Clause 102(3) states that If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The Acoustic Assessment prepared by Noise and Sound Services accompanying this application provides recommendations in relation to acoustic measures in order to ensure compliance with these requirements.

Appropriate consent conditions may be imposed in this regard.

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

Schedule 1 of SEPP 65 sets out the design quality principles to be taken into consideration for residential flat development. Each of the design quality principles listed in SEPP 65 are discussed under the respective headings below.

In relation to cl. 28(2)(b), and in order to satisfy cl. 50 of the Environmental Planning and Assessment Regulation 2000, a Design Verification Statement detailing compliance with the design quality principles has been prepared by Nicholas Lycenko (Reg. 3010) and is submitted with the Development Application. In relation to cl. 28(c) an Apartment Design Guide compliance table has been prepared by Cornerstone Design, and can be located in the later stages of this Statement.

Clause 30(1) of the SEPP states that a development application cannot be refused for reasons relating to ceiling heights, parking and internal apartment sizes if it complies with the prescribed criteria for these matters as specified in the Apartment Design Guide (ADG). The proposal satisfies these controls.

Principle 1: Context

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.

Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

As detailed in Section 2.4 of this Statement, the local surrounding area is characterised by a varying housing building typology and form ranging from detached dwellings to multi-storey developments of varying scales.

Having regard to the site's context, there are a number of recent multi-storey developments constructed along both Dillon Street and Rocky Point which provide a reference point or design queue for the proposed development. Particular consideration was given to the approved construction of a five (5) storey mixed use development comprising twenty (20) residential apartments, four (4) retail tenancies with basement parking (DA-2016/205) adjoining the site to the west at 80 Ramsgate Road. The design outcome adopted in this case will ensure that an appropriate built form and spatial relationship between both this and the neighbouring building will be provided.

Notwithstanding the above, the built form of the proposed development has been determined having regard to the characteristics of existing built forms adjoining the site, recently completed developments and the development standards and controls prescribed for the site within the LEP and the DCP.

The proposed development provides an appropriate transition in scale across Campbell Street to the R2-Low Density Zoning. Accordingly, the proposed development provides a compatible response to the site's context.

Principle 2: Built form and scale

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The LEP and DCP specify building envelope controls for the proposed development including FSR, building height and setback requirements. Those controls determine the desired scale of development in the locality.

As detailed later in this Statement, the proposed development provides a satisfactory response to the building envelope controls prescribed in the LEP and the DCP. Whilst the proposed development exceeds the maximum numerical component for the height standard prescribed for the site under the LEP, the proposed development is considered to achieve the objectives of the development standards. As detailed later in this Statement, suitable justification is provided to justify the contravention of the development standards pursuant to Clause 4.6 of the LEP.

Having regard to the existing development adjoining the site and the development opportunities afforded to currently undeveloped properties across from the site along Dillon Street, the scale of the proposed development is considered to be compatible with both the existing and envisaged development scales within the sites immediate and local context.

The proposed development is considered to provide an appropriate built form and scale when compared with the permitted scale bulk and height for development on adjoining properties.

Principle 3: Density

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

The LEP prescribes a maximum FSR development standard of 2:1. The proposed development complies with this standard.

Having regard to the density of the proposed development in response to the development standards, the proposal is considered to achieve a compatible bulk and scale with both the existing comparative development forms and is consistent with the desired future character for the locality as governed by Council's density controls for the site. As detailed later in this Statement, the proposed development achieves a high level of compliance with the ADG and will offer an appropriate mix of dwelling types within a highly accessible area.

The subject site is located in close to proximity to existing infrastructure and community services/facilities and is located in an area with reasonable access to a number of public transport options. Accordingly, the subject site is considered suitable for the proposed density.

Principle 4: Sustainability

Good design combines positive environmental, social and economic outcomes.

Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.

The proposed development has been designed with passive environmental principles in planning and solar control and also incorporates energy and water efficiency measures such as energy efficient hot water systems and energy and water saving fittings and fixtures. The proposed development has been designed having regard to achieving compliance with the BASIX requirements as detailed in the BASIX Certificate accompanying the application.

Accordingly, the proposed development is considered acceptable having regard to this principle.

Principle 5: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.

Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.

Given that the proposed development provides active street frontages along the public interface elevations, deep soil to the site could not be provided. In lieu of deep soil, the proposal incorporates a number of planter beds in which suitable species have been provided. Furthermore, the planting of five (5) indigenous street trees is proposed in addition to the street trees already being retained.

The proposed development therefore achieves an appropriate aesthetic quality and provides suitable amenity for future occupants of the proposed development and adjoining properties.

Principle 6: Amenity

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.

The internal layout and configuration of the proposed apartments have been determined having regard to the minimum dwelling sizes and amenity requirements suggested by the ADG. The proposal ensures that the apartments provide functional and well organised spaces with appropriate room dimensions as detailed in the ADG assessment later in this statement.

The massing of the built form will allow for maximum penetration of natural light and cross-flow ventilation into the apartments which in turn, will result in a more energy efficient and less resource intense building. Visual privacy will be achieved, while acoustic privacy will be offered to the dwellings through the acoustic insulation requirements of the BCA.

Each apartment is provided with suitable storage areas within the basement adjacent to the designated car parking space and within a common storeroom provided within the south-eastern corner of the lower basement. With regards to the provision of private open space for each apartment, this has been provided in the form of a balcony designed to be readily

accessible from the living areas. Communal open space areas are proposed on both level 1 and level 4 of the building.

The development is provided with ease of access for all age groups and degrees of mobility via the single central lift which has been designed to service all levels in the building. Adaptable dwellings and accessible car parking spaces are proposed in accordance with the DCP requirements.

The proposed development therefore provides appropriate levels of amenity for future occupants and visitors to the development and maintains suitable levels of amenity for existing adjoining properties.

Principle 7: Safety

Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

The built form of the proposed development clearly defines and reinforces the public and private domains on the ground floor level incorporating the retail component of the building. Secure access will be provided throughout the building that will eliminate unintended access by the public. The proposed development does not include any unsecured or concealed areas within the building and provides direct pedestrian access into the ground floor level.

All apartments are provided with at least one balcony facing directly onto a street frontage promoting the ability for casual surveillance of the public domains. All common areas and pathways will be appropriately illuminated to ensure ease of access and safety at all times. In this regard, the proposed development is therefore considered to be a good design that optimises safety and security.

Principle 8: Housing Diversity and Social Interaction

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.

Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.

The proposed development contains a total of twenty (20) apartments including:

- 4 x 1 bedroom dwellings (20%)
- 14 x 2 bedroom dwellings (70%)
- 2 x 3 bedroom dwellings (10%)

The dwelling mix is considered to be broad enough and includes a variety of dwelling types that will cater for a variety of households within the local area. As already discussed, the proposed development provides two areas of communal space, that have been designed to ensure both safety, comfort and accessibility from all levels of the development via the internal lift.

Principle 9: Aesthetics

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

The façade of the proposed development includes a suitable level of detail that provides articulation and modulation resulting in visual interest when viewed from all three street frontages.

The built form of the proposed development has been determined having regard to the site's context and capacity and the development standards and controls prescribed for the site within the LEP and the DCP. The choice of materials and finishes for the proposed development are appropriate for the site and are compatible with the surrounds. The façades are appropriately modulated with varying depth and shallowness, the use of varying materials, textures and finishes and planter boxes that will provide landscaping to soften the building.

The proposed development provides a high degree of modulation and articulation and the selection of textures, materials and colours will result in a development that will have quality aesthetics having regard to the environment and context.

Apartment Design Guide Compliance with Design Criteria				
Ref	Section	Requirements	Proposed	✓/x
Part 3- Siting the Development				
3A	Site Analysis	Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	A site analysis was conducted and referenced in the architectural plans.	✓
3B	Orientation	Building types and layouts respond to the streetscape and site while optimising solar access within the development. Overshadowing of neighbouring properties is minimised during mid-winter.	The building modules and internal layouts respond to the site orientation to maximise solar access and also respect adjoining sites.	✓
3C	Public Domain Interface	Transition between private and public domain is achieved without compromising safety and security. Amenity of the public domain is retained and enhanced.	Street edges of the building relate well to the public domain which will be provided with an active street edge consisting of a mix of retail uses.	✓
3D	Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site. Developments achieved a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).	A total of 29.21% of the site (275.6m ²) provided as communal space. The communal open space is provided in a number of locations where it can be safely accessed from all levels of the building. Solar access requirements to the communal open space are satisfied.	✓

Apartment Design Guide Compliance with Design Criteria						
Ref	Section	Requirements		Proposed	✓/x	
3E	Deep Soil Zones	Deep soil zones are to meet the following:			<p>No deep soil is provided to the site. As the ground floor consists of only non-residential uses, achieving the minimum requirement is not possible. The discussions in Part 3E of the ADG acknowledge that this may be the case.</p> <p>While the required amount of deep soil area has not been met, the detailed stormwater plan submitted with this application outlines that an acceptable level of stormwater management have been achieved in accordance with Council's water management requirements. The detailed landscape plan accompanying this application also details alternative forms of planting along the boundary interfaces.</p>	x
		Site area	Min dimension	Deep soil zone (%of site area)		
		<650m ²	-	7%		
		650-1500m ²	3m			
		>1500m ²	6m			
>1500m ² with tree cover	6m					

Apartment Design Guide Compliance with Design Criteria													
Ref	Section	Requirements		Proposed	✓/x								
3F	Visual Privacy	Minimum required separation distances from buildings to the side and rear boundaries are as follows:		The proposal appropriately responds to the separation requirements of the ADG. Communal open space areas and access paths have been appropriately separated from the private open space and windows of any apartments.	✓								
		<table border="1"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12 m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height			Habitable rooms and balconies	Non-habitable rooms	Up to 12 m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m
Building Height	Habitable rooms and balconies	Non-habitable rooms											
Up to 12 m (4 storeys)	6m	3m											
Up to 25m (5-8 storeys)	9m	4.5m											
Over 25m (9+ storeys)	12m	6m											
3G	Pedestrian access & entries	<p>Building entries and pedestrian access connects to and addresses the public domain.</p> <p>Access, entries and pathways are accessible and easy to identify.</p> <p>Large sites provide pedestrian links for access to streets and connection to destinations.</p>		The proposal provides clearly identifiable entry points to the building.	✓								
	3H- Vehicle Access	Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.		The vehicular access is provided from Dillon Street where it is not anticipated to result in conflicts between pedestrians and vehicles.	✓								

Apartment Design Guide Compliance with Design Criteria				
Ref	Section	Requirements	Proposed	✓/x
	3J- Bicycle and Car-parking	<p>For development in the following locations:</p> <p>On sites that are within 800 metres of a railway station or light rail stop in the Sydney Metropolitan area; or</p> <p>On land zoned and sites within 400 metres of land zones, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre.</p> <p>The minimum car parking requirements for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p>	The proposal makes provision for adequate parking and bicycle parking within the basement in accordance with the DCP requirements.	✓
Part 4 - Designing the building				
4A	Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas.</p> <p>In all other areas, living rooms and private spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9am and 3pm at mid-winter.</p>	<p>16/20 or 80% of the of the apartments receive a minimum of 3 hours direct sunlight.</p> <p>(Refer to architectural plan solar access table).</p>	✓

Apartment Design Guide Compliance with Design Criteria																
Ref	Section	Requirements	Proposed	✓/x												
4B	Natural Ventilation	<p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Apartments at tens storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	14/20 or 70% of the apartments are naturally cross ventilated.	✓												
4C	Ceiling heights	<p>Minimum ceiling heights are:</p> <table border="1"> <thead> <tr> <th colspan="2">Minimum ceiling heights</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>Two (2) storey apartment</td> <td>2.7m for main living area 2.4m for 2nd floor where its area does not exceed 50% of apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with 30 degree ceiling slope</td> </tr> <tr> <td>If located in mixed use area.</td> <td>3.3m for ground and first floor to promote flexibility of use.</td> </tr> </tbody> </table>	Minimum ceiling heights		Habitable rooms	2.7m	Non-habitable	2.4m	Two (2) storey apartment	2.7m for main living area 2.4m for 2 nd floor where its area does not exceed 50% of apartment area	Attic spaces	1.8m at edge of room with 30 degree ceiling slope	If located in mixed use area.	3.3m for ground and first floor to promote flexibility of use.	The proposal satisfies the minimum ceiling height requirement.	✓
Minimum ceiling heights																
Habitable rooms	2.7m															
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If located in mixed use area.	3.3m for ground and first floor to promote flexibility of use.															

Apartment Design Guide Compliance with Design Criteria												
Ref	Section	Requirements	Proposed	✓/x								
4D	Apartment size & layout	<p>Apartments are required to have the following minimum internal area:</p> <table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p>	Apartment Type	Minimum internal area	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>The proposal meets minimum internal areas for the respective apartments types.</p>	✓
		Apartment Type	Minimum internal area									
1 bedroom	50m ²											
2 bedroom	70m ²											
3 bedroom	90m ²											
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p>	<p>In all units where the living, dining and kitchen are combined, the room depths are less than the maximum permitted</p> <p>All rooms comply with the minimum areas specified.</p> <p>All living rooms comply with the minimum widths.</p>	<p>✓</p> <p>✓</p> <p>✓</p>										

Apartment Design Guide Compliance with Design Criteria																			
Ref	Section	Requirements	Proposed	✓/x															
4E	Private open space and balconies	<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Apt Type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>	Apt Type	Minimum area	Minimum depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	All apartments meet the minimum area and dimensional requirements.	✓
Apt Type	Minimum area	Minimum depth																	
Studio	4m ²	-																	
1 bedroom	8m ²	2m																	
2 bedroom	10m ²	2m																	
3+ bedroom	12m ²	2.4m																	
4F	Common circulation & spaces	<p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For building of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	The proposal satisfies this requirement.	✓															
4G -	Storage	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided.</p> <table border="1"> <thead> <tr> <th>Apartment Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m³</td> </tr> <tr> <td>1 bedroom</td> <td>6m³</td> </tr> <tr> <td>2 bedroom</td> <td>8m³</td> </tr> <tr> <td>3+ bedroom</td> <td>10m³</td> </tr> </tbody> </table>	Apartment Type	Storage size volume	Studio	4m ³	1 bedroom	6m ³	2 bedroom	8m ³	3+ bedroom	10m ³	All apartments are provided with storage that either meet or exceed the requirement for total storage	✓					
Apartment Type	Storage size volume																		
Studio	4m ³																		
1 bedroom	6m ³																		
2 bedroom	8m ³																		
3+ bedroom	10m ³																		



Apartment Design Guide Compliance with Design Criteria				
Ref	Section	Requirements	Proposed	✓/x
4H	Acoustic privacy	Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic treatments.	The apartment layout and internal design has taken this issue into account and opportunity for conflict has been minimised.	✓
4J	Noise and pollution	In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	The design and apartment layout has taken into account potential noise sources.	✓
4K	Apartment mix	A range of apartment types and sizes is provided to cater for different household types now and into the future. The apartment mix is distributed to suitable locations.	The proposal provides a mix of 1, 2 and 3 bedroom apartments.	✓
4L	Ground floor apartments	Street frontage activity is maximised where ground floor apartments are located. Design of ground floor apartments delivers amenity and safety for residents.	Street frontage activity is provided through the proposed retail tenancies along Campbell Street, Dillon Street and Ramsgate Road.	✓
4M	Facades	Building facades provide visual interest along the street while respecting the character of the local area. Building functions are expressed by the façade.	The building facades to all (3) three frontages are well modulated and elements are employed to clearly announce the entry points to the building.	✓

Apartment Design Guide Compliance with Design Criteria				
Ref	Section	Requirements	Proposed	✓/x
4N	Roof Design	<p>Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use roof space for residential accommodation and open space are maximised.</p> <p>Roof design incorporates sustainability features.</p>	The design has incorporated an integrated roof element to define the building edge along all street frontages.	✓
4O	Landscape design	<p>Landscape design is viable and sustainable.</p> <p>Landscape design contributes to the streetscape and amenity.</p>	The Landscape Plan proposed has had regard to the use of appropriate planting throughout the development.	✓
4P	Planting on structures	<p>Appropriate soil profiles are provided</p> <p>Plant growth is optimised with appropriate selection and maintenances</p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces.</p>	The Landscape Plan proposes appropriately scaled planting on elevated structures. The soil profiles are detailed on this plan along with plant selection.	✓
4Q	Universal design	<p>Universal design features are included in apartment design to promote flexible housing for all community members</p> <p>A variety of apartments with adaptable designs are provided.</p> <p>Apartment layouts are flexible and accommodate a range of lifestyle needs.</p>	<p>Two (2) units are provided that are specifically designed for adaptability. These are unit numbers 103 and 104.</p> <p>Lift access is provided to all levels of the building.</p>	✓

Apartment Design Guide Compliance with Design Criteria				
Ref	Section	Requirements	Proposed	✓/x
4S	Mixed Use	<p>Residential circulation areas should be clearly defined.</p> <p>Design solutions may include:</p> <ul style="list-style-type: none"> Residential entries are separated from commercial entries and directly accessible from the street Commercial service areas are separated from residential components Residential car parking and communal facilities are separated Security at entries and safe pedestrian routes are provided Concealment opportunities are avoided <p>Landscaped communal open space should be provided at podium or roof levels.</p>	<p>Direct residential entry is provided to the building through the primary entry point located along Campbell Street</p> <p>Entry into the four (4) individual retail tenancies is provided off all street frontages. The facilities provided to these tenancies do not conflict with the residential component of the building including its communal facilities.</p> <p>The car parking spaces proposed for the retail uses are clearly delineated from the residential spaces.</p> <p>Differentiated waste service facilities are also provided on the ground floor independently servicing the needs of both the retail and residential uses.</p>	✓
4W	Waste	<p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	<p>The storage area for waste management is located on the ground floor of the building orientated away from the public domain along Campbell Street. The proposed location of the bin rooms will allow for ease of servicing and transfer of bins to kerbside for collection.</p>	✓

Table 1: SEPP 65 Apartment Design Guide Compliance Table

State Environmental Planning Policy (BASIX) 2004

In accordance with the provisions of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, a BASIX Certificate has been provided. The proposed development satisfies the requirements of the Certificate in terms of water, thermal comfort and energy efficiency.



State Environmental Planning Policy (Vegetation in Non Rural Areas)

The Vegetation SEPP regulates clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation SEPP applies to clearing of:

1. Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the *Local Land Services Amendment Act 2016*; and
2. Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the *Standard Instrument - Principal Local Environmental Plan* with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold through any applicable DCP.

There are references in the applicable DCP to maximising tree retention in any development proposal and the issue is addressed through consideration of the proposed built form and the proposed landscaping works that are to be undertaken on site. This issue is addressed in more detail in the accompanying Landscape Plan prepared by Zenith Landscape Design.

Rockdale Local Environmental Plan 2011

The Rockdale Local Environmental Plan 2011 (RLEP 2011) applies to the subject site, which is identified as being within Zone B4 Mixed Use. The proposed development is best characterised as a “shop top” housing development which is permissible with consent in Zone B4.

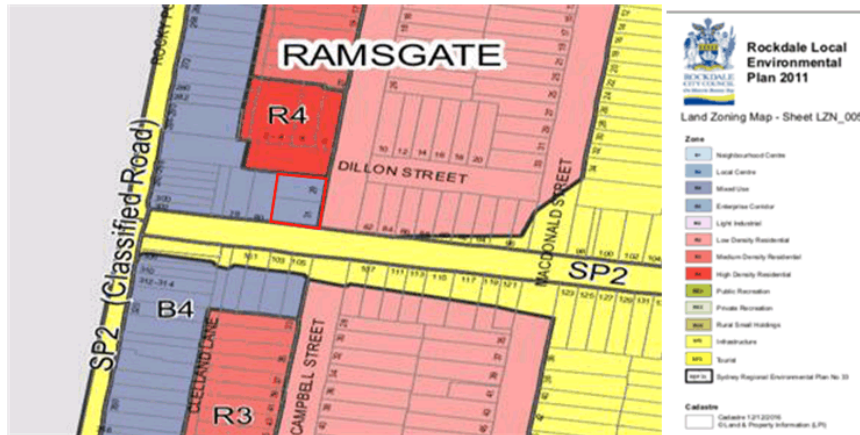


Figure 20: Zoning Map
Source: RLEP 2011

Subject site 


The objectives of the B4 Zone are as follows:

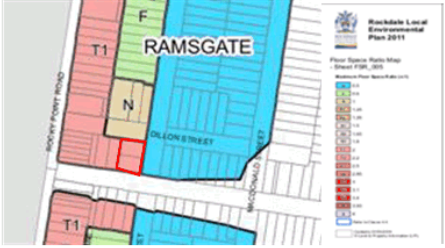
- To provide a mixture of compatible land uses,
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.



The proposed development is consistent with the objectives of the zone. In particular, the development provides for a mixture of retail and residential uses in a readily accessible location.

The development proposal complies with all relevant provisions with the exception of the 'height' development standard. A variation request pursuant to Clause 4.6 of RLEP 2011 has been prepared in relation to this aspect of non-compliance and to demonstrate that strict compliance with the height development standard is unnecessary in this instance.

A summary of our assessment against the relevant LEP provisions is detailed below:

Rockdale Local Environmental Plan 2011			
CL	Requirement	Proposed	✓/ x
Part 2 - Permitted or Prohibited development			
2.3	Zoning and Objectives	The proposal aligns with this objective in that it will provide for residential development that contributes to the social vitality of the centre while also providing a range of small scale retail uses.	✓
2.5	Additional permitted uses for particular land	The site is not afforded with additional permitted uses in Schedule 1 of the LEP.	✓
2.6	Subdivision – consent requirements	The application does not seek consent for subdivision of the land.	✓
2.7	Demolition requires development consent	This application proposes to demolish the existing buildings and ancillary structures as shown on the accompanying Survey Plans.	✓
Part 4 – Principal Development Standards			
4.3	<p>Height of Buildings</p> <p>The proposed development is subject to the provisions of Clause 4.3, which as indicated on the associated “Height of Buildings” Map, limits the height of buildings to 16m.</p>	 <p>The building will comprise of a maximum height of 17.06m to the top of the lift overrun exceeding the standard.</p>	<p>x</p> <p>Refer to 4.6</p>

Rockdale Local Environmental Plan 2011			
CL	Requirement	Proposed	✓/ x
4.4	<p>Floor Space Ratio</p> <p>Clause 4.4 permits a maximum FSR of 2:1 for the subject site equating to 1,887.20m².</p>	 <p>The proposal results in a floor space ratio of 2:1 equating to 1,887.05m².</p>	✓
4.5	<p>Calculation of floor space ratio and site area</p>	<p>The floor space ratio and site area have been calculated according to the provisions of this clause.</p>	✓
4.6	<p>Exceptions to development standards</p>	<p>A variation to the height of building standard is sought pursuant to clause 4.6 of the LEP. Refer to the written request provided as Appendix 1 to this statement.</p>	✓
Part 5 – Miscellaneous Provisions			
5.1	<p>Relevant acquisition authority</p>	<p>The site is not identified as being reserved for acquisition on the Land Reserved for Acquisition Map.</p>	✓
5.3	<p>Development near zone boundaries</p>	<p>The proposed development does not rely on the provisions of this Clause.</p>	✓
5.4	<p>Controls relating to miscellaneous permissible uses</p>	<p>The proposed development is not for any of the development types listed in this Clause.</p>	✓
5.6	<p>Architectural roof features</p>	<p>The application does not seek consent for architectural roof features above the maximum permitted building height.</p>	✓

Rockdale Local Environmental Plan 2011			
CL	Requirement	Proposed	✓/ x
5.10	Heritage Conservation	 <p>The site is not identified as a heritage item and is not located within a Heritage Conservation Area. A local heritage item is located across Ramsgate Road to the south-east of the site identified as 1205 (Sans Souci Literary Institute) on the Heritage Map. Given the extent of separation provided between this development and the item, no adverse impacts are anticipated to result to or from the Item.</p>	✓
Part 6 – Additional Local Provisions			
6.1	Acid sulfate soils	 <p>The site is located in a Class 5 area for acid sulfate soils; however, as the site is not within 500m of Class 1-4 land, the provision does not require any further assessment of the proposed development. Further, the application is accompanied by an ASS assessment prepared by ESWNMAN. This report concluded that the site soils are unlikely to be affected by ASS soils and the proposed basement excavation will not lower the groundwater</p>	✓


Rockdale Local Environmental Plan 2011			
CL	Requirement	Proposed	✓/ x
		table (groundwater not encountered). In this regard, the provision of an ASS Management Plan is not warranted.	
6.2	Earthworks	Extensive groundworks are proposed for the purpose of facilitating the basement building levels. It is considered that the proposed earthworks and excavation will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	✓
6.4	Airspace Operations The development is affected by the Obstacle Limitation Surface (OLS) which is set at 70m AHD.	The maximum building height is 17.06m(AHD) and in this regard, it is considered that the proposed building will have no adverse impact on the OLS.	✓
6.6	Flood Planning	The subject site has not been identified as being affected by flooding.	✓
6.7	Stormwater	The application is accompanied by a stormwater plan prepared by Alpha Engineering and Development.	✓
6.11	Active Street Frontages	 <p>Both Ramsgate Road and Dillon Street are identified as active street frontages. The proposal provides for retail uses to both of these frontages.</p>	✓

Table 2: Rockdale Local Environmental Plan 2011 Compliance Table

(ii) Section 4.15(1)(a)(ii)

THE PROVISIONS OF ANY EXHIBITED DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The proposal is not inconsistent with the provisions of this Draft Instrument.

(iii) Section 4.15(1)(a)(iii)

The Provisions of any Development Control Plan

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below. It is noted that clause 6A of SEPP 65 indicates that the following provisions of the Apartment Design Guide override this DCP and as such the related provisions under the DCP will not be addressed.

- Visual privacy
- Solar access and daylight access
- Common circulation and spaces
- Apartment size and layout
- Ceiling heights
- Private open space and balconies
- Natural ventilation
- Storage
- Communal open space

Additionally, a number of provisions of the DCP were addressed in the earlier stages of the SEE which will not be reconsidered as part of this DCP assessment. These include:

- Heritage conservation
- Water Management
- Soil Management
- Contaminated land

- Tree preservation
- Sustainable building design
- Social equity

Rockdale Development Control Plan 2011				
Ref	Design Solution	Requirements	Proposed	✓/x
4.1.9	Lot size and minimum site frontage	For all development of 4 storeys or greater, a minimum frontage width of 18m is required.	A street frontage of 36.42m frontage is proposed to Campbell Street being the primary street frontage.	✓
4.2	Streetscape and Site Context	<ol style="list-style-type: none"> 1. To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics and legibility of the existing urban environment. 2. To ensure development will respond to predominant streetscape qualities. 3. To ensure development conserves or enhances items and areas of special architectural, landscape or cultural interest, including rocky outcrops and sandstone retaining walls 4. To ensure a safe environment by promoting crime prevention through environmental design 5. To ensure fences complement and conserve the visual character of the street and neighbourhood 6. To encourage the integration of transport services into the streetscape and public domain. 	<p>The design appropriately responds to the immediate and local context in terms of compatibility with recent comparable developments in the area.</p> <p>The building design and materials are appropriate, providing a suitable level of articulation for the scale of the development. The design appropriately articulates all street frontages while access to the basement garage is integrated into the design such that it is not visually dominant from Dillon Street.</p> <p>The building has been designed so as to promote a high level of casual surveillance providing an appropriate level of delineation between the site and the public domain.</p>	✓
4.3	Open space and	1. To conserve significant natural features of the	Given the site is being excavated to achieve	✓



Rockdale Development Control Plan 2011				
Ref	Design Solution	Requirements	Proposed	✓/x
	landscape design	<p>site, including existing mature trees and vegetation</p> <ol style="list-style-type: none"> 2. To protect and enhance indigenous wildlife populations and habitat through appropriate planting of indigenous vegetation species. 3. To promote energy efficiency, conserve natural resources and contribute to ecological sustainability 4. To provide privacy and enhance environmental amenity 5. To enhance the existing streetscape and promote a scale and density of planting that is appropriate to the surrounding built form. 6. To enhance stormwater management and water quality by incorporating Water Sensitive Urban Design (WSUD) principles into the landscape design 7. To apply the principles of Crime Prevention through Environmental Design (CPTED) 8. To promote quality landscape design solutions that do not rely on high levels of maintenance 9. To ensure that the location and use of swimming and spa pools does not have a detrimental impact on the amenity of private and public space 	<p>appropriate basement parking, no deep soil area has been able to be provided on site. Courtyard planting has been proposed at ground level that is considered appropriate for a mixed-use building in this location.</p> <p>Additionally, the shortfall in deep soil is further augmented by the proposed public domain landscaping proposed as part of this application.</p>	



Rockdale Development Control Plan 2011				
Ref	Design Solution	Requirements	Proposed	✓/x
4.4	Sustainable Building Design	<ol style="list-style-type: none"> To promote energy efficiency and renewable energy in the design and construction of buildings To maximise the benefits of passive solar design To encourage the selection, use and disposal of building materials with the least cumulative adverse environmental impact 	<p>Sunlight access diagrams and checklist certification have been prepared and accompany the application indicating that 80% of the units achieve generous amounts of solar access.</p> <p>A wind report has been prepared by Windtech. This report concludes that the wind conditions for the proposed entrances and walkways are acceptable as are conditions for the proposed private balconies and the communal terrace area.</p>	✓
4.5	Social Equity	<ol style="list-style-type: none"> To maximise housing choice to meet the needs of diverse household types To make provision for equality of access to new housing To promote the design of buildings that are adaptable and flexible in design to suit the changing lifecycle housing needs of residents over time 	<p>The control requires shop top housing to have a dwelling mix of 10-30% studio/1 bedroom apartments, 50-75% 2 bedroom apartments and 10-20% being 3 bedroom apartments while 2 Adaptable apartments are required.</p> <p>The proposal provides for a mix of 4 x 1 bedroom (20%), 14 x 2 (70%) and 2 x 3 bedroom (10%) apartments, of which two (2) are adaptable, complying with the control.</p> <p>An access report has been prepared by Accessible Building Solutions.</p>	✓
4.6	Car Parking Access and Movement	<ol style="list-style-type: none"> To provide sufficient, convenient and safe on-site car parking while encouraging alternative modes of transport, such as walking and cycling 	<p>Shop Top Housing development is required to provide 1 space/studio, 1 bedroom and 2 bedroom apartment, 2 spaces/3</p>	✓



Rockdale Development Control Plan 2011				
Ref	Design Solution	Requirements	Proposed	✓/x
		<ol style="list-style-type: none"> 2. To ensure that on-site car parking, loading facilities and driveways do not dominate or detract from the appearance of the development and the local streetscape 3. To limit the amount of excavation required for the purpose of car parking so that impacts on ground water flows are minimised and the amount of landscaped area is maximised 4. To ensure adequate egress and ingress to the site and parking facilities 5. To discourage excessive parking in development close to public transport 	<p>bedroom apartment and one visitor space/5 dwellings.</p> <p>The parking requirement for the proposed 18x1 and 2 bedroom units, 2x3 bedroom units, 270.1m² of retail GFA and 1/5 visitor spaces for 20 dwellings equates to a total of 34 spaces.</p> <p>The proposal satisfies this requirement by providing 35 suitably appointed spaces.</p> <p>The traffic report prepared by Terrafic accompanying this application confirms that the proposed parking areas have been designed to satisfy the requirements of Australian Standard AS/NZS2890.1-2004:.</p>	
5.3	Mixed Use	<ol style="list-style-type: none"> 1. To facilitate development within the centres to foster growth and improvement 2. To promote a range of employment uses and retail diversity which contribute to the vitality and economic viability of centres 3. To support the evolution of building styles within the centres through the introduction of well designed contemporary buildings that respond to local context and environmental conditions 4. To create a safe and amenable public domain that is vibrant and active 	<p>Setbacks: The mixed-use development controls require the development to be built to a zero setback to the street, with a zero side setback at the street frontage to achieve a street wall building. Front setbacks must define a coherent alignment to the public domain and accentuate street corners.</p> <p>The proposal provides a zero setback to a predominant portion of the western side boundary enabling a street wall building with the neighbouring development.</p> <p>The corner building element presenting to Campbell and Dillon Streets has been accentuated in a manner</p>	✓

Rockdale Development Control Plan 2011				
Ref	Design Solution	Requirements	Proposed	✓/x
		5. To create an active interface between ground level retail or commercial properties and the street 6. To ensure a built form that creates a well defined and legible public domain 7. To ensure spaces within a building are functional and offer a high level of amenity and quality 8. To ensure buildings are flexible and adaptable and able to accommodate changes of use to meet future demands 9. To enhance the permeability of centres by expanding the pedestrian network 10. To increase the number of people living in mixed use developments within the centres 11. To protect the amenity of existing and future neighbouring residential uses 12. To provide a more sustainable mode of living where residential linked to the workplace	where it will add visual interest without resulting in an imposing built form. This design outcome ensures that the interface with the lower density residential zone in this location remains at an acceptable level. The retail component of the building ranges in setback from 2.1m to 3.705m (Campbell Street), 3.89m (Dillon Street) and 3.14m (Ramsgate Road) enabling street activation. This design outcome has also enabled the provision of landscaping which has been interspersed with the buildings built form elements along each street frontage. Furthermore, this design outcome results in a generally consistent setback approach with that observed on the approved development adjoining the site to the west ensuring a coherent street edge alignment. Building Use: The proposal will provide active uses at the ground floor level equating to 14% of the total floor area and in excess of the required 10% as outlined in the DCP. Building Design: The building has been designed to respond to street geometry, topography and sightlines given its corner location. Curved elements have been introduced to the façade	



Rockdale Development Control Plan 2011				
Ref	Design Solution	Requirements	Proposed	✓/x
			<p>creating visual interest to the corner while areas of blank wall have been largely avoided.</p> <p>Public Domain Interface: The public domain interface is acceptable, with accessible entrance to all shops and the residential lobby while an appropriate level of activation to all street frontages has been provided.</p> <p>The ground floor lobbies have been designed to have a direct visual connection with the street while the upper levels of the building comprising of the residential apartments have been designed so as to promote casual street surveillance.</p>	

Table 3: Rockdale Development Control Plan 2011 Compliance Table

(iv) Section 4.15(1)(a)(iii)a)

Any Planning Agreement

There are no known Planning Agreements entered into under Section 93F and no draft Planning Agreements are proposed to be entered into under Section 93F for this proposed development.

(v) Section 4.15(1)(a)(iv)

Any matters prescribed by the Regulations

Clause 50(1A): How must a development application be made?

As required by Schedule 1 of SEPP 65 and Clause 50(1A) of the Environmental Planning and Assessment Regulation, 2000, a Design Verification Statement has been prepared by registered architect Nicholas Lycenko (Registration No. 3010) which verifies the design of the development achieves compliance with the design quality principles set out in Schedule 1 of SEPP 65, in addition to the assessment against the principles provided within this Statement.

Clause 92(1)(b): Demolition

Clause 92(1)(b) of the Environmental Planning and Assessment Regulation, 2000 (the Regulations) prescribes that the provisions of Australian Standard AS2601:2001 - The Demolition of Structures are to be taken into consideration, pursuant to Section 4.15(1A)(iv) of the Act, in the case of a development application for the demolition of a building. The application seeks consent for the demolition of all existing structures from the site. Council may impose suitable conditions on any consent granted for the proposal to ensure compliance with the provisions of Australian Standard AS2601:2001 - The Demolition of Structures.

(vi) Section 4.15(1)(a)(v)

Any Coastal Management Plan

There is no Coastal Zone Management Plan applicable to the site.

5.2 S4.15(1)(b) of the EP&A ACT 1979:

The Likely Impacts of the Development

5.11 TOPOGRAPHY & SCENIC IMPACTS

The proposal is not likely to have an adverse topographic or scenic impact on the locality. The proposal will require the removal of some insignificant vegetation within the site. Additional landscaping will be provided in accordance with the landscape plan prepared by Zenith Landscape Design. The proposal does involve significant excavation for the provision of the building basement levels which is considered acceptable for this form of development given the need to provide for vehicular parking onsite.

5.1.2 MICRO-CLIMATE IMPACTS

The proposed development is unlikely to result in any adverse effects to the micro-climate in the locality.

5.1.3 WATER & AIR QUALITY IMPACTS

The proposed development is considered unlikely to result in any adverse effects on the locality in terms of water and air quality. Appropriate measures are to be undertaken in respect of the stormwater and runoff and accordingly, the proposal is considered acceptable in this regard.

5.1.4 IMPACT ON THE AREA'S CHARACTER

The proposal has been designed having regard to the relevant development standards applicable to the site. The proposal marginally exceeds the allowable 16m height control; but as detailed in the Clause 4.6 submission, this non-compliance with the standard is not considered to result in an unacceptable increase to the built form given its siting and location.

The proposal is considered to be acceptable in terms of compatibility with both the existing and desired future character of the area. The built form of the proposed development is considered to be appropriate in the context of the locality.

5.1.5 AURAL AND VISUAL PRIVACY IMPACT

No adverse aural or visual impacts are anticipated to result from this development. This was discussed in detail throughout this SEE.

5.1.6 IMPACT ON SUNLIGHT ACCESS

Details regarding impact on sunlight access were considered earlier in this statement.

5.3 S4.15(1)(c) of the EP&A ACT 1979:

Suitability of the Site

This section will consider the proximity of the site to services and infrastructure; traffic, parking and access issues; the internal circulation and parking geometry; and hazards.

5.2.1 PROXIMITY TO SERVICES AND INFRASTRUCTURE

The site is located within close proximity to a number of services. As the site is within an established area, electricity, telephone, water and sewerage are also readily available.

5.2.2 TRAFFIC, PARKING AND ACCESS

As detailed earlier in the SEE the proposed development provides a compliant level of parking within the building basement areas. In terms of traffic generation impacts, the traffic report prepared by Terrafic accompanying this application concluded the following:

"The traffic generation of the proposed development should be discounted by the traffic generation of the existing dwellings on the site. Based on the RMS's traffic generation rate of 1 vehicle trip per dwelling, the existing site development would generate in order of 2vtph during the peak periods. To that end, the proposed development will only generate 14 additional vehicle trips during the peak periods. It will be readily appreciated that the additional traffic generated by the proposed development is relatively minor (14vtph) which will not have any noticeable or unacceptable effect on the road network serving the site in terms of road network capacity or traffic-related environmental effect".

In this regard, the proposed development is considered acceptable on these grounds.

5.2.3 HAZARD

The site is not in an area identified by Council as being subject to flooding.

In summary, it is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments. The subject site has ready access to public transport, and is in close proximity to a range of services. The site lies within an established urban area and services such as electricity, telephone, water and sewerage are readily available. The site is therefore considered suitable for this form of development and satisfies an assessment of those matters under S4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.

5.4 S4.15(1)(d) of the EP&A ACT 1979:

Any submissions made in accordance with this Act

The consideration of submissions cannot be made at the time of preparing this Statement.

5.5 S4.15(1)(e) of the EP&A ACT 1979:

The Public Interest

The proposed development is of a scale and character that does not present any conflict with the public interest nor does it present an unacceptable precedent for development in the locality. This well serviced location is suited to increased residential accommodation and the development will not have any significant adverse impact on adjoining properties. The proposal, presenting as a five (5) storey "**shop top**" development in an area subject to increasing demand for more residential accommodation, satisfies an assessment of those matters under S4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 and is considered to be in the public interest.

6 Conclusion

The proposed development has been assessed in accordance with Section 4.15 of the EP & A Act 1979 and Council's planning instruments. The proposal is identified as a permissible development pursuant to the zoning of the site as B4-Mixed Use Zone under the Rockdale LEP 2011.

An assessment of the proposal against the objectives of the zone has been undertaken and it is considered that the proposal is consistent with the objectives of the LEP. In addition, the development complies with the majority of controls contained within the DCP where relevantly applicable.

As discussed throughout the SEE, the proposal achieves the desired character of the locality by maintaining its relationship with surrounding development through form, setbacks and materials and is compatible with the emerging character of both the immediate and local context. This design approach ensures that the new development will enhance the streetscape character of the locality. No significant adverse amenity impacts to adjoining property owners in terms of privacy or views are anticipated and, on this basis, it is considered that the development is an acceptable built form, scale and density and can be supported.



Annexure 1 Clause 4.6 Variation Statement Building Height (Clause 4.3)

This Clause 4.6 Exceptions to Development Standards request has been prepared by Bernard Moroz & Associates Pty Ltd – (hereafter referred to as BMA Urban) on behalf of Youssef Corp 2 Pty Ltd to accompany a development application for the demolition of the existing site improvements to enable the construction of a five (5) storey shop top development over basement car parking at 29-31 Campbell Street, Ramsgate. The building is to contain a total of four (4) retail tenancies, twenty (20) apartments while the basement contains parking for thirty-five (35) vehicles, secure apartment storage areas and lift access to the retail and residential uses above.

The Clause 4.6 Exceptions to Development Standards request relates to the height of buildings principal development standard prescribed under subclause 4.3(2) of *Rockdale Local Environmental Plan 2011*. Subclause 4.3(2) states:

The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Height of Buildings Map indicates a maximum building height of 16m applies to the site (refer to **Figure 1**).

When measured in accordance with the definition for building height under the LEP, the proposed development has a maximum height of 17.06m to the top of the lift overrun. This exceeds the 16m statutory maximum building height by a maximum 1.06m.

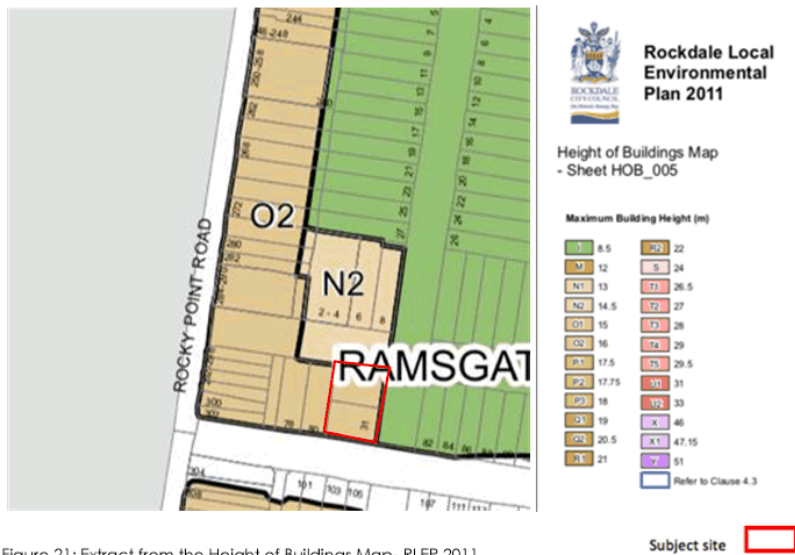


Figure 21: Extract from the Height of Buildings Map- RLEP 2011

The following definition under *Rockdale Local Environmental Plan 2011* is important in considering the proposed variation:

building height (or height of building) means:

- a) in relation the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building, or
- b) in relation to the RL of a building – the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Having regard to the above definition, the non-compliance to the height of buildings principal development standard relates to both the topmost building parapet and for the extent of the lift overrun. This is most clearly identified upon review of the architectural excerpts as provided in Figures 32 through to 36 below.



Figure 22: Extract from architectural drawings depicting the extent of non-compliance relative to the 16m statutory height limit along the eastern (Campbell Street) elevation.



Figure 23: Extract from architectural drawings depicting the extent of non-compliance relative to the 16m statutory height limit along the southern (Ramsgate Road) elevation.



Figure 24: Extract from architectural drawings depicting the extent of non-compliance relative to the 16m statutory height limit along the northern (Dillon Street) elevation.

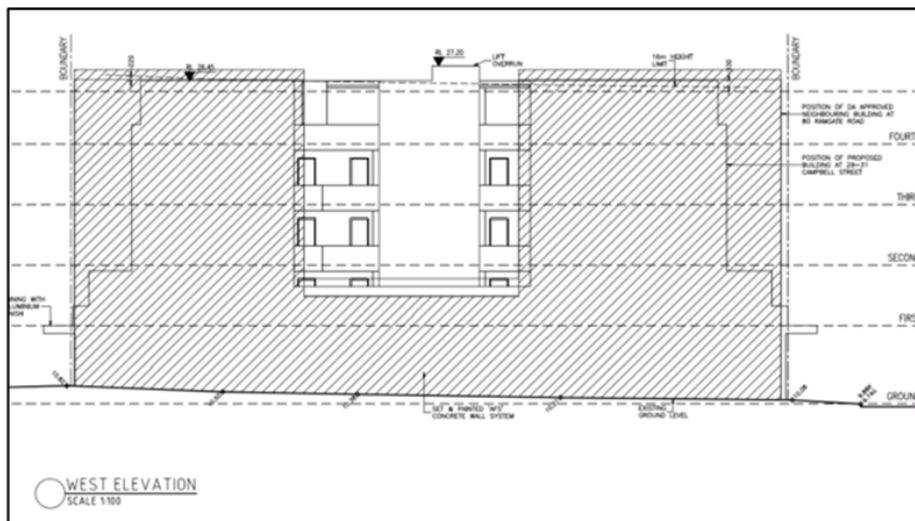


Figure 25: Extract from architectural drawings depicting the extent of non-compliance relative to the 16m statutory height limit along western elevation.

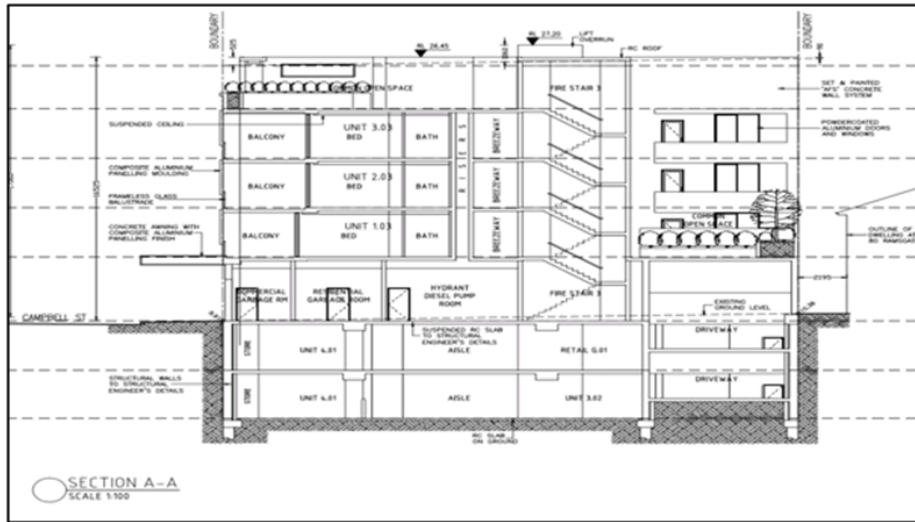


Figure 26: Extract from architectural drawings depicting the extent of non-compliance relative to the 16m statutory height limit as a section

In summary, the building breaches the allowable 16m height standard as follows:

Eastern (Campbell Street) elevation

The height non-compliance measured to the top of the building parapet ranges from 275mm to 820mm above the 16m height standard.

Southern (Ramsgate Road) elevation

The height non-compliance measured to the top of the building parapet ranges from 365mm to 860mm above the 16m height standard.

Northern (Dillon Street) elevation

The height non-compliance measured to the top of the building parapet ranges from 200mm to 375mm above the 16m height standard.

Western side elevation

The height non-compliance measured to the top of the building parapet ranges from 220mm to 330mm above the 16m height standard.

Roof Level

The centrally located lift overrun exceeds the 16m height standard by 1.06m.

2.0 The Effect of Clause 4.6 Exception to Development Standards

Clause 4.6 of Rockdale Local Environmental Plan 2011 states (in part):

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

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

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

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

(5) *In deciding whether to grant concurrence, the Director-General must consider:*

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

This request has been prepared having regard to the latest authority on Clause 4.6, contained in the following guideline judgements:

- • *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46
- • *Wehbe v Pittwater Council* [2007] NSWLEC 827
- • *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1')
- • *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2')
- • *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3')

In summary, the principles arising from the above matters are:

(i) That the relevant objectives are those stated in the controls not unidentified underlying objectives at [57] in Four2Five No. 1;

(ii) That the environmental planning grounds must be particular to the circumstances of the proposed development and/or the site at [60] in Four2Five No. 1; and

(iii) The five methods of establishing that compliance is unreasonable or unnecessary identified by Preston J in *Wehbe* remain relevant. However, in order to satisfy the unreasonable and unnecessary test in Clause 4.6(3)(a), you need something more than way 1 in *Wehbe*, because that test is now encompassed in Clause 4.6(4)(a)(ii) where consistency with the objectives of the standard is a mandatory precondition.

In relation to (iii) above, Method 1 in *Wehbe* requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

However, as a result of *Four2Five*, it is now necessary to demonstrate something more than simply achieving the objective of the standard. In this regard, a proposed development that contravenes the development standard, but as a result, achieves the objective of the development standard to a greater degree than a development that complied with the standard, would suffice.

3.0 Justification for Variation

What is the context of the variation?

The subject site is located in an area that is mixed in terms of built forms and scales ranging from single detached dwellings to more prominent multi-storey developments. It is expected that the built form and scale particularly to the north of the site across Dillon Street will be redeveloped to commensurate with the current allowable building height and floor space ratio development standards.

The proposed building will be of a form and scale that is a desired future character, presenting an attractive facade to all three (3) street frontages while making a positive contribution to the streetscape character, urban form and scale.

Strict Compliance is unreasonable or unnecessary in the circumstance of the case

A development that strictly complies with the 16m height standard is unreasonable or unnecessary in this circumstance for the following reasons:

- The additional height, (above the height allowed under the control) is positioned on the site in a manner that is unlikely to result in significant adverse impacts upon adjacent properties or the public realm by way of overshadowing, visual massing, view loss and privacy impacts.
- There is minimal difference in the impacts between a building that strictly complies with the maximum building height control and the proposed development in that:
 - **Privacy impacts:** The topmost parapets of the building including the lift overrun represent the component of the building which is non-compliant. The arrangement and siting of the building is such that the additional height will not generate any significant privacy impacts.
 - **Visual impacts:** Given the locational characteristics of the site presenting to three (3) street frontages, the setback arrangements of the building elements and the design of the building to visually coordinate with that already approved on the adjoining site to the west, there is a nominal difference in visual impact between the proposed and a complying building.
 - **Overshadowing Impacts:** The difference in shadow impacts to be incurred by neighbouring sites from the proposed development compared to a complying development are negligible. The sites corner location and the orientation of the land does not predicate any additional shadowing upon neighbouring properties resulting from the minor deviation from the height development standard.

In summary:

- The proposed development will result in a better urban design outcome compared to a compliant development and one which better responds to the site's constraints and prominent location compared to a compliant development.
- The level of non-compliance with the building height control is consistent with the degree of variations contemplated and accepted by the consent authority with respect to development in similar situations. This is most evident upon review of the development approval to the sites immediate west (DA-2016/205). In this instance, the proposed development proposed maximum height of 16.17m measured at the Dillon Street frontage, 16.9m measured at the Ramsgate Road frontage and 17.13m at the lift overrun, breaching the standard by 170mm, 900mm and 1130 mm respectively.
- The development satisfies the objectives of the zone and the development standard.

The objectives of the height of buildings principal development standard are:

- (a) to establish the maximum limit within which buildings can be designed and floor space can be achieved,
- (b) to permit building heights that encourage high quality urban form,
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.

It is considered that the proposed development achieves the objectives of the standard for the following reasons:

- the proposed scale and massing of the building is consistent with the desired future character of the locality resulting in the provision of a high quality building form;
- there is no tangible nexus between the height variation and the overall land use intensity;
- the area of non-compliance will not result in any adverse impacts on the adjoining land uses with respect to overshadowing, loss of privacy, sky exposure, inappropriate scale etc.
- The extent of non-compliance will not unreasonably alter the ability for the building to remain contextually compatible with the transitional built form and land zone interface.

In consideration of the above, Council's attention is also drawn to the Department of Planning and Environment's publication "Varying development standards: A Guide" (August 2011), which outlines the matters that must be considered when varying a development standard.

The Guide has essentially adopted the 5 point test for consideration set out by the Land & Environment Court in *Wehbe v Pittwater Council (2001) NSW LEC 827*, specifically that there are five different ways in which compliance with a development standard can be considered unreasonable or unnecessary, namely:

- *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*

Comment: As discussed above, the proposal is considered to be consistent with the objectives of the building height standard, notwithstanding the numerical variation.

- *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

Comment: The objectives of the building height standard remain relevant and the proposal is consistent with, or at least is not antipathetic to the objectives of the building height standard, notwithstanding the numerical variation.

- *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

Comment: The proposal is consistent with the objectives of the building height standard, notwithstanding the numerical variation, and it would not defeat the purpose of the standard.

- *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

Comment: The building height standard has not been abandoned by Council through its actions in granting consent for other buildings in the vicinity that depart from the standard.

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

Comment: The proposed development is a permissible land use and the zoning of the site is considered to be appropriate in this location and in the context of the surrounding land uses and built form.

In light of the above, it has been demonstrated that the first test under the Wehbe method has been met, such that the requirement to strictly adhere to the numerical development standard for building height is considered to be unreasonable and unnecessary in this instance.

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

Bases on the circumstance of this case, there are sufficient environmental planning grounds to justify contravening the development standard. Key environmental planning grounds to support the variation include:

- The proposed non-compliance with the height control will result in a better urban design outcome at the site.
- The additional height, above the height limit will visually accentuate the subject building (even if only incrementally) and will present a well-considered building of high architectural merit when viewed from the public domain.
- The immediate context contains a number of buildings which as approved, present a scale that have already set the street character. The proposed development will not be determinative in respect of the character of the locality, rather it will delineate the eastern entry point into the Ramsgate Centre.
- The site is capable of accommodating the proposed height and the development is of an intensity and scale commensurate with the evolving character and the prevailing urban

conditions and capacity of the locality. Overall, the increased height of the development will result in a better urban design outcome for the site and the wider centre compared to a compliant development.

- The proposal will not set an undesirable precedent in terms of density or height for development.
- The proposal satisfies the objectives of the B4- Mixed Use Zone and the objectives of the building height standard. The proposed building height is considered appropriate within the strategic planning context of the zone.
- The non-compliance with the standard does not contribute to significant adverse environmental impacts in terms of overshadowing, visual impacts or view loss.
- The development as proposed is consistent with the provisions of orderly and economic development.

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The below demonstrates that the proposed development will be in the public interest because it will be consistent with the objectives of the B4 Mixed Use Zone objectives of the LEP.

The objectives of the zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposed non-compliance with the building height control in no way affects the developments compliance and satisfaction of the zone objectives.

Given the circumstances of the case, the provision of a strict numerical compliance would be unreasonable on the basis that the proposed development achieves compliance with the objectives of the standard and the zone, and is compatible with adjoining development.

4.0 Non-Compliance does not hinder the attainment of the Objects of the Environmental Planning and Assessment Act 1979

The Wehbe decision identifies that in assessing a variation to a development standard, consideration must be given to Objects (a)(i) and (a)(ii) in Section 5 of the *Environmental Planning and Assessment Act 1979* is necessary. These are:

(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land.

A strictly complying development would result in a poorer urban design response to the overall site and the area generally and in that sense, it may be said that compliance with the standard would hinder the attainment of the objects of section 5(a)(i) and (ii) of the Act.

Strict compliance with the development standard would not result in discernible benefits to the amenity of adjoining sites or the public. Further, the proposal satisfies the zone and development standard objectives, and principally maintains the scale and density envisaged for the locality.

The development as proposed is consistent with the provisions of orderly and economic development and strict compliance with the standard is not required in order to achieve compliance with the objectives.

5.0 Director General

Clause 4.6(4)(b) requires the concurrence of the Director-General to be obtained prior to granting consent to a development that contravenes a development standard. However, as advised in Planning Circular PS 18-003, The Secretary's concurrence may not be assumed by a delegate of council if:

- the development contravenes a numerical standard by greater than 10%; or
- the variation is to a non-numerical standard.

This restriction does not apply to decisions made by the independent hearing and assessment panels, formally known as local planning panels, who exercise consent authority functions on behalf of councils, but are not legally delegates of the council. In this case, The Local Planning Panel will have the ability to assume concurrence and determine this application.

Notwithstanding, provided below is a discussion on the matters under subclause 4.6(5) that the Director- General must consider in deciding whether to grant concurrence:

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

The variation to the height of buildings principal development standard under *Rockdale Local Environmental Plan 2011* will not give rise to any environmental planning matter which could be deemed to have either State or Regional significance. The variation to the development standard being sought will not have any effects outside the immediate area of the site.

The public benefit of maintaining the development standard.

No substantive public benefit would be realised by maintaining the development standard. Reducing the height of the building to strictly comply with the 16m height limit would not alter the overall design approach or outcome for the site and would not realise a significant improvement to the relationship between the site, the adjoining buildings and the surrounding area. In the current case, strict compliance with the building height standard would result in a poorer urban design outcome.

Any other matters required to be taken into consideration by the Director-General before granting concurrence.

Despite exceeding the statutory maximum building height, the proposed redevelopment of the site will facilitate the orderly and economic redevelopment of the site for the purposes of a shop top development that will positively contribute to the achievement of the objectives of *Rockdale Local Environmental Plan 2011*.

5.0 Conclusion

Based on the discussion provided above, it can be concluded that:

Strict compliance with the height of buildings principal development standard under *Rockdale Local Environmental Plan 2011* is unreasonable or unnecessary in the circumstances of the case.

The building height is considered appropriate to the context and circumstances of the site, and does not result in a scale of development that is out of character with the surrounding development and emerging character of the locality. Contextually, the proposal will provide a development of a height, form and density that appropriately responds to the sites prominent location at the eastern entry point to the Ramsgate Centre.

The proposal does not represent an overdevelopment of the site and the height and proposed intensity (density) is consistent with the locality's desired future character and its evolving urban context. The site is within a locality that is of a geographical position and which has appropriate service capacity to readily accommodate development of the height and density proposed. The proposed variation to the maximum height control is consistent with the identified strategic outcomes for the locality and the sites physical constraints.

This submission satisfies the provisions of 4.6(3)(a), 4.6(3)(b), 4.6(4)(a)(i) and 4.6(a)(ii) of the RLEP 2011 as it has been demonstrated that compliance with the maximum building height development standard is both unnecessary and unreasonable in the circumstances of this case, there is sufficient planning grounds to justify contravening the standard, the development will be in the public interest and it is consistent with the objectives of the standard and the objectives for development within the B4 Mixed Use Zone.

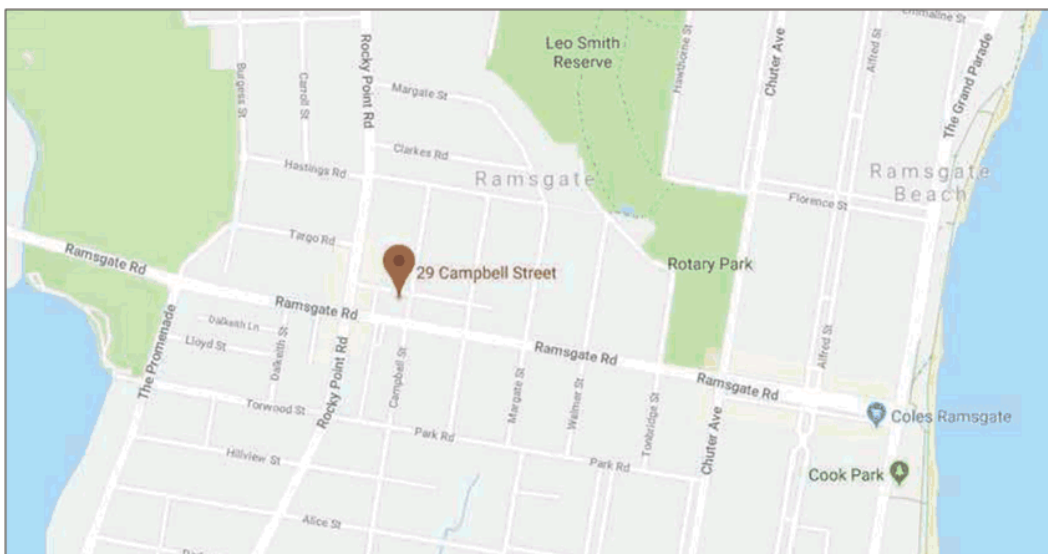
BMA URBAN Planning Consultants Pty Ltd



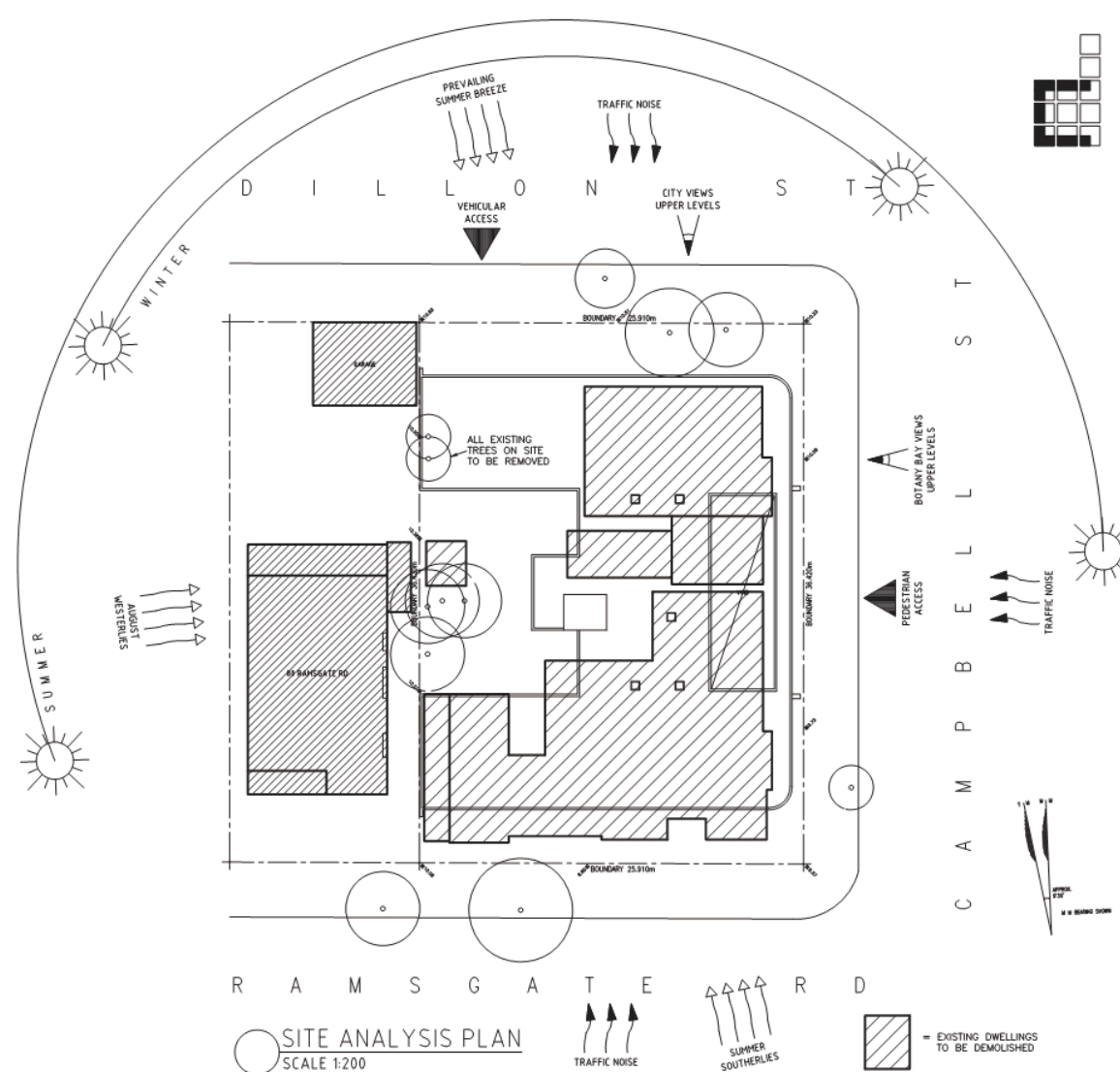
Bernard Moroz MPIA
Director



AERIAL PHOTO
SCALE: NTS



LOCALITY PLAN
SCALE: NTS



DIAGONALLY OPPOSITE
PHOTO: 4 DILLON ST



NEIGHBOURING PROPERTY
PHOTO: 80 RAMSGATE RD



HERITAGE ITEM
PHOTO: 107 RAMSGATE RD

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Issue:
 A: 20/08/18: DA LODGE/ISSUE



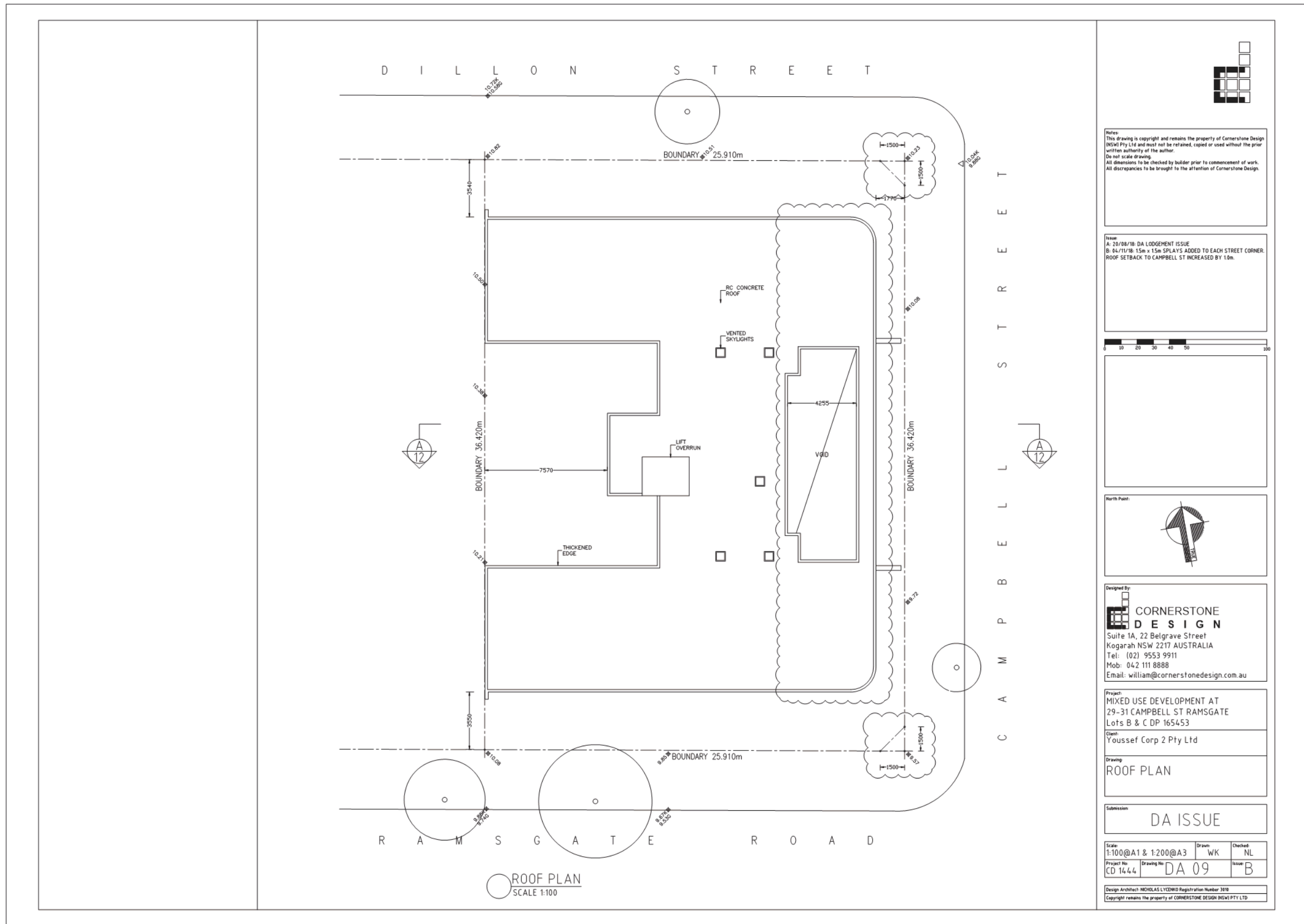
Designed By:
CORNERSTONE DESIGN
 Suite 1A, 22 Belgrave Street
 Kogarah NSW 2217 AUSTRALIA
 Tel: (02) 9553 9911
 Mob: 042 111 8888
 Email: william@cornerstonedesign.com.au

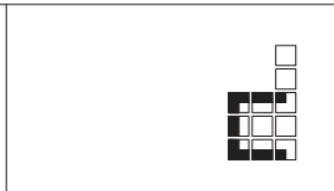
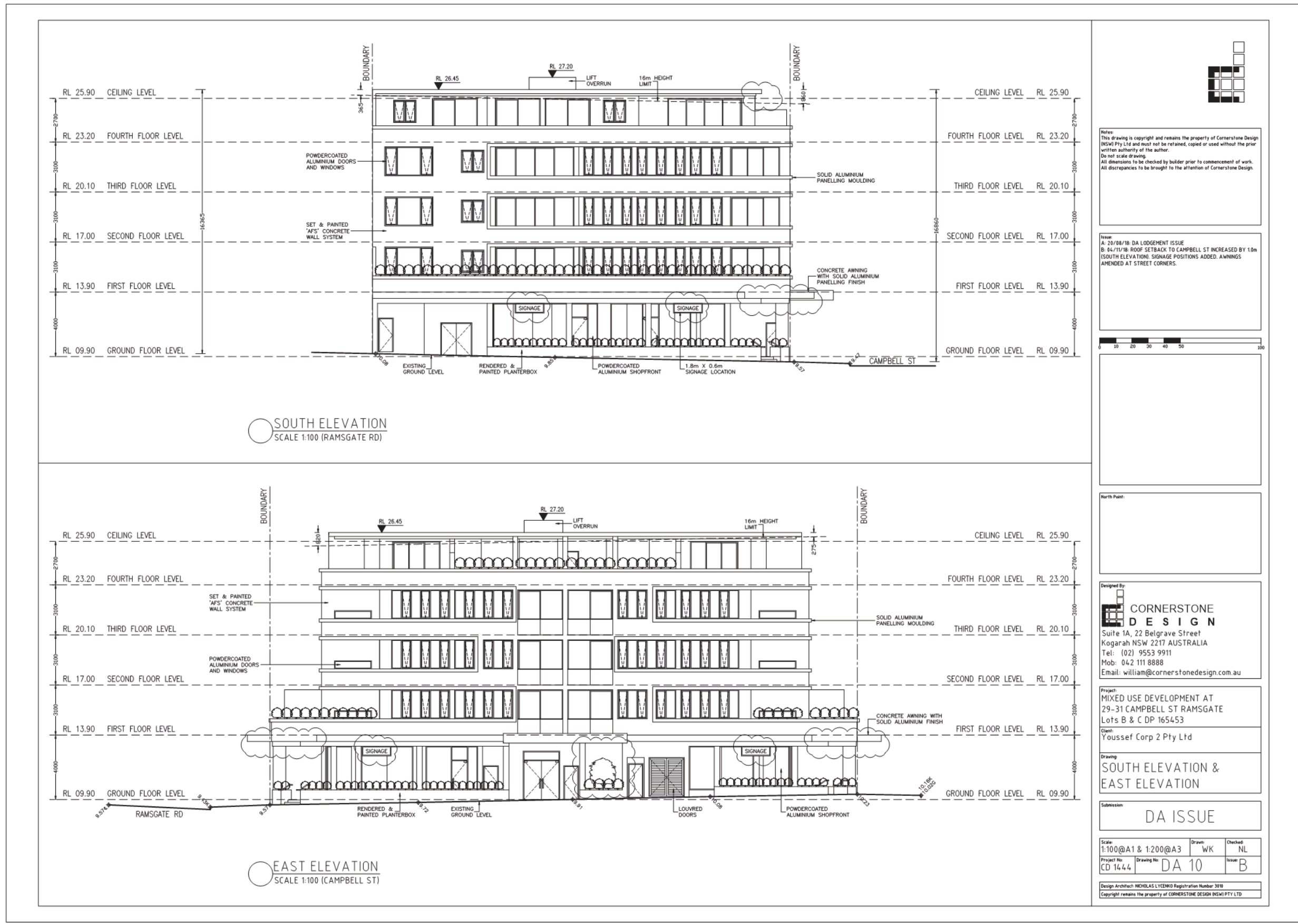
Project:
 MIXED USE DEVELOPMENT AT
 29-31 CAMPBELL ST RAMSGATE
 Lots B & C DP 165453
Client:
 Youssef Corp 2 Pty Ltd
Drawing:
 SITE ANALYSIS PLAN

Submission:
 DA ISSUE

Scale:	1:200@A1 & 1:400@A3	Drawn:	WK	Checked:	
Project No.:	CD 1444	Drawing No.:	DA 01	Issue:	A

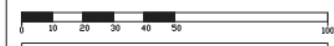
Design Architect: NICHOLAS LYCENIO Registration Number 3910
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Issue
A: 28/08/18 DA LODGEMENT ISSUE
B: 04/11/18 ROOF SETBACK TO CAMPBELL ST INCREASED BY 1.0m (SOUTH ELEVATION: SIGNAGE POSITIONS ADDED. AWNINGS ADDED AT STREET CORNERS.



North Point:

Designed By:
CORNERSTONE DESIGN
Suite 1A, 22 Belgrave Street
Kogarah NSW 2217 AUSTRALIA
Tel: (02) 9553 9911
Mob: 042 111 8888
Email: william@cornerstonedesign.com.au

Project:
MIXED USE DEVELOPMENT AT
29-31 CAMPBELL ST RAMSGATE
Lots B & C DP 165453

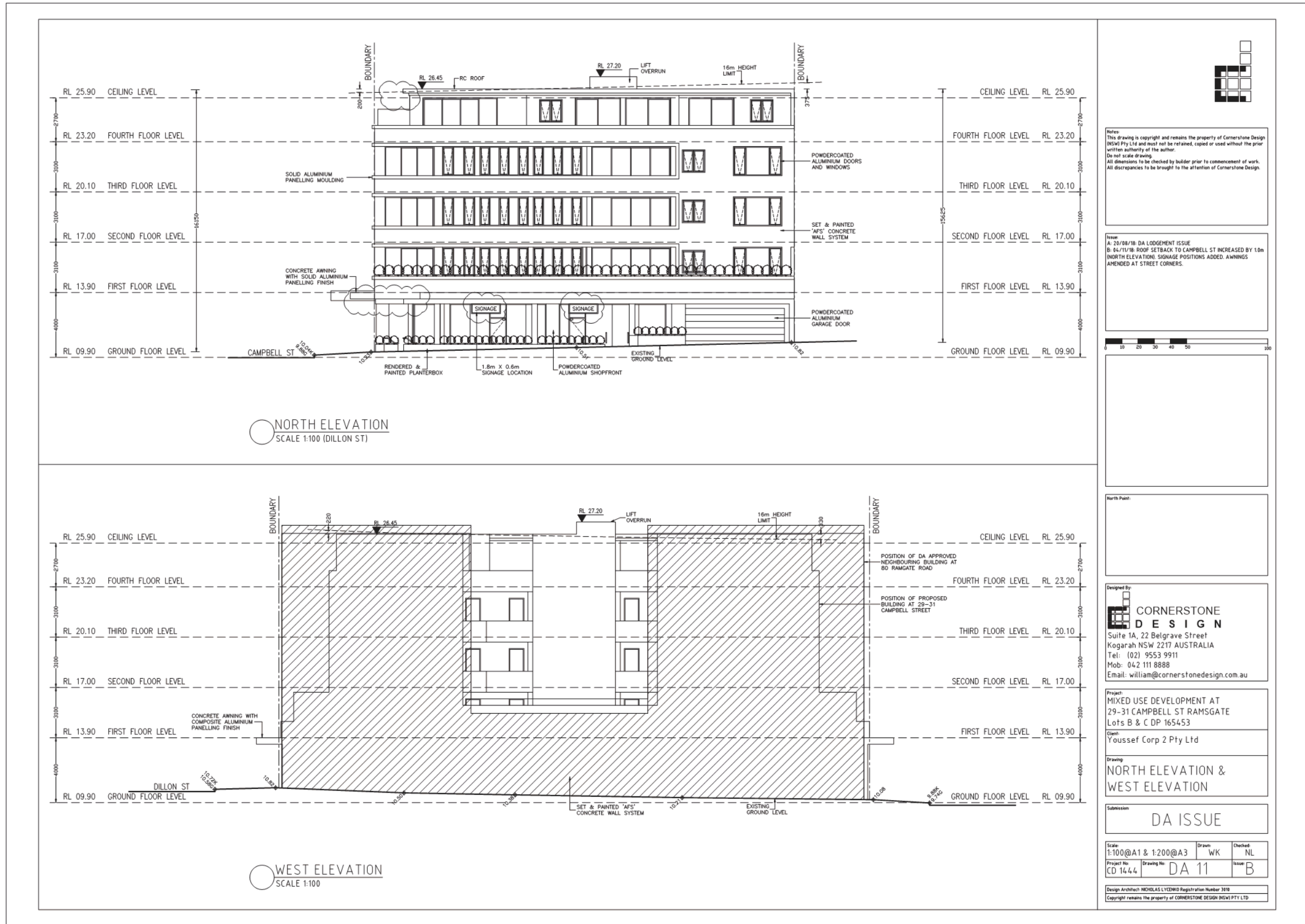
Client:
Youssef Corp 2 Pty Ltd

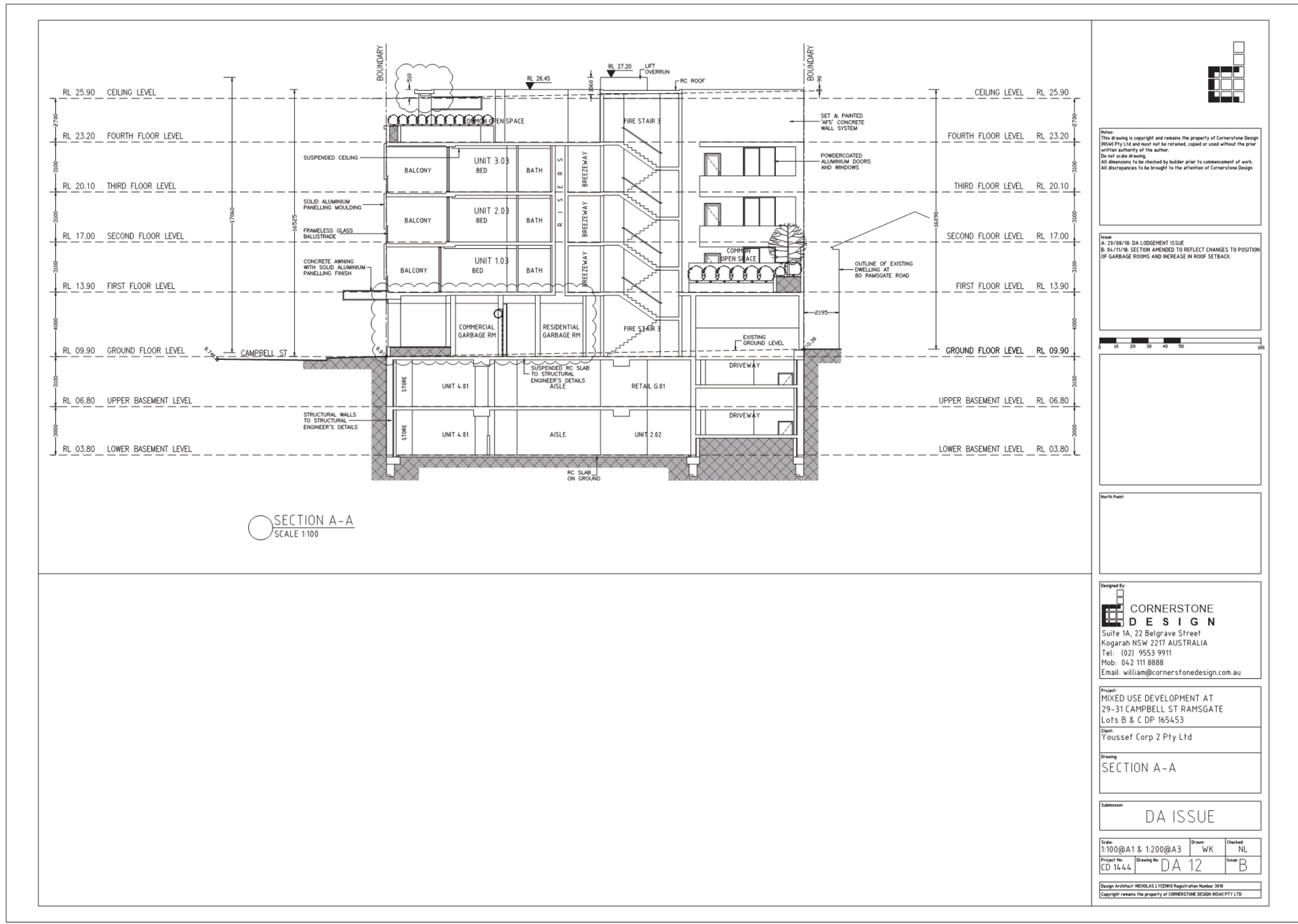
Drawing:
SOUTH ELEVATION &
EAST ELEVATION

Submission:
DA ISSUE

Scale:	1:100@A1 & 1:200@A3	Drawn:	WK	Checked:	NL
Project No:	CD 14.4.4	Drawing No:	DA 10	Issue:	B

Design Architect: NICHOLAS LYCENHO Registration Number 3118
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Issue
 A: 28/08/18: DA LODGEMENT ISSUE
 B: 04/11/18: SECTION AMENDED TO REFLECT CHANGES TO POSITION OF GARBAGE ROOMS AND INCREASE IN ROOF SETBACK.



North Point:

Designed By:
 **CORNERSTONE DESIGN**
 Suite 1A, 22 Belgrave Street
 Kogarah NSW 2217 AUSTRALIA
 Tel: (02) 9553 9911
 Mob: 042 111 8888
 Email: william@cornerstonedesign.com.au

Project:
 MIXED USE DEVELOPMENT AT
 29-31 CAMPBELL ST RAMSGATE
 Lots B & C DP 165453

Client:
 Youssef Corp 2 Pty Ltd

Drawing:
 SECTION A-A

Submission:
 DA ISSUE

Scale: 1:100@A1 & 1:200@A3	Drawn: WK	Checked: NL
Project No: CD 14.4.4	Drawing No: DA 12	Issue: B

Design Architect: NICHOLAS LYCENHO Registration Number 3118
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Bayside Design Review Panel

REPORT OF THE BAYSIDE DESIGN REVIEW PANEL

Meeting held on Friday, 19 October 2018 at Bayside Council

[Panel members: Alan Cadogan, David Klingberg and Dean Boone]

ITEM 1

Date of Panel Assessment:	19 October 2018
Applicant:	Cornerstone Design
Architect:	Cornerstone Design
Property Address:	29-31 Campbell Street, Ramsgate NSW 2217
Description:	Demolition of existing structures on site, removal of trees on site and construction of a five (5) storey shop top housing development comprising of twenty (20) apartments and four (4) retail tenancies with two (2) levels of basement parking
No. of Buildings:	1
No. of Storeys:	5
No. of Units:	20 units total - 6 x 1 bedroom units; 12 x 2 bedroom units; 2 x 3 bedroom units
Consent Authority Responsible:	Bayside Council
Application No.:	DA-2018/223
Declaration of Conflict of Interest:	Nil

The Panel inspected the site, reviewed the submitted documentation and met with representatives of the applicant including Bernard Moroz (Town Planner BMA Urban), William Karavgelas (Applicant Cornerstone Design), Nicholas Lycenko (Architect), Shane Youssef (Owner) and Marta Gonzalez-Vales (Council's Coordinator Development Assessment), Sumeet Badhesha and Ana Trifunovska (Council's Development Assessment Planners).

Design Principle	Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The Panel considers that the design is a good fit for its context. The design effectively manages the interface between higher density development to the west and the R2 zone the east, with active frontages on all three streets.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The Panel considers that the design achieves an appropriate scale, bulk and height. In particular the Panel notes that the internal courtyard space corresponds to the courtyard of the approved development adjoining the boundary. The height also matches that of the adjacent approved development, and is supported by the Panel despite a minor breach of the height control.</p> <p>The Panel recommends that the roof form to the fourth level be set back a further 1 metre or more from the east in order to achieve a more satisfactory interface with the lower density residential built form to the east.</p>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The Panel considers that the density achieved is appropriate for the locality.</p>
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of</p>	<p>The Panel notes that sustainability was not discussed at the meeting and considers that there are further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc. In particular, the roof to Level 4 offers excellent opportunities for the incorporation of solar PV.</p>

Design Principle	Comments
<p>residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The Panel supports the landscape design overall subject to:</p> <ul style="list-style-type: none"> • Ground floor species are to be selected to ensure visual connectivity and passive surveillance between the footpath and the retail tenancies (the indicated species is likely to be too tall to achieve this outcome) • The consistency to the planting in the first floor planter boxes being maintained (from one tenancy to the next) as it is considered to be important feature of the overall landscape design in the absence of setbacks or deep soil planting • All planter boxes to be maintained throughout the life of the building through appropriate mechanisms such as through the Body Corporate • The landscaping to the first floor common open space to be softened and more intimate with increased softscape and decreased hardscape. <p>The Panel notes that the design does not achieve the required minimum deep soil area and is supportive in this instance noting the provision of three active street frontages and that the planter solutions provide satisfactory greening around the site.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The Panel considers that the design generally achieves appropriate amenity outcomes. The Panel recommends that the garbage stores should be relocated away from the front entry and notes that there are large storage areas available in the basement.</p>
<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p>	<p>The Panel does not support the unusual driveway solution and recommends that the Council require that the driveway be simplified noting that this will require moving of the power pole. The Panel notes that this will also increase the active frontage on Dillon Street.</p> <p>The Panel notes that there will need to be a security barrier in the basement between retail and residential parking.</p> <p>The Panel recommends that accessible parking spaces should ideally be located adjacent to the lift.</p>

Design Principle	Comments
<p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The Panel is generally supportive of the mix of apartments sizes and diversity of land uses. This is appropriate for this location close to the local centre.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The Panel is generally supportive of the design's aesthetics. The Panel is concerned about the use of aluminium cladding, as it may undermine the design intent in referencing mid twentieth century architecture, and notes that a simpler painted finish may be more appropriate.</p> <p>The Panel recommends that the applicant should provide a signage strategy for the building in order to avoid visual clutter. The Panel recommends that this strategy reflects the horizontal banding that is a dominant feature of the design.</p>

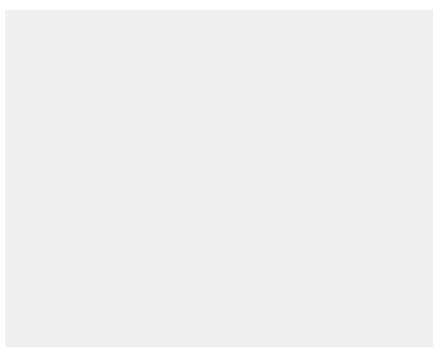
RECOMMENDATION

- The Panel supports the application subject to the changes described above. The application satisfies the design quality principles contained in SEPP 65.

SCHEDULE OF FINISHES

29-31 CAMPBELL ST RAMSGATE

Rendered Masonry Walls (Upper Levels) – ‘Dulux’ Lexicon Half



Rendered Masonry Walls (Ground Floor) Planter Boxes, Columns, & Walls Between Windows (Upper Levels), All Windows & Doors – ‘Dulux’ Monument



Moulding Cladding to Window & Balcony Edging – ‘Vitrabond’ Copper Metallic



Bayside Local Planning Panel

18/12/2018

Item No	6.5
Application Type	S4.55(1A) Modification Application
Application No	SF18/2455
Lodgement Date	24/09/2018
Property	DA-2015/221/02 - 41-45 Rhodes Street, Hillsdale
Ward	Botany Bay
Owner	Hillsanda P/L
Applicant	Mosca Pserras Architects P/L
Proposal	S4.55(1A) Modification Application to increase the hours of construction.
No. of Submissions	One (1)
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Bayside Local Planning Panel approves the Section 4.55(1A) Modification Application to modify Development Consent No. 2015/221 to amend the hours of construction.
- 2 That any objectors be notified of the determination made by the Bayside Local Planning Panel.

Location Plan



Attachments

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

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number	DA-2015/221/02
Date of Receipt:	24 September 2018
Property:	41-45 Rhodes Street, Hillsdale
Owners:	Hillsanda P/L
Applicant:	Mosca Pserras Architects P/L
Proposal:	4.55(1A) Modification to amend Condition 68(c) to change hours of construction
Recommendation:	Approval – subject to conditions
Value:	Nil
No. of submissions:	One (1)
Author:	Sumeet Badhesha, Development Assessment Planner
Date of Report:	14 November 2018

Key Issues

Bayside Council received Development Application No. 2015/221/02 on 24 September 2018 seeking consent to modify the hours of construction approved via DA-2015/221 at 41-45 Rhodes Street, Hillsdale.

The application was placed on public exhibition for a fourteen (14) day period from 5 October 2018 to 19 October 2018. One objection was received.

The key issue in the assessment of the modification application includes the proposed extension of hours. The current proposal seeks to amend condition 68, which limits the hours of construction to 7am to 6pm Monday to Friday, 7am to 1pm on Saturdays, and no works during Sundays or Public Holidays. The modification application seeks consent to extend the hours of construction to 7am to 5pm on Saturdays. Hours for Monday to Friday remain unchanged.

The applicant claimed that the above listed restricted hours of construction are not practical and do not allow for efficient use of Saturdays as a construction day, and prevent the development from being completed in an efficient and timely manner.

The recommendation is for approval subject to modifications being made to the proposed extension to the hours of construction to 2pm. Please refer to assessment section below for detailed assessment.

Recommendation

It is RECOMMENDED that the Bayside Local Planning Panel, resolve:

1. That Development Application No. 2015/221/02 for modification to the originally approved hours of construction at 41-45 Rhodes Street, Hillsdale, be APPROVED pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979 and subject to the conditions attached to this report; and
2. That the objector be advised of the determination made by the Bayside Local Planning Panel.

Background

History

Refused Development DA-2015/221

Development Application (DA) 2015/221 was lodged on 24 November 2015 for demolition of the existing dwelling and vehicle repair station, and construction of a six storey residential flat building (containing 46 units and two levels of basement parking) and was refused by Council on 30 September 2016 due to the applicant failing to provide a risk assessment report and various other design changes and additional information required.

Approved S82A Review of DA-2015/221

S82A Review of Development Application (DA) 2015/221 was approved on 28 March 2017 by the Bayside Planning Panel.

Proposal

Proposed Modification DA-2016/150/02

The current proposal seeks to modify Condition 68(c) as follows:

68(c). Time Restrictions

- (i) Monday to Friday 07:00am to 06:00pm
- (ii) Saturday 07:00am to ~~04:00pm~~ 05:00pm
- (iii) No demolition or construction to take place on Sundays or Public Holidays.

Applicant's Justification: "The additional time as requested, will allow efficient use of the Saturday as a construction day, enhancing the overall Construction program to allow the project to finish in an efficient & timely manner."

Assessing Officer's Justification: The subject development is surrounded by established residential development which is occupied by residents. Based on existing conditions surrounding the site, and the level of impact on surrounding residents from construction activities, the extended hours sought by the applicant are not supported. Instead, an extension till 2pm on Saturdays can be supported. These hours will still enable the

development to be completed within a timely manner whilst also maintaining the amenity of surrounding residents.

Site Description

The site is located at the western side of Rhodes Street. The southern and western boundaries adjoin the recently constructed residential flat buildings at 39 Rhodes Street with the development site wrapping around the rear of the subject site onto the rear portion of the former bowling club site. The site has a total area of 2,211m². The site has a frontage to Rhodes Street of 36.56 metres, as well as a rear boundary of 36.56 metres that is parallel with the frontage. The northern and southern boundary each measure 42.67 metres, but are not perpendicular to the frontage.

The land is zoned R3 Medium Density Residential under BBLEP 2013. To the south of the adjoining site at 39 Rhodes Street is Grace Campbell Reserve which runs between Rhodes Street to the east and Denison Street to the west. On the eastern side of Rhodes Street and further to the south of Grace Campbell Reserve are 3 storey walk-up flat buildings. Along the eastern side of Rhodes Street opposite the site are predominately 3 storey walk-up flat buildings interspersed with single residential dwellings. To the north of the subject site is the Hillsdale Bowling Club, the rear portion of the adjoining bowling club forms part of the recently redeveloped site at 39 Rhodes Street. Further to the north along Rhodes Street are low density residential dwellings interspersed with non-residential uses:



Map 1: Map of site and surrounding



Map 2: Map of site

The originally approved development is currently under construction.

Statutory Considerations

The proposed development has been assessed under the provisions of the Environmental and Planning Assessment Act, 1979.

Section 4.55(1A) – Modifications Involving Minimal Environmental Impact

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

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

Comment: The proposed changes are limited to extending the originally approved hours of construction. In order to minimise impacts and maintain amenity of the surrounding established residential development, the extension to the hours is supported subject to modifications (reduced hours as to what the applicant proposed).

It is considered to be of minimal environmental impact as it relates to the modification of an operational condition and involves no physical changes to the approved development.

(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*

Comment: The changes to the consent relate to the modification of Development Consent No 2015/221 to amend Condition No. 68(c) in relation to the hours of construction to the approved residential flat building development, which is same development is substantially as was originally approved. No physical changes are proposed.

(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*

The application was notified to affected properties as per the provisions of the BBDCP 2013 and one submission was received during this time. The concerns raised within the submission are discussed below within the “Submissions” section of this report.

(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.

Please refer to "Submissions" section of this report below.

Section 4.15 - Matters for Consideration

The relevant matters for consideration pursuant to Section 4.15 are addressed as follows:

(a) The provisions of any EPI, draft EPI, DCP, Planning Agreement, draft Planning Agreement and any other matters prescribed by the Regulations.

Draft EPI

The proposal as modified is not subject to any draft EPI.

Planning Agreement

The proposal as modified is not subject to any current or draft planning agreement.

Botany Bay Local Environmental Plan 2013 (BBLEP 2013)

The proposed modifications do not result in a change in use of the development as was originally approved, or a use which is listed as prohibited. Accordingly, the proposed modifications do not raise any concern in relation to compliance with the BBLEP 2013.

Botany Bay Development Control Plan 2013

Given that the subject application makes no physical amendments to the approved development, there are no relevant provisions to the assessment of this application.

Environmental Planning and Assessment Regulations 2000

All relevant provisions of the Regulations have been considered in the assessment of the proposal as modified and there are no applicable provisions.

(b) Likely impacts

The proposed changes are limited to extending the originally approved hours of construction. In order to minimise impacts and maintain amenity of the surrounding established residential development, the extension to the hours is supported subject to modifications (reduced hours as to what the applicant proposed). Therefore, the proposed modification will have no significant adverse environmental, social or economic impacts on the locality.

(c) Suitability of the site

These matters have been considered in the assessment of the Section 4.55 (1A) Application. It is considered that the proposed amendment is suitable in the context of the site and the locality.

(d) Submissions

In accordance with Part 2 of BBDCP 2013 – Notification and Advertising, the development application was notified to surrounding property owners for a fourteen (14) day period from 5 October 2018 to 19 October 2018. One submission was received within which the following issues were raised:

Issue: "I live in a unit at number 36 Rhodes Street which is directly across the road from the construction site. I do not approve of the application to extend the working hours on Saturdays"

Comment: The objector did not specify or provide particular reasons as to why they oppose the proposed modification. The application is supported subject to reduced hours as to what the applicant originally sought. Please refer to above for assessment.

(e) The public interest.

It is considered that approval of the proposed amendment will have no significant adverse impact upon the public interest.

Conclusion

Development Application No. 2015/221/02 for the modification to Condition 68(c) to change the approved hours of construction at 41-45 Rhodes Street, Hillsdale has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to modified conditions of consent.

Attachment**Schedule 1 – Conditions of Consent**

Premises: 41-45 Rhodes Street, Hillsdale DA No: 15/221/02

SCHEDULE OF CONSENT CONDITIONS**GENERAL CONDITIONS**

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

Drawing N°	Issue	Author	Dated
Sheet A01: Title Sheet, Location Plan, Demolition Plan, Site Plan (Project No 3015)	04	Krikis Tayler Architects	16/12/16
Sheet A02: Site Analysis Plan (Project No 3015)	04	Krikis Tayler Architects	16/12/16

Drawing N°	Issue	Author	Dated
Sheet A03: Basement Level 1 Plan, Basement Level 2 Plan (Project No 3015)	04	Krikis Tayler Architects	14/11/16
Sheet A04: Lower Ground Plan, Ground Plan (Project No 3015)	07	Krikis Tayler Architects	6/3/17
Sheet A05: Level 1 and 2 Plan, Level 3 Plan (Project No 3015)	05	Krikis Tayler Architects	6/3/17
Sheet A06: Level 4 Plan, Roof Plan (Project No 3015)	06	Krikis Tayler Architects	6/3/17
Sheet A20: Elevations (Project No 3015)	06	Krikis Tayler Architects	6/3/17
Sheet A30: Section Plan (Project No 3015)	03	Krikis Tayler Architects	14/11/16
Sheet A40: Shadow Diagrams – Equinox (Project No 3015)	02	Krikis Tayler Architects	14/11/16
Sheet A41: Shadow Diagrams – Winter Solstice (Project No 3015)	02	Krikis Tayler Architects	14/11/16
Sheet A42: Shadow Diagrams – Summer Solstice (Project No 3015)	02	Krikis Tayler Architects	14/11/16
Sheet A43: Shadow Diagrams – Elevational View 1 (Project No 3015)	03	Krikis Tayler Architects	16/12/16
Sheet A44: Shadow Diagrams – Elevational View 2 (Project No 3015)	03	Krikis Tayler Architects	16/12/16
Sheet A45: Shadow Diagrams – Elevational View 3 (Project No 3015)	03	Krikis Tayler Architects	16/12/16
Sheet A60: Materials Board (Project No 3015)	05	Krikis Tayler Architects	6/3/17
Apartment Schedule (Project No 3015)	F	Krikis Tayler Architects	6/3/17
Sheet No SK170306-01A: Bedroom Dimensions (sheets 1-5)	01	Krikis Tayler Architects	6/3/17
Sheet No SK160930-01A: Communal Open Space (sheets 1-4)	03	Krikis Tayler Architects	6/3/17
Sheet No SK160930-03B: Deep Soil Zones (sheets 1-2)	03	Krikis Tayler Architects	6/3/17
Sheet No SK160930-10A to 10F: GFA/FSR Summary (sheets 1-5)	05	Krikis Tayler Architects	6/3/17
Sheet No SK160930-02A: Landscaped Area (sheets 1-3)	05	Krikis Tayler Architects	6/3/17
Sheet No SK150819-11A: Storage (sheets 1-2)	04	Krikis Tayler Architects	6/3/17

Drawing N°	Issue	Author	Dated
Civil Design Package comprising sheets (Job No 15102): <ul style="list-style-type: none"> • C00.01 – General Notes • C01.01 – Sediment and Erosion Control Plan • C02.01 – Basement B2 Stormwater Drainage Plan • C03.01 – Basement B1 Stormwater Drainage Plan • C04.01 – Lower Ground Stormwater Drainage Details • C05.01 – Upper Ground Stormwater Drainage Plan • C05.11 – OSD Tank Details • C10.01 – Roof Stormwater Drainage Plan 	P3	ABC Consultants	August 2015
Landscape Plan (Job No: 108.16(15)/351"A")	A1	iscape	November 2016
BASIX Certificate No 659399M_02		Windtech Consultants	27/1/17
Survey (Ref No: 57296001A)	-	Hill and Blume Consulting Surveyors	30/6/15

Documents	Author	Dated
Statement of Environmental Effects.	LJB Urban Planning	17/11/15
Section 82A Review Planning Report	LJB Urban Planning	16/12/16
Design Verification Statement	Krikis Tayler Architects	30/1/17
Architectural Design Statement	Krikis Tayler Architects	Undated
Traffic Impact Assessment (Ref: 15-138)	Thompson Stanbury Associates	September 2015
Natural Ventilation Statement (Ref: WC647-03F02(Rev 0) – NVS Report)	Windtech	28/11/16
Pedestrian Wind Environment Statement Report (Ref: WC647-01F02(Rev 2) – WS Report)	Windtech	18/9/15
BASIX Report (Ref: WC647-04F02(Rev 1) – BASIX Report)	Windtech	27/1/17
Waste Management Plan	Elephant's Foot	17/9/15
Waste Management Plan	Krikis Tayler Architects	undated

Documents	Author	Dated
Stormwater Management Plan (Ref: 15102-001-swmr)	ABC Consultants	September 2015
BCA Capability Report (Ref: J150323)	Vic Lilli & Partners	15/8/15
Detailed Site Investigation Report (Ref: E22677AA-Rev 01)	Environmental Investigations Australia	16/9/15
Landscape Report	iscape	August 2015
Arborist Report	Naturally Trees	14/8/15
Acoustic Report (Ref: 20151080.1)	Acoustic Logic	17/8/15
Preliminary Risk Assessment (Rev 3)	Bow Tie Consulting	Received 6 March 2017
Access Report	Accessibility solutions	29/10/15
Geotechnical Report (Ref: 3192-R1-Rev 1)	Asset Geotechnical	28/8/15
Cost Plan (Ref: JP/2015/123/01)	JPQS Pty Ltd	17/9/15

2. No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.
3. This Consent relates to land in Lot 1 DP 225779 and Lots 1 and 3 in DP 360304 as such, building works must not encroach on to adjoining lands or the adjoining public place.
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 the relevant BASIX Certificate No. 659399M_02 dated 27/1/17 received by Council on 31 January 2017 for the development are fulfilled.
 - a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
6. The consent given does not imply that works can commence until such time that:-

- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
- b) The person having the benefit of the development consent: -
 - i) Has appointed a principal certifying authority; and,
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

7. The following conditions are imposed by **Sydney Water** and must be complied with:
 - a) The approved plans must be submitted to Sydney Water's *Tap in* online service (<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>) 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. This must be provided prior to the issue of the Construction Certificate.
 - b) A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water prior to the issue of the Occupation Certificate. Make an early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.
8. The following conditions are imposed by **Ausgrid** and must be complied with:
 - a) **Method of Electricity Connection** - The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.
 - b) **Supply of Electricity** - It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
 - The existing network can support the expected electrical load of the development
 - A substation may be required on-site, either a pad mount kiosk or chamber style and;
 - site conditions or other issues 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.

- c) **Conduit Installation** - 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.
9. The following condition is imposed by the **Sydney Airport Corporation Limited** (SACL) and must be complied with:

This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.

The application sought approval for the PROPERTY DEVELOPMENT to a height of 39.0 metres Australian Height Datum (AHD).

In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, I have no objection to the erection of this development to a maximum height of 39.0 metres AHD. Should you wish to exceed this height a new application must be submitted.

Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.

Construction cranes may be required to operate at a height significantly higher than that of the proposed development and consequently, may not be approved under the Airports (Protection of Airspace) Regulations.

Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY EXCAVATION OR BUILDING WORKS

10. A Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- NSW Office of Environment and Heritage (OEH) 'Contaminated Sites Guidelines for Consultants Reporting on Contaminated Sites';
 - NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997; and
 - State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.*

The RAP shall:

- address all data gaps identified in the Detailed Site Investigation Report: 41-45 Rhodes Street, Hillsdale, Report E22677 by Environmental Investigations Australia dated 16 September 2015;
- reflect the proposed development and risks;
- clearly state proposed clean-up objectives; and
- demonstrate how the site can be made suitable for the proposed use.

The Remedial Action Plan (RAP) shall avoid the use of 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.

The 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.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING

11. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:1991 – ‘Demolition of Structures’, the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the “Guidelines for Temporary Protective Structures (April 2001)”;
 - b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of Gas and Electrical Supply;
 - f) Fire Fighting – 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) 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*;
 - i) Working hours, in accordance with this Development Consent;
 - j) Confinement of demolished materials in transit;
 - k) Proposed truck routes, in accordance with this Development Consent;
 - l) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
 - m) Sewer – common sewerage system ad08.
12. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.

13. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
14. A Hazardous Building Material Assessment (HBMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the demolition of any building or structure.

Should any hazardous materials be identified a Work Management Plan completed in accordance with *AS2601 – Demolition of Buildings* shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
15. Prior to the commencement of demolition/Issue of Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of \$14,000 to ensure protection of three (3) existing trees including Tree No 5 *Araucaria columnaris* (Cook Pine), Tree No 6 *Platanus x hybrid* street tree and Tree No 9 *Eucalyptus microcorys* street tree from damage during construction. The duration of the Bond shall cease upon issue of the Occupation Certificate. At the issue of the Occupation Certificate, the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead or pruned without Council permission or, if tree protection measures were not satisfied at any time, then Council will forfeit all, or part thereof, of the bond.
16. To ensure that all asbestos materials identified are managed appropriately an Asbestos Removal Control Plan (ARCP) shall be prepared and implemented during works onsite. The ARCP shall be prepared in accordance with:
 - a) *SafeWork* NSW Codes of Practices; and
 - b) *SafeWork* Australia Model Code of Practice - How to Safely Remove Asbestos 2011; and
 - c) Work Health and Safety Act and Regulations 2011;
 - d) Australia Standard (AS) 2601-2001 The Demolition of Structures.
 - e) Protection of the Environment Operations Act 1997;
 - f) Protection of the Environment Operation (Waste) Regulation;
 - g) DECC Waste Classification Guidelines 2008

The report shall contain details regarding the proposed methods of containment and disposal of asbestos containing material and shall be submitted to the Principal Certifying Authority prior to the demolition of any building or structure.

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

17. The applicant must prior to the issue of the construction certificate pay the following fees:-
- | | |
|-----------------------------|--------------|
| a) Damage Deposit | \$155,400.00 |
| b) Development Control | \$12,900.00 |
| c) Section 94 Contributions | \$531,934.74 |
18. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$155,400.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
19. Prior to the issue of the Construction Certificate
- In accordance with the City of Botany Bay S94 Development Contributions Plan 2016 ,a total contribution of **\$531,934.74** is to be paid to Council prior to the release of the Construction Certificate. A credit for the existing dwelling and industrial building has been applied in the calculation of this levy.
- The Section 94 Contributions are subject to 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 the contributions imposed will be indexed to the date of payment, as set out in the City of Botany Bay S94 Contributions Plan 2016.
20. Prior to the issue of the Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority.
- The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so will 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.
21. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
22. 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.

23. A Construction Management Program shall be submitted to the PCA 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.
 - k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
24. A detailed Traffic Management Plan for the pedestrian and traffic management of the site and Rhodes St during construction shall be prepared and submitted to the relevant road authority (Council or Roads and Maritime Services) for approval. The plan shall:
- be prepared by a RMS accredited consultant,
 - 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
 - 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.

25. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- All driveways/access ramps/vehicular crossings shall conform to Australian Standards AS 2890.1 and Council requirements,
 - For multi-unit 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.
 - The applicant shall provide 79 resident car parking spaces that must be clearly line marked and signposted. The 10 tandem parking areas (20 spaces) shall be allocated to the 2 and 3 bedroom units,
 - The applicant shall provide 10 visitor car parking spaces that must be clearly line marked and signposted,
 - A car share space must be allocated in accordance with Part 3J of the *Botany Bay Comprehensive Development Control Plan 2013*,
 - A minimum of one (1), 3.5m wide carwash bay with the appropriate drainage systems shall be provided for resident use, and
 - A minimum of five (5) storage racks capable of accommodating 9 bicycles as per the *Traffic Impact Assessment Report* by Thompson Stanbury Associates.
26. 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:
- 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,
 - All service vehicles shall enter the property front in front out,
 - Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
27. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by Council:
- A minimum 6 disabled car parking spaces shall be provided and clearly marked as per Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - 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.

28. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- 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.
 - Negotiate with the utility authorities (e.g. AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - The additional load on the system; and
 - The relocation and/or adjustment of the services affected by the construction.

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

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 for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code, Sydney Water regulations and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- The provisions made in the Stormwater Concept Drawings job no. 15102 by ABC, dated August 2015,
- 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,
- The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention system,
- If an OSD system is proposed, discharge to Kerb and Gutter on gardeners Road shall be limited to 10L/s. Alternatively, the discharge pipe shall be connected to Council's stormwater pit and pipe system,
- The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- 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

- The submission of detailed calculations including computer modelling where required to support the proposal.
30. Prior to the issue of any Construction Certificate, the development shall obtain the following approvals:
- a written approval from the beneficiary of the Stormwater Pipe to connect to the stormwater pipe for disposal of stormwater, and
 - obtain written approval from 47 Rhodes Street property owners, permission to access the site for construction of the stormwater connection.
31. Prior to the issue of the Construction Certificate, the plans shall be amended to the reflect the following design changes:
- a) The garbage collection area located in the front setback shall be removed.
 - b) The provision for a substation (if required by Ausgrid) is to be attached either to the terrace to G05, or the adjacent ramp. The substation must be provided as per Plan number SK170316-01 (B), prepared by Krikis Tayler Architects and dated 17 March 2017.
 - c) The colours and materials used for the walls surrounding the substation shall be consistent with the design of the overall development (i.e. sandstone facing).
 - d) Any other alternative arrangement must be approved by the Council's Manager of Statutory Planning.
32. Final Landscape Plans and documentation, consistent with the Concept Landscape Plans prepared by IScape Landscape Architecture, Drawing numbers 108.16(15)/351, 108.16(15)/352 and 108.16(15)/353 (Issue A, dated November 2016), comprising detailed landscape construction documentation (plans and specifications) are to be submitted to and approved by Council Landscape Architect prior to the issue of any Construction Certificate.
- This final landscape documentation is to be prepared by IScape Landscape Architecture and shall include, but not be limited to, the following:
- a) Along the western setback incorporate additional mid-height evergreen trees such as *Banksia integrifolia* to create a more effective screen and layered scheme.
 - b) Incorporate additional small deciduous trees within the north facing patio garden beds.
 - c) Substitute *Acer palmatum* for a hardier, faster growing species such as *Magnolia 'Little Gem'*, *Lagstroemia indica* or *Pyrus sp.*
 - d) 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.
 - e) All proposed trees shall be minimum 75 – 100L pot size.
 - f) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium and large canopy trees.
 - g) All deep soil areas to include canopy trees where feasible to mitigate the loss of

- existing mature trees on site and to provide a level of amelioration to the development that is appropriate to the scale of the building heights.
- h) Indicate the location of all basement structures relative to the landscape areas.
 - i) The four (4) existing retained trees shall be clearly shown on all plans.
 - j) Areas of paving, schedule of materials, edge treatments, tactile and sectional construction details. Paving to Council Draft Public Domain schedule/specification. Drainage details in specific locations such as the public parks, use of WSUD initiatives or materials.
 - k) Incorporate a pagoda or similar so that a portion of the Level 4 communal open space is covered to improve amenity and provide weather protection.
33. Fire booster assemblies, electrical substations and the like are to be housed within the building structure or 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 submitted to and approved by Council's Landscape Architect prior to the issue of the Construction Certificate.
34. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
35. An Erosion and Sediment Plan (ESCP) 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 ESCP shall be kept on-site at all times and made available to Council Officers on request.
36. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
37. 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.

38. 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.
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 City of Botany Bay 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.
40. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certification Authority with the application for the Construction Certificate. 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.

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

41. The Principal Certifying Authority must be satisfied that: -
- a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -

- i) Has been informed in writing of the person's name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.

- 42. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.

- 43. 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.

- 44. 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.

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

- 46. 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 Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties.

In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

47. 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.
48. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection of the existing stormwater pipe located in an easement at 47 Rhodes Street, and then report on the condition of the stormwater pipe between Rhodes Street inlet pit and the Sydney Water Channel. The camera and its operation shall comply with the following:
- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - 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,
 - Distance from the manholes shall be accurately measured, and
 - 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 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. Any costs in the carrying out of the CCTV inspection including cleaning of pits and pipes, disposal of waste material, etc are to be the responsibility of the developer.

49. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.
50. In order to ensure that Tree No 9 (Council street tree, *Eucalyptus microcorys*), Tree No 6 (Council street tree, *Platanus x hybrida*), Tree No 5 (*Araucaria columnaris*, Cook Pine) located within the front setback and Tree No 1 (*Eucalyptus botryoides*). located within Hillsdale Bowling club to the northeast of the site are retained and protected during construction, and their health and structural stability ensured, the following is required:
- a) The four (4) existing retained trees including Tree No 1, Tree No 5, Tree No 6 and Tree No 9 as identified within the Arborist report shall be shown on all construction plans.

- b) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
- c) All tree works and tree management shall be undertaken in accordance with the Arborist report by Tree and Landscape Consultants (Naturally Trees) (dated 14th August 2015). For all tree root and canopy work to trees, comply with the recommendations and requirements and management plan contained within this report.
- d) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
- e) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.
- f) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- g) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- h) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- i) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
- j) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- k) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
- l) There shall be no paving located within the structural root zone of Tree#05.
- m) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
- n) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application

from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.

- o) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
- p) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
- q) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

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

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

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
- c) Permit for roads and footways occupancy (long term/ short term)
- d) Permit to install temporary ground anchors in public land,
- e) Permit to discharge ground water to Council's stormwater drainage system,
- f) Permit for roads and footways occupancy (long term/ short term),
- g) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
- h) 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,
- i) Permit to place skip/waste bin on footpath and/or nature strip
- j) Permit to use any part of Council's road reserve or other Council lands.

DURING WORKS

52. The proposed development shall comply with the following:

- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after-hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
53. 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.
54. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
55. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
56. The Applicant has permission to remove trees Tree No 2, Tree No 3, Tree No 4, Tree No 7, Tree No 8 and Tree No 10 as identified by the Consultant Arborist in the *Arborist Report* by Naturally Trees (dated 14 August 2015). *Note: Trees are not permitted to be removed until the Construction Certificate has been issued.*
57. Tree removal shall be undertaken by the Applicant at their own expense and adhere to the following:
- a) A qualified Arborist with their own public liability insurance must be engaged.
- Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

58. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
59. 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.
60. The public domain landscaping shall be installed in accordance with the approved final landscape plan as stamped by Council's Landscape Architect required by this consent. The landscaped areas on the site shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction all times.
61. The public footpaths in Rhodes Street shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum.
62. New street trees at the pot size specified shall be installed in the accordance with the approved final landscape plan. The trees shall be sourced from a reputable supplier that grows stock to the NATSPEC specifications. A Dial-Before-You-Dig enquiry is required prior to all planting - Council is not liable for any damage to subsurface infrastructure during public domain works. Two hold point inspections are required: prior planting trees to ensure plant stock is suitable and post-planting.
63. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
 - a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be 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.
64. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site except where amended by this consent.
65. 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.
66. 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.
67. 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*.
- a)
68. The following shall be complied with during construction and demolition:
- a) **Construction Noise**

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

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

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

- c) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm
 - ii) Saturday 07:00am to ~~04:00pm~~ 02:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
- d) Silencing

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

(Modified via DA-2015/221/02)

- 69. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 70. 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.
- 71. 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.

- 72.
 - 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 (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

73. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
74. 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;
- Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- If the soil conditions required it:
- a) 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
 - b) Adequate provision must be made for drainage.
75. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.
76. 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.
77. 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.
- d)
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. 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.
81. 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.
82. 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 commencement of any remedial action works or any excavation, demolition or other building works.

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

83. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the *Environmental Planning and Assessment Act, 1979*.
84. 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.

85. 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.

86. To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997 shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, 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.

87. Prior to the issue of an Occupation Certificate, any fencing adjacent to the site vehicular entrance shall be designed and constructed to ensure there is adequate sight distance between the pedestrians and the vehicles leaving the site.

88. At the completion of all construction works, a qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection of the existing stormwater pipe located in an easement at 47 Rhodes Street, and then report on the condition of the stormwater pipe between Rhodes Street inlet pit and the Sydney Water Channel.

The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner.
- 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,
- Distance from the manholes shall be accurately measured, and
- 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 shall be submitted to Council for review prior to the issue of any Occupation Certificate. Any 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.

89. Prior to the issue of any Occupation Certificate(s), documentation from a practicing civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
90. Prior to the issue of Final Occupation Certificate, the applicant shall carry out the following works:
 - On Rhodes St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
 - On Rhodes St, adjacent to development, demolish existing concrete footpath driveways and construct new concrete footpath as per Council's Infrastructure specifications, and
 - On Rhodes St, reconstruct half width of the road pavement, adjacent to development in accordance with Council's Infrastructure Specifications.
91. 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.
92. 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:
 - Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of Part 10 of *Botany Bay Development Control Plan 2013- Stormwater Management Technical Guidelines (SMTG)* for suggested wording, and
 - Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
93. Landscaping on the site and in the public domain shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. The landscaped areas on the site shall be maintained in accordance with the Council stamped and approved landscape documentation, the conditions of this development consent and Council's DCP all times.

94. The applicant is to submit payment of a Street Tree Maintenance Bond of \$5,000.00. The duration of the Bond shall be limited to a period of 24 months after final inspection of the new street trees by Council. At the completion of the 24 month period the Bond shall be refunded pending a satisfactory inspection of the trees by Council. If any tree is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
95. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved Landscape Plan. The Certificate is to be submitted to Council prior to the Issue of an Occupation Certificate.
96. 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.
97. The storage areas in the basement levels must be allocated to individual units prior to the issue of the final Occupation Certificate.
98. The consolidation of Lots 1 and 3 in DP 225779 and Lot 3 in DP 360304 into one title must be undertaken prior to the issue of the Occupation Certificate. The linen plans for the consolidation are to be submitted to Council prior to the release of the Occupation Certificate and proof of registration with the Land Titles Office submitted prior to occupation and use of the building.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

99. The garbage bins are to be stored in the basement on the lower ground floor and wheeled to the kerb side on the street by the Building Manager for collection by Council. the bins are to be returned to the basement promptly by the Building Manager following servicing by Council.
100. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a period of 24 months after final inspection by Council. Maintenance includes twice weekly watering within the first 6 months then weekly thereafter to sustain adequate growth and health, bi-annual feeding, weed removal round the base, mulch replenishment at 3 monthly intervals (to 75mm depth) and adjusting of stakes and ties. Maintenance but does not include trimming or pruning of the trees under any circumstances.
101. Ongoing maintenance of the road verges and footpaths and nature strips in Rhodes 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.

102. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
103. 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.
104. 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.
105. 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.
106. 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):
- Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - Before 7 am or after 10 pm on any other day.
107. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
- The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
- For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
108. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the

Development Application registered in Council's records as Development Application No. 15/221 dated as 24 November 2015 and the Review application on 22 December 2016 **and Modification Application No. 15/221/02** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.



20th September 2018.

BAYSIDE COUNCIL

Rockdale Customer Service Centre
444-446 Princes Highway,
ROCKDALE.

Attention: Chris Mackey

Re: MODIFICATION TO DA 15/221
41-45 Rhodes Street, HILLSDALE

1.0- INTRODUCTION

This Statement accompanies an application to Bayside Council under Section 4.55(1A) of the Environment Planning & Assessment Act, 1979, (EP&A Act) to modify Development Consent DA 15/221, dated 24th April 2017. This statement has been prepared on behalf of the Owners, Hillsanda Unit Trust.

The proposed modification to the Consent involves a change to the permitted hours of Construction for Saturday.

The permitted hours of construction for Saturday are from 7.00am to 1.00pm. It is proposed to extend the permitted Hours to allow Construction on a Saturday from the hours of 7.00am to 5.00pm. The hours for Monday to Friday will remain unchanged.

2.0 SITE CONTEXT

The site is known as 41-45 Rhodes Street Hillsdale. The site is located on the eastern side of Rhodes Street. The site is bounded by newly constructed apartment buildings to the south and west and by Hillsdale Bowling Club to the north.

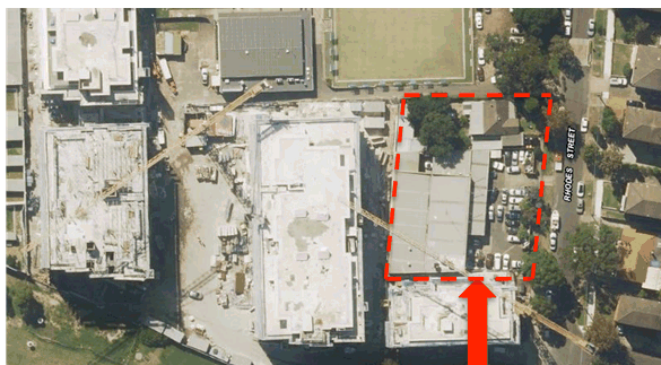


Figure 1- Site and Context, Proposed Site.

3.0 PROPOSAL

This proposal is for an amendment to DA Condition 68 and in particular paragraph (c) which notes permitted Construction Hours. It is proposed that the Construction hours be extended to allow for construction works to be permitted till 4 pm on Saturdays. The change to the this DA Condition is noted below, and in paragraph(c).

68. *The following shall be complied with during construction and demolition:*

a) *Construction Noise*

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual -Chapter 171 and the Protection of the Environment Operations Act 1997.

b) *Level Restrictions*

i) *Construction period of 4 weeks and under:*

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

ii) *Construction period greater than 4 weeks and not exceeding 26weeks:*

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).

c) *Time Restrictions*

i) *Monday to Friday 07:00am to 06:00pm*

ii) *Saturday 07:00am to ~~04:00pm~~ 05:00pm*

iii) *No Construction to take place on Sundays or PublicHolidays.*

d) *Silencing*

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

The additional time as requested, will allow efficient use of the Saturday as a construction day, enhancing the overall Construction program to allow the project to finish in an efficient & timely manner.

5.0 CONCLUSION

This statement accompanies an application under Section 4.55(1A) of the Environment Planning & Assessment Act, 1979, (EP&A Act) to modify Development Consent DA 15/221, dated 24th April 2017. The modified development will be substantially the same as the originally approved development. We do not anticipate that the proposed modifications will result in any adverse environmental impacts.

We trust Council will consider our modifications in a favorable manner.

Yours Faithfully,



.....

Steve Pserras B Arch.
NSW Architects Registration Board No 5001

Bayside Local Planning Panel

18/12/2018

Item No	6.6
Application Type	Development Application
Application No	DA-2018/120
Lodgement Date	15/05/2018
Property	7-9 Kingsland Road South, Bexley
Ward	Bexley
Owner	2207 Investments Pty Ltd
Applicant	Mr Sam Ayache
Proposal	Demolition of existing dwellings and construction of a six (6) storey mixed use development containing twenty (20) residential units (of which 20% are affordable housing), two (2) commercial units and two (2) level basement car parking.
No. of Submissions	5 submissions and an online petition containing 83 signatures
Cost of Development	\$7,390,941
Report by	Michael McCabe, Director City Futures

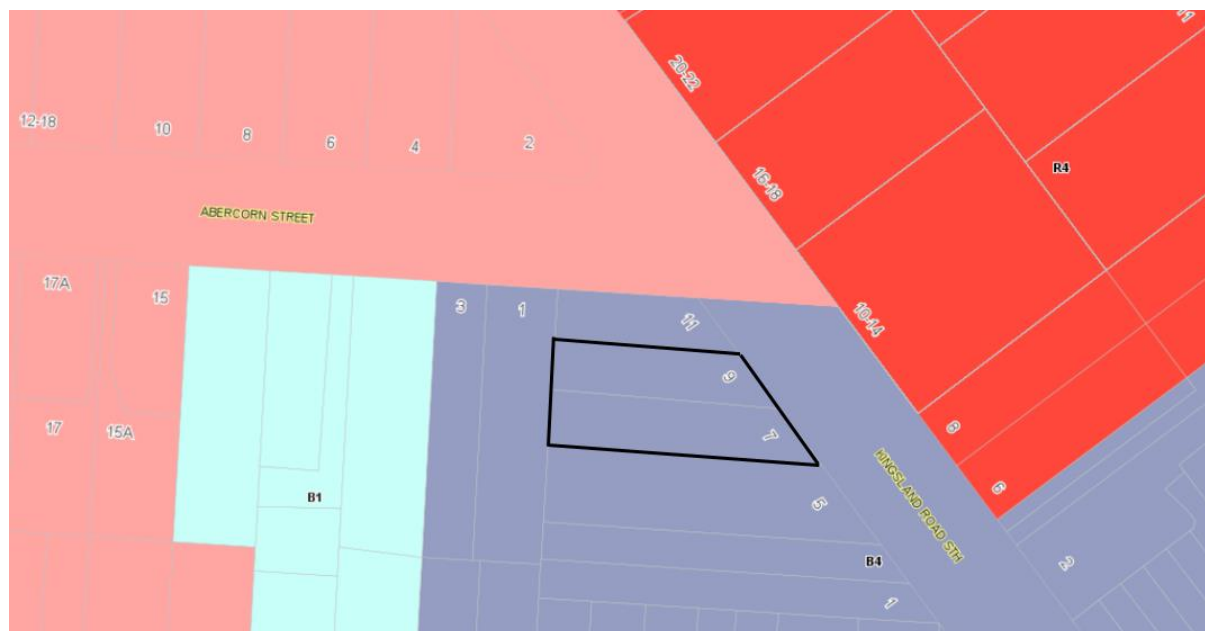
Officer Recommendation

- 1 That Development Application No.2018/120 for demolition of existing dwellings and construction of a six (6) storey mixed use development containing twenty (20) residential units (of which 20% are affordable housing), two (2) commercial units and two (2) level basement car parking at 7-9 Kingsland Road South, Bexley be **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - a Pursuant to the provisions of Section 4.15(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979, the proposal does not satisfy the Design Quality Principles within Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, Clause 16A - Character of local area within State Environmental Planning Policy (Affordable Rental Housing) 2009, Part 4.2 - Streetscape and Site Context - General, Part 5.2 - Residential Flat Buildings and Part 5.3 - Mixed Use of Rockdale Development Control Plan 2011 in that the proposed development contains insufficient setbacks from the front boundary and the southern side boundary on the upper two storeys to suitably regulate the bulk and scale of the building and respond to the local context.
 - b Pursuant to the provisions of Section 4.15(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with the requirements within Part 2F - Building Separation, Part 4A - Solar and daylight access and Part 4B - Natural Ventilation of the Apartment Design Guide in that insufficient building separation is proposed within the development and to adjoining properties and light wells are relied upon for the primary air and light source for habitable rooms.
-

- c Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with the requirements within Part 3F - Visual Privacy, Part 4H - Acoustic Privacy and Part 4.4.5 - Visual and Acoustic Privacy within Rockdale Development Control Plan 2011 in that the eastern bedroom within unit 02 has unsatisfactory acoustic privacy and the balconies within units 7 and 11 would cause adverse visual privacy impacts for nearby residential properties.
- d Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to satisfy the following Design Quality Principles within Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development: Principle 1 - Context and Neighbourhood Character, Principle 2 - Built Form and Scale, Principle 3 - Density and Principle 6 - Amenity.
- e Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to satisfy objective (1)(c) of Clause 4.4 - Floor Space Ratio within Rockdale Local Environmental Plan 2011 because the proposed development does not maintain an appropriate visual relationship with the existing character of the area.
- f 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.
- 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, in terms of the extent of gross floor area sought and the likely associated impacts upon the streetscape and neighbouring properties.
- h Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable impacts on adjoining /nearby properties and the streetscape.
- i 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.
- j Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the height of the proposed development penetrates the Limitation or Operations Surface. The consent authority does not have any statutory power to consent to the application in accordance with clause 6.4(4) of Rockdale Local Environmental Plan 2011 as the relevant Commonwealth body has not provided its written advice to Council.
- k The application contains incomplete/insufficient information as the pergolas proposed within the Level 5 Communal Plan are not shown on the elevations and the intended external colours and materials are unclear.

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

Location Plan



Attachments

- 1 [Planning Assessment Report](#) ↓
- 2 [Demolition Plan](#) ↓
- 3 [Site Plan](#) ↓
- 4 [Architectural Elevations](#) ↓
- 5 [Concept Plans - Isolated Site](#) ↓
- 6 [Shadow Diagrams](#) ↓
- 7 [Bayside DRP Minutes 5 July 2018](#) ↓

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2018/120
Date of Receipt:	15 May 2018
Property:	7 Kingsland Rd Sth, BEXLEY (Lot 1 DP 925706) 9 Kingsland Rd Sth, BEXLEY (Lot 9 DP 1078771)
Owner:	2207 Investments Pty Ltd
Applicant:	Mr Sam Ayache
Proposal:	7-9 Kingsland Rd Sth, BEXLEY NSW 2207 - Demolition of existing dwellings and construction of a six (6) storey mixed use development containing twenty (20) residential units (of which 20% are affordable housing), two (2) commercial units and two (2) level basement car parking.
Recommendation:	Refused
No. of submissions:	5 submissions and an online petition containing 83 signatures
Author:	Patrick Nash
Date of Report:	6/12/2018

Key Issues

The key issues identified in this proposal relate to:

- Insufficient building setbacks to adequately regulate the bulk and scale of the development, ensure that a clearly defined four (4) storey base/podium is achieved and respond to the local context and existing character of the locality;
- Unsatisfactory residential amenity due to the reliance on a light well as the primary air and light source for habitable rooms, contrary to the Apartment Design Guide design guidelines;
- Non-compliant building separation within the proposed development and to the rear boundary;
- Isolation of the adjoining allotment to the north and the extent to which that property can reasonably re-develop in accordance with the applicable planning controls and achieve a high quality built form outcome;
- Non-conformity to the objectives of the Floor Space Ratio development standard within Clause 4.4 of Rockdale Local Environmental Plan 2011; and
- The site cannot support a development with the amount of gross floor area proposed given the concerns raised in respect of bulk and scale and residential amenity for future occupants.

Recommendation

A. That Development Application No.2018/120 for demolition of existing dwellings and construction of a six (6) storey mixed use development containing twenty (20) residential units (of which 20% are affordable housing), two (2) commercial units and two (2) level basement car parking at 7-9 Kingsland Road South, Bexley be **REFUSED** pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:

1. Pursuant to the provisions of Section 4.15(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979, the proposal does not satisfy the Design Quality Principles within Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development, Clause 16A - Character of local area within State Environmental Planning Policy (Affordable Rental Housing) 2009, Part 4.2 - Streetscape and Site Context - General, Part 5.2 - Residential Flat Buildings and Part 5.3 - Mixed Use of Rockdale Development Control Plan 2011 in that the proposed development contains insufficient setbacks from the front boundary and the southern side boundary on the upper two storeys to suitably regulate the bulk and scale of the building and respond to the local context.

2. Pursuant to the provisions of Section 4.15(1)(a)(i) and (iii) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with the requirements within Part 2F - Building Separation, Part 4A - Solar and daylight access and Part 4B - Natural Ventilation of the Apartment Design Guide in that insufficient building separation is proposed within the development and to adjoining properties and light wells are relied upon for the primary air and light source for habitable rooms.

3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal is inconsistent with the requirements within Part 3F - Visual Privacy, Part 4H - Acoustic Privacy and Part 4.4.5 - Visual and Acoustic Privacy within Rockdale Development Control Plan 2011 in that the eastern bedroom within unit 02 has unsatisfactory acoustic privacy and the balconies within units 7 and 11 would cause adverse visual privacy impacts for nearby residential properties.

4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to satisfy the following Design Quality Principles within Schedule 1 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development: Principle 1 - Context and Neighbourhood Character, Principle 2 - Built Form and Scale, Principle 3 - Density and Principle 6 - Amenity.

5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal fails to satisfy objective (1)(c) of Clause 4.4 - Floor Space Ratio within Rockdale Local Environmental Plan 2011 because the proposed development does not maintain an appropriate visual relationship

with the existing character of the area.

6. 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.

7. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of the extent of gross floor area sought and the likely associated impacts upon the streetscape and neighbouring properties.

8. Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable impacts on adjoining /nearby properties and the streetscape.

9. 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.

10. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the height of the proposed development penetrates the Limitation or Operations Surface. The consent authority does not have any statutory power to consent to the application in accordance with clause 6.4(4) of Rockdale Local Environmental Plan 2011 as the relevant Commonwealth body has not provided its written advice to Council.

11. The application contains incomplete/insufficient information as the pergolas proposed within the Level 5 Communal Plan are not shown on the elevations and the intended external colours and materials are unclear.

B. That the objectors be advised of the Bayside Local Planning Panel's determination.

Background

History

Planning Proposal

At its meeting on 28 November 2017, the Bayside Planning Panel considered a post-exhibition report for a planning proposal for land bounded by Abercorn Street, Kingsland Road South, Stoney Creek Road and Bexley RSL, Bexley. The proposal the subject of this DA relates to land within that planning proposal area.

The Bayside Planning Panel made the following recommendations to Council:

The Panel recommends to the Council that it defers the making/gazettal of the planning proposal to allow a DCP for the total site proposed to be rezoned to B4. Such a DCP would be to guide future development of the site which is in multiple ownership and to allow urban design guidelines to be incorporated having regard to the total context of the Bexley local centre and surrounding residential areas in particular, the relationship with the Kingsland Road and Abercorn street.

The Panel considers that a deferral would allow for a DCP to inform future development of the site as a blanket B4 zone without more detailed controls within the LEP would create uncertainty and not necessarily provide the impetus for revitalisation of the entire Bexley centre.

Council may also wish to consider that additional controls could be provided in the LEP with regard to percentages of commercial, residential and other uses having regard to the entire site's juxtaposition with adjoining development.

At the meeting of 13 December 2017, the elected Council determined the following:

1. That in accordance with Section 59 of the Environmental Planning & Assessment Act 1979, Council exercise delegation from the Minister and make the LEP amendment for land bounded by Abercorn Street, Kingsland Road South, Stoney Creek Road and Bexley RSL as exhibited.
2. That the General Manager note the outcomes of the exhibition of the Voluntary Planning Agreement and execute the VPA in accordance with existing delegated authority under the relevant provisions of the Environmental Planning and Assessment Act 1979.

Amendment 18 to Rockdale Local Environmental Plan 2011 concerning land bounded by Kingsland Road South, Abercorn Street and Stoney Creek Road, Bexley was made by the Minister on 4 May 2018.

Subject DA timeline

- 15 May 2018 - DA-2018/120 was submitted to Council.
- 21 May 2018 - The DA was notified for a period of 14 days in accordance with Rockdale DCP 2011. A total of 5 submissions and a petition containing 83 signatures was received.
- 5 July 2018 - The application was reviewed by Council's Design Review Panel.
- 3 August 2018 - A letter was sent to the applicant outlining various concerns with the proposed development. These included: A number of issues identified by the Design Review Panel, Site isolation, apartment amenity, building separation, cross ventilation, building setbacks, bedroom sizes, landscaping treatment, plans not depicting the pergola referenced on the Roof Plan and insufficient information to substantiate that the lift overrun can operate at the height shown.
- 7 August 2018 - A meeting was held with the applicant to discuss the concerns raised.
- 5 September 2018 - The applicant submitted amended concept plans.

- 2 October 2018 - Council advised the applicant that the amended concepts plans do not resolve the design issues raised and as such cannot be supported. The applicant was provided with a 21 day period to submit a formal set of amended plans.
- 31 October 2018 - A further meeting was held with the applicant and Council.
- 8 November 2018 - Further advice regarding Council's outstanding concerns was provided to the applicant.
- 12 November 2018 - The applicant submitted amended concept plans and a written response to Council's concerns.
- 16 November 2018 - The applicant made a formal amended plan submission. Assessment in this report is based on these plans.

Proposal

Council is in receipt of a development application DA-2018/120 at 7-9 Kingsland Road South, Bexley for demolition of the existing structures and construction of a six (6) storey mixed use development containing twenty (20) residential units (of which 20% are affordable housing), two (2) commercial units and two (2) level basement car parking. The proposal is further summarised as follows:

Basement L2 Plan

- Storage facilities;
- 15 car parking spaces;
- Lift and fire stairs;
- Motorcycle space; and
- Bicycle spaces.

Basement L1 Plan

- Storage facilities;
- 14 car parking spaces;
- 2 Motorcycle spaces; and
- Lift and fire stairs.

Ground Floor Plan

- 2 retail tenancies at the front of the site, comprised of 45m² and 64m² respectively;
- Separate residential access;
- Bin storage facilities;
- Vehicular access to the basement adjacent to the southern side boundary; and
- 2 residential units at the rear (2x2 bed). These units are identified as affordable housing.

Level 1

- 4 x residential units (1x3 bed and 3x2 bed); and
- Unit 05 is identified as affordable housing.

Level 2

- 4 x residential units (1x3 bed and 3x2 bed); and
- Unit 09 is identified as affordable housing.

Level 3

- 4 x residential units (1x3 bed and 3x2 bed).

Level 4

- 4 x residential units (1x3 bed, 3x2 bed and 1x1 bed).

Level 5

- 2 x residential units (1x2 bed and 1x3 bed); and
- Outdoor communal area.

The proposed dwelling mix is 1x1 bedroom, 14x2 bedroom and 5x3 bedroom units.

The proposed development seeks approval under SEPP (Affordable Rental Housing) 2009. The relevant provisions of that SEPP have been addressed in the main body of the report.

Site location and context

The subject site is comprised of Lot 9 in DP 1078771 and Lot 1 in DP 925706 and commonly known as 7 - 9 Kingsland Road South, Bexley. The site has an overall area of 812m² and a frontage to Kingsland Road of 25.58m. The site has a cross fall from the front boundary to the rear boundary of up to approximately 1.5m. The site currently accommodates two detached single storey dwellings. There are some existing trees growing within the rear yard.

The site is located north of the Bexley Town Centre. Immediately adjoining the site to the north is No.11 Kingsland Road which is a corner property accommodating a single storey dwelling. This site has a primary frontage to Kingsland Road and a secondary frontage to Abercorn Street. Immediately adjoining the site to the south is No.5 Kingsland Road which is a vacant lot. Further to the south are two detached residential dwellings. Adjoining the site at the rear is No.1 Abercorn Street which contains a single storey dwelling. To the east of the site, on the opposite side of Kingsland Road is a detached residential dwelling and a 3 storey residential flat building that is setback from the front boundary in a landscaped setting.

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

The proposed development seeks approval under SEPP (Affordable Rental Housing) 2009, providing 20% of the proposed development as affordable housing.

An assessment against Division 1 – Infill Affordable Housing is provided below:

Clause 10 - Development to which Division applies

The proposed development is compliant with respect to the requirements of clause 10 in that:

- The proposal is permissible in the B4 - Mixed use zone;
- The subject site does not contain a heritage item and/or is not on the State Heritage Register; and
- The site is located within an accessible area being 170m from a bus stop which is serviced by bus routes which are defined as a 'regular bus service'.

Clause 13 - Floor Space Ratio

The existing maximum FSR is 2.5:1. The percentage of affordable housing proposed to be dedicated within the development is 20%. As a result, an additional 0.2:1 is permitted. The resultant maximum allowable FSR is therefore 2.7:1. The submitted drawings identify four (4) apartments to be dedicated as affordable housing which is compliant.

Clause 14 - Standards that cannot be used to refuse consent

A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

Site and Solar Access Requirements

Site Area - if the site area on which it is proposed to carry out the development is at least 450 square metres

Comment: The site area is greater than 450m².

Landscaped Area - if

- (i) in the case of a development application made by a social housing provider—at least 35 square metres of landscaped area per dwelling is provided, or*
- (ii) in any other case—at least 30 per cent of the site area is to be landscaped,*

Comment: Council's calculations indicate approximately 125m² (15% of the site area) of landscaped area on the ground floor plan. This is inclusive of the planter boxes at the front of the site and adjacent to the residential lobby. The applicant has not provided any justification for this non-compliance.

Deep Soil Zones - in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed:

- (i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the site area (the **deep soil zone**), and*
- (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and*
- (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,*

Comment: The development does not provide 15% of the site area as deep soil. A total of 9.48% is proposed. In addition, the minimum dimension of the deep soil area at the rear of the site is 2.2m which does not achieve the 3m guideline. However, the proposal achieves compliance with the applicable ADG deep soil requirements and is thus acceptable.

Solar Access - if living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.

Comment: The development achieves the requisite amount of solar access set out above.

General

Parking - at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms.

Comment: The proposed development contains 1x1 bed, 14x2 bed and 5x3 bed. On this basis, a total of 22 car parking spaces would be required. The basement levels accommodate a total of 29 car parking spaces plus 1 carwash bay/loading space which is compliant.

Dwelling size - if each dwelling has a gross floor area of at least:

- (i) 35 square metres in the case of a bedsitter or studio, or*
- (ii) 50 square metres in the case of a dwelling having 1 bedroom, or*
- (iii) 70 square metres in the case of a dwelling having 2 bedrooms, or*
- (iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.*

Comment: The proposed dwelling sizes are compliant with the above requirements.

Clause 15 - Design Requirements

This clause does not apply to development to which clause 4 of SEPP 65 applies.

Clause 16 - Continued application of SEPP 65

The requirements of SEPP 65 have been considered in this assessment.

Clause 16A - Character of local area

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.

Comment: Concern is raised with the bulk and scale of the development at the front of the site, particularly as viewed from Kingsland Road. Greater front setbacks for the upper levels are required to adequately regulate the bulk and scale of the development and ensure that it responds to the built form character of the locality, noting that the existing residential flat buildings opposite the subject site (on the eastern side of Kingsland Road) are well setback from the front boundary alignment. In its current form, Council is not satisfied that the proposed development is compatible with the character of the local area.

Clause 17 - Must be used for affordable housing for 10 years

The requirements of clause 17 could be imposed through conditions of consent. However, the application is not supported for other reasons.

Clause 18 - Subdivision

The subject application does not seek consent for subdivision.

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

The applicant has submitted a compliant BASIX Certificate.

State Environmental Planning Policy (Infrastructure) 2007Clause 45 - Determination of development applications - other development

The proposal involves development within 5m of an exposed overhead electricity power line. As such, written notice was given to Ausgrid in accordance with clause 45(2) of the Infrastructure SEPP. To date, no response was received.

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

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

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

Council's Tree Management Officer has reviewed the proposal and raises no objection to the proposed tree removal subject to the provision of replacement plantings.

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

In accordance with clause 28(2) of this policy, the consent authority must take into consideration the following:

- a. *The advice of the Design Review Panel (DRP)*
- b. *The design quality of the development when evaluated in accordance with the design quality principles.*

The proposal has been referred to the Design Review Panel on 5 July 2018. The DRP provided the following comments under the headings of the design quality principles below:

Principle 1 – Context and Neighborhood Character

The Panel notes the site must achieve a transition between the town centre typology further south and more residential typology to the north and east, and is challenged by the isolated site immediate to the north. As a result the Panel supports the setbacks of the lower levels as a more commercial typology being built to the boundary, but considers the upper levels must have greater setbacks if the building is to deliver an effective transition.

The Panel supports a nil setback to the Kingsland Road frontage and to the southern boundary but only up to level 3. Above this level the buildings should be setback by at least 3 metres (including balconies) from the boundaries.

On the north elevation the Panel accepts that the interface with the existing one storey residential dwelling is challenging. This is because even though this site will likely be developed in the future it may be many years or decades before this occurs and the building needs to respond to both potentialities. On balance the Panel considers the north elevation interface is acceptable with setbacks as shown.

The Panel is concerned that the comments made at pre-DA stage regarding amenity for occupants and users have not been adequately addressed in the DA design. This is largely due to the poor amenity of apartments relying on recesses in the south elevation that work as light wells for borrowed light and air from the adjacent property.

COMMENT: Council and the DRP considers there to be justification to setback the upper 2 storeys from the front boundary alignment, noting that the existing residential flat buildings in the R4 - High Density Residential zone of the opposite (eastern side) of Kingsland Road have deep front setbacks which contribute to the character of the locality and minimise the visual impact of those developments. The design of the building on the subject site therefore has a role to play in respect of context and neighbourhood character.

Council requested the upper two (2) storeys to observe a minimum 3m front setback. The amended plans provide for a 1.5m front setback for the upper two levels. This is considered to be insufficient to adequately regulate the bulk and scale of the development and respond suitably to the local context. As such, this component of the development constitutes a reason for refusal.

The concerns in respect of poor amenity are discussed under *Principle 6 - Amenity*.

Principle 2 – Built Form and Scale

The Panel has concerns about:

- *The recesses in the south elevation, which do not have an adequate width to provide for appropriate visual and acoustic privacy between habitable spaces between different apartments in the event that the site to the south is built to the boundary. These recesses also currently open to the driveway providing an inappropriate source of noise and fumes. These spaces are not supported in their current form. The Panel notes the minimum width in the ADG is 12 metres.*
- *The Kingsland Road frontage, which is inappropriately bulky largely as a result of the use of oversized balconies with a heavy masonry form and nil setback. The Panel considers this part of the design must be lightened, and set back above level 3 (by at least 3 metres to the face of the balcony).*
- *The overall bulk of the building above level 3.*

COMMENT: The amended plans have removed some of the recesses previously proposed along the southern elevation. In addition, the separation distance in the centre of the site has been enlarged but remains unsatisfactory for reasons identified under *Principle 6 - Amenity*. Some improvements have been made to the materials proposed along the front elevation. However, the requested front setbacks on the

upper levels and the required internal separation distances have not been provided.

Principle 3 – Density

The Panel considers the lack of setbacks, small light wells and undersized bedrooms indicate the design has a density too great for the site.

COMMENT: The bedrooms sizes have been amended and are now compliant with the Apartment Design Guide. The concerns in respect of the light well on the southern side of the building and the upper floor setbacks have not been satisfactorily resolved. The extent of gross floor area sought remains excessive and the site is not suitable for the development at the intensity proposed.

Principle 4 - Sustainability

The Panel notes the design achieves adequate solar access and has provided sufficient deep soil zones. The Panel notes the design technically achieves cross ventilation but considers this is not viable for apartments relying on light wells in their current form.

The Panel notes there are further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc.

COMMENT: A compliant BASIX Certificate has been provided which is acceptable. The matter of cross ventilation is assessed later in this report under the ADG discussion.

Principle 5 – Landscape

The Panel generally supports the landscape design however:

- *The depth provided to podium planter boxes should be clarified as per the ADG.*
- *Further detail should be provided regarding the screening trees on the west boundary which should be large scale canopy trees with lower level screening below.*
- *The Level 1 non-trafficable concrete roof should be converted to a podium planter box and amalgamated with the proposed planter box which should be under body corporate maintenance.*
- *The potential of the light wells in an expanded form to incorporate landscape should be explored.*

COMMENT: The landscaped area adjacent to Unit 4 on Level 1 would be better served as being in ownership of that unit given that it is only accessible from the adjacent private balcony. The planter box depths and screening tree selection are matters capable of being addressed via conditions. However, the application is not supported for other reasons.

Principle 6 – Amenity

The Panel considers the design overall has the potential to provide good amenity however:

- *As noted above the Panel does not consider that adequate amenity is provided to rooms overlooking the light wells in their current configuration.*
- *Many bedrooms appear to be undersized despite the apartments themselves being very large.*
- *Internal apartment layouts should be improved.*
- *Roof top communal open space should be provided with a variety of amenity options such as seating, shade structures, BBQ facilities and astro turf.*
- *Privacy screens should be provided to the balconies of units 03, 07, 11 and 15 to prevent overlooking of the site to the north.*

COMMENT: The bedroom sizes are now compliant. The roof top communal open space provides BBQ facilities, a WC and pergolas. However, the pergolas are not shown on the elevations. The privacy screens have been provided to the balconies of units 3 and 15 but not 7 and 11.

The eastern-most bedrooms in units 2, 6, 10 and 14 are poorly designed and are not considered to achieve acceptable residential amenity. In this regard, the bedroom in unit 2 opens directly over the vehicular access point which presents a problematic interface with noise and fumes, effectively limiting the extent to which the bedroom remain can remain open to achieve natural ventilation. Whilst observing the 12m separation distance requirement, the bedrooms in units 6, 10 and 14 contain a 3m long nib wall along the southern side boundary and the roof on Level 4 extends over this space, effectively creating an enclosed space. Given that this is the southern side of the building, these bedroom windows would not receive any sunlight and have poor daylight access which is suggestive that the density of the development is too high. The amenity of the bedrooms facing the light well are likely to become further compromised once the adjoining site to the south re-develops.

The internal separation distance of 9m on the Level 4 plan is not supported. Similarly, the separation distances on Level 1 to 3 are not fully compliant as there are habitable rooms (window to window) with 9m separation - refer to diagram below:

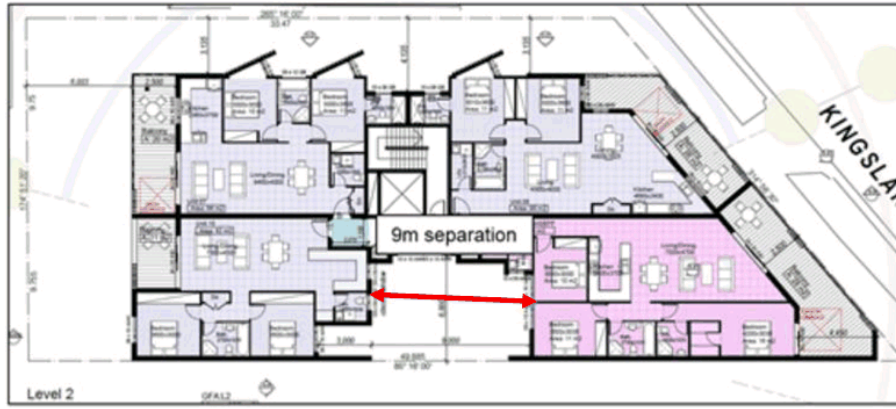


Figure 1: Plan extract

The ADG stipulates the following requirements:

- 1) The design guidance principles within Objective 4B-1 of the ADG states that *Light wells are not the primary air source for habitable rooms.*
- 2) The design guidance principles within Objective 4A-2 of the ADG states that *courtyards, skylight and high level windows are used only as a secondary light source in habitable rooms.*

The design of the development does not conform to the above design guidance principles and is considered to be unsatisfactory.

Principle 7 - Safety

The Panel has not identified any significant issues.

Principle 8 - Housing Diversity and Social Interaction

The Panel has not identified any significant issues.

Principle 9 – Aesthetics

The Panel is generally supportive of the aesthetics and materiality however has significant concerns about the overuse of face brick in the Kingsland Road frontage which contributes to the excessive bulk of the building. Whilst some use of face brick is supported, the Panel recommends this part of the design be lightened and reconfigured. As part of the reconfiguration the Panel recommends reconsidering the use of clear glass balustrades to lower level apartments (where a solid balustrade treatment will protect the residential amenity of these dwellings).

COMMENT: Modifications have been made to the front facade presentation in the amended plans which are generally satisfactory with the exception of the proposed

front building setbacks.

Recommendation

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

c. the Apartment Design Guide

The proposal has been assessed against the Apartment Design Guide (ADG)

The relevant issues are discussed below:

CLAUSE	DESIGN CRITERIA	COMMENTS	COMPLIES
2F - Building Separation	<p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> · 12m between habitable rooms/balconies · 9m between habitable and non-habitable rooms · 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> · 18m between habitable rooms/balconies · 12m between habitable and non-habitable rooms · 9m between non-habitable rooms 	<p>Habitable windows are proposed facing the light well on the southern side of the side. As previously identified in Figure 2, only a portion of the development contains the required 12m building separation. The remainder is proposed at 9m which is not supported.</p> <p>The separation distances to the rear boundary are compliant with the exception of the roof top outdoor terrace area which encroaches into the prescribed 9m separation requirement. There are</p>	No

		insufficient planning reasons identified to justify this non-compliance. Architecturally, the non-compliant element creates a disjointed building composition which will be highly visible from Abercorn Street. Removal of the non-compliant element would create a non-compliance with the minimum area requirements for communal open space as set out in Part 3D of the ADG.	
3D - Communal and Public open space	Communal open space has a minimum area equal to 25% of the site area. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June.	Based on the 812m ² site area, 203m ² of communal open space is required. A 203m ² communal open space area is provided on the roof top which would receive the required amount of direct sunlight.	Yes
3E - Deep Soil Zones	7% of the site area with 3m dimensions for sites between 650m ² - 1500m ² .	Approximately 9.5% of the site area is proposed to be	Yes

			deep soil. A portion of this area has a minimum dimension of 2.2m which does not achieve the 3m requirements. This is acceptable on the basis that it is still a usable width which can support new mature plantings and the overall area complies.		
3F - Visual Privacy	Min separation - side & rear boundaries:		The visual privacy outcomes proposed are generally acceptable with the exception of potential overlooking impacts to the north from the balconies of units 7 and 11. This could however be mitigated via the use of privacy screening.	Yes (subject to condition)	
	Building height	Habitable rooms and balconies			Non habitable rooms
	Up to 12m (4 storeys)	6m			3m
	Up to 25m (5-8 Storeys)	9m			4.5m
	Over 25m (9+storeys)	12m			6m
	Buildings on the same site combine required building separations. Gallery treated as habitable space				
3J - Bicycle and car parking	As per Guide to Traffic Generating Developments, or per council requirement, whichever is less.		<p>A total of 26 car parking spaces are required.</p> <p>A total of 30 car parking spaces (26 residential and 4 retail) are proposed.</p>	Yes	

<p>4A - Solar and daylight access</p>	<p>Living rooms + POS of at least 70% of apartments receive min 2hrs direct sunlight b/w 9am& 3 pm mid-winter.</p> <p>Courtyards, skylight and high level windows (with sills of 1,500mm or greater) are used only as a secondary light source in habitable rooms.</p>	<p>A total of 14/20 apartments or 70% would receive a minimum of 2 hours sunlight between 9am and 3pm on June 21st.</p> <p>The design of the development relies upon a light well on the southern side of the building as a primary light source for a number of bedrooms. This outcome results in poor amenity which is not supported.</p>	<p>Yes</p> <p>No</p>
<p>4B - Natural ventilation</p>	<p>Min 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p>	<p>Unit 2 on the ground floor is proposed to be cross-ventilated to/from a bedroom window which opens towards the vehicular access point to the basement.</p> <p>8 apartments (40% of the development) are proposed to cross ventilate to a light well on the southern side of the building. This is contrary to the design</p>	<p>No</p>

		guidance principles within objective 4B-1 of the ADG which states that <i>Light wells are not the primary air source for habitable rooms</i> . The design outcomes proposed in this respect are not supported.													
4C – Ceiling heights	<table border="1"> <tr> <th colspan="2">Minimum ceiling heights:</th> </tr> <tr> <td>Habitable</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>Two storey apartments</td> <td>2.7m main living 2.4m first floor, area < 50% of apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge 30deg min slope</td> </tr> <tr> <td>Mixed use area</td> <td>3.3m for ground and first floor</td> </tr> </table>	Minimum ceiling heights:		Habitable	2.7m	Non-habitable	2.4m	Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area	Attic spaces	1.8m at edge 30deg min slope	Mixed use area	3.3m for ground and first floor	<p>The design of the development is capable of achieving the required floor to ceiling heights.</p> <p>In addition, a large portion of the Retail 01 tenancy contains a 4m ceiling height to enable flexibility of use.</p>	Yes
Minimum ceiling heights:															
Habitable	2.7m														
Non-habitable	2.4m														
Two storey apartments	2.7m main living 2.4m first floor, area < 50% of apartment area														
Attic spaces	1.8m at edge 30deg min slope														
Mixed use area	3.3m for ground and first floor														
4D - Apartment size and layout	<table border="1"> <tr> <th colspan="2">Minimum internal areas:</th> </tr> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </table> <p>Internal areas includes only one bathroom. Additional bathrooms increase area by 5m² each.</p> <p>Further bedrooms increase minimum internal area by 12m² each.</p>	Minimum internal areas:		Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>The sizes of the proposed apartments all achieve the minimum size requirements.</p>	Yes
Minimum internal areas:															
Apartment type	Minimum internal area														
Studio	35m ²														
1 bedroom	50m ²														
2 bedroom	70m ²														
3 bedroom	90m ²														

<p>4E – Private open space and balconies</p>	<p>Primary balconies as follows:</p> <table border="1" data-bbox="501 376 892 555"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bed</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bed</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bed</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>Min balcony depth contributing to the balcony area is 1m.</p> <p>Ground level, podium or similar - POS provided instead of a balcony: min area 15m² and min depth of 3m.</p>	Dwelling type	Minimum area	Minimum depth	Studio	4m ²	-	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bed	12m ²	2.4m	<p>The design of the proposed balconies are compliant with the ADG area/depth requirements. No further concerns are identified in this respect.</p>	<p>Yes</p>
Dwelling type	Minimum area	Minimum depth																
Studio	4m ²	-																
1 bed	8m ²	2m																
2 bed	10m ²	2m																
3+ bed	12m ²	2.4m																
<p>4F - Common circulation and spaces</p>	<p>Max apartments off a circulation core on a single level is 8.</p>	<p>The development is restricted to a maximum of 4 apartments.</p>	<p>Yes</p>															
<p>4G – Storage</p>	<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1" data-bbox="501 1003 892 1182"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> </tr> <tr> <td>1 bed</td> <td>6M²</td> </tr> <tr> <td>2 bed</td> <td>8m²</td> </tr> <tr> <td>3 bed</td> <td>10m²</td> </tr> </tbody> </table> <p>At least 50% of the required storage is located within apartment</p>	Dwelling type	Storage size volume	Studio	4m ²	1 bed	6M ²	2 bed	8m ²	3 bed	10m ²	<p>The extent of storage provided throughout the basement and within the individual apartments is generally compliant.</p>	<p>Yes</p>					
Dwelling type	Storage size volume																	
Studio	4m ²																	
1 bed	6M ²																	
2 bed	8m ²																	
3 bed	10m ²																	
<p>4H - Acoustic privacy</p>	<p>Noise transfer is minimised through the siting of buildings and building layout.</p> <p>Noise impacts are mitigated within apartments through layout and acoustic treatments.</p>	<p>The design guidance principles in this part of the ADG states the following:</p> <ul style="list-style-type: none"> · <i>Window and door openings are generally orientated away from noise source;</i> and · <i>Noise sources such</i> 	<p>No</p>															

		<p><i>as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3m away from bedrooms.</i></p> <p>Concern is raised with the eastern bedroom within unit 02 on the ground floor which has a window directly adjacent to the vehicular access ramp to the basement car parking area and therefore does not accord with the above design principles.</p>	
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Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone B4 Mixed Use	Yes - see discussion	Yes
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio	No - 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
6.3 Development in areas subject to aircraft noise		
6.3 On or near 20 ANEF (2033) contour	Yes - see discussion	Yes - see discussion
6.4 Airspace operations	Yes	No - see discussion
6.7 Stormwater	Yes - see discussion	Yes - see discussion
6.12 Essential services	Yes - see discussion	Yes - see discussion

2.3 Zone B4 Mixed Use

The subject site is zoned B4 - Mixed Use under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a residential flat building and a commercial premises which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

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

4.3 Height of buildings

The maximum permissible height on the site is 16m as identified on the Height of Buildings Map which accompanies RLEP 2011. The height of a building may exceed this height by an additional 3m in accordance with clause 4.3(2A) on the basis that the site has an area of at least 800m². The applicable height limit is therefore 19m. The development has a maximum height of 19m which therefore complies.

4.4 Floor space ratio

The maximum permissible FSR for the subject site is 2.0m as identified on the Floor Space Ratio Map which accompanies RLEP 2011. The FSR may be exceeded by an additional 0.5 in accordance with clause 4.4(2A). At this point, the applicable FSR is 2.5:1.

The applicant makes the application under SEPP (Affordable Rental Housing) 2009

where clause 13(2)(a)(ii) enables an additional 0.2:1 provided that the development dedicates 20% of the gross floor area as affordable housing.

In light of the above, the applicable FSR is 2.7:1.

The proposal has an FSR of 2.51:1 (2045m²) which is compliant. The ability of this site to accommodate the density proposed is however questioned given the concerns raised in respect of the bulk and scale/streetscape as a result of the insufficient front setbacks and the amenity outcomes for apartments on the southern side of the site. Consequently, the proposed development is not considered to satisfy objective (c) within Part 4.4(1) of RLEP 2011 which seeks *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing or likely to undergo a substantial transformation.*

6.1 Acid Sulfate Soil - Class 5

Class 5 Acid Sulfate Soils applies to the subject site. An acid sulfate soils management plan is not required to be prepared for the proposed works as the proposed works are not within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum.

6.2 Earthworks

The proposal involves extensive excavation within the site to accommodate the basement levels. No in-principle concerns are raised in this respect. However, the application is not supported for other reasons.

6.3 On or near 20 ANEF (2033) contour

The development is on land that is located <20ANEF (2033) contour. The provisions of this clause are therefore not applicable.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51m AHD. The building height is at RL63.45 and therefore will penetrate the OLS.

The application sought approval under the Airports (Protection of Airspace) Regulations 1996, for the intrusion of the proposed development into the airspace, which under the regulations, is prescribed airspace for Sydney Airport.

In this regard, the proposal was referred to Sydney Airports for comment. At the time of preparing this report, Sydney Airport has advised Council that they are still awaiting a response from the relevant Commonwealth body.

6.7 Stormwater

The application was reviewed by Council's Development Engineer who raised no concerns with the proposed stormwater disposal system. The proposal satisfies clause 6.7 of RLEP 2011.

6.12 Essential services

Services will be available on the site. No concerns are raised in this respect.

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	Yes
4.1.3 Water Management	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.1.6 Development on Sloping Sites	Yes	Yes
4.1.7 Tree Preservation	Yes	Yes
4.1.9 Lot size and Site Consolidation - isolated sites	Yes - see discussion	Yes - see discussion
4.2 Streetscape and Site Context - General	No - see discussion	No - see discussion
4.3.1 Open Space and Landscape Design - Mixed Use	Yes - see discussion	Yes - see discussion
4.3.3 Communal Open Space	Yes - see discussion	Yes - see discussion
4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing	Yes - see discussion	Yes - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	No - see discussion	No - see discussion
4.4.4 Glazing - General Controls	Yes	Yes
4.4.5 Visual privacy	No - see discussion	No - see discussion
4.4.5 Acoustic privacy	No - see discussion	No - see discussion
4.4.5 Visual and Acoustic Privacy - Building Separation	No - see discussion	No - see discussion
4.5.1 Social Equity - Housing Diversity and Choice	Yes - see discussion	Yes - see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.5.2 Social Equity - Equitable Access	Yes	Yes
4.6 Parking Rates - Shop-top Housing	Yes - see discussion	Yes - see discussion
4.6 Basement Parking - General	Yes	Yes
4.7 Air Conditioning and Communication Structures	Yes	Yes
4.7 Waste Storage and Recycling Facilities	Yes	Yes
4.7 Service Lines/Cables	Yes	Yes
4.7 Laundry Facilities and Drying Areas	Yes	Yes
4.7 Letterboxes	Yes	Yes
4.7 Hot Water Systems	Yes	Yes
5.2 RFB - Side Setbacks	No - see discussion	No - see discussion
5.2 RFB - Rear Setbacks	No - see discussion	No - see discussion
5.2 RFB - Building Design	No - see discussion	No - see discussion
5.2 RFB - Building Entry	Yes	Yes
5.2 RFB - Lift Size and Access	Yes	Yes
5.3 Mixed Use - Front Setbacks	No - see discussion	No - see discussion
5.3 Mixed Use - Side Setbacks	No - see discussion	No - see discussion
5.3 Mixed Use - Rear Setbacks	No - see discussion	No - see discussion
5.3 Mixed Use - Ground Level Uses	Yes	Yes
5.3 Mixed Use - Retail	No - see discussion	No - see discussion
5.3 Mixed Use - Ground Floor Articulation	Yes	Yes
5.3 Mixed Use - Access to Premises	Yes	Yes
5.3 Mixed Use - Awnings	Yes	Yes
5.3 Mixed Use - Secured Access to Parking	Yes	Yes

4.1.9 Lot size and Site Consolidation - isolated sites

The proposed development would result in the isolation of the adjoining corner site to the north which is identified as No.11 Kingsland Road. The application satisfies the provisions of Part 4.1.9 of RDCP 2011 as well as the applicable NSWLEC planning principles established in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251 to the extent that reasonable offers have been made to purchase the isolated property. The following summary comments are made in this respect:

- The information submitted with the application contains evidence of offers made to purchase the property at No.11 Kingsland Road. Offers have been made on four (4) separate occasions at reasonably market value. To date, this has been unsuccessful; and
- Basic concept plans have been provided which details how the isolated lot at No.11 Kingsland Road could accommodate a development of its own. These drawings demonstrate that a development with a ground floor retail tenancy and 12 studio apartments could be constructed. However, the scheme shown would rely upon the use of car stackers and presents a blank wall with nil setback along the western boundary. Further, the proposal would rely upon a built form with nil setback to the northern and eastern side boundaries.

4.2 Streetscape and Site Context - General

The design of the proposed development is not considered to satisfy Part 4.2 of RDCP 2011. In this regard, Control (5) states that:

Building setbacks from the street boundary are to be consistent with prevailing setbacks of adjoining and nearby buildings.

Reference is made to the previous discussion under the SEPP 65 Design Quality Principles which considers that the proposed front setbacks are inadequate and are not consistent with nearby buildings. Particular regard is had to the existing residential flat buildings on the opposite side of Kingsland Road. Consequently, the proposal does not satisfy objectives (a) and (b) of Part 4.2 which seek to:

- *Ensure new development responds to, reinforces and sensitively relates to the spatial characteristics and legibility of the existing urban environment; and*
- *Ensure development responds to predominant streetscape qualities.*

4.3.1 Open Space and Landscape Design - Mixed Use

The required rates of landscaped area and deep soil landscaping are superceded by the planning controls within SEPP 65/ADG and clause 14 of SEPP (Affordable Rental Housing) 2009.

4.3.3 Communal Open Space

The communal open space controls within RDCP 2011 are superceded by the specific Communal and public open space requirements set out within Part 3D of the ADG.

4.4.2 Solar Access - Residential Flat Buildings and Shop Top Housing

The solar access controls within this part of RDCP 2011 are superceded by the requirements set out in Part 4A - Solar and daylight access of the ADG.

4.4.3 Natural Lighting and Ventilation - Residential

The natural light and ventilation controls within this part of RDCP 2011 are superceded by the requirements set out in Part 4B and 4C of the ADG.

4.4.5 Visual privacy

The visual privacy outcomes proposed are generally acceptable with the exception of potential overlooking impacts to the north from the balconies of units 7 and 11. This could however be mitigated via the use of privacy screening.

4.4.5 Acoustic privacy

Concern is raised with the eastern bedroom within unit 02 on the ground floor which has a window directly adjacent to the vehicular access ramp to the basement car parking area and therefore does not satisfy the stated planning objective within Part 4.4.5 of RDCP 2011 which seeks *to site and design buildings to ensure acoustic and visual privacy for occupants and neighbours*. In addition, control (7) states that an acoustic report is required to be submitted at DA stage to ensure that the

development achieves an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). An acoustic report demonstrating compliance with this requirement was not submitted with the DA.

4.4.5 Visual and Acoustic Privacy - Building Separation

Refer to previous discussion in respect of Part 2F - Building Separation in the ADG.

4.5.1 Social Equity - Housing Diversity and Choice

Part 4.5 of RDCP 2011 contains objectives and controls that aim to ensure that apartments in mixed use developments are flexible, maximise housing choice and provide equality of access. The proposal is considered to satisfy the relevant objectives and requirements. Compliance with the key controls are discussed below:

- The proposed unit mix does not comply with the requirements of RDCP 2011 due to a shortfall one 1 bed apartments (10%-20% required). In this case, the proposal includes 1x1 bed unit (5%), 14x2 bed (70%) and 5x3 bed (25%). The non-compliance is considered to be minor and is acceptable given that the development still provides a suitable variety of dwelling options; and
- Two (2) dwellings are identified to be provided as adaptable in accordance with AS 4299 which complies with the rates prescribed within Part 4.5.1 of RDCP 2011.

4.6 Parking Rates - Shop-top Housing

The car parking rates set out in RDCP 2011 are superceded by the provisions within SEPP (Affordable Rental Housing) 2009.

5.2 RFB - Side Setbacks

Control (2) states that the side setbacks shall be a minimum of 3m for buildings up to three storeys and a minimum of 4.5 for all levels for buildings more than three storeys.

The proposal does not comply with the above. Nevertheless, the proposed side setbacks for the first four (4) storeys are supported, noting that control (6) in Part 5.3 - Mixed Use states that *Generally the lower levels of buildings are to be built to side and rear boundaries or be setback no less than 3m.*

There is considered to be merit in providing a setback of the upper two (2) storeys from the southern side boundary in order reduce the bulk and scale of the development by providing a more compressed footprint of the upper 2 storeys, reduce the visual impact of the 6 storey blank wall presented along the southern elevation and achieve a better level of compliance with the DCP requirements.

5.2 RFB - Rear Setbacks

The stated rear setback control is as follows:

Minimum of 12m or 15% length of the site, whichever is the greater.

In this instance, 12m is greater. The proposed development does not comply with this requirement as the setbacks are between 6m-9m from the rear boundary. The

rear setbacks as proposed achieves the ADG building separation requirements and are thus acceptable with the exception of the the roof top communal area which does not observe the full 9m rear setback when measured to the outside edge of the structure as opposed to the trafficable area. This matter has been addressed in more detail under the previous ADG discussion in this report.

5.2 RFB - Building Design

The design of the proposed development is not considered to satisfy the stated Building Design controls. The following concerns are raised:

- The proposal responds poorly to control (9) which states that *the design should consider expressing a hierarchy of floor levels by defining a base, middle, and top to the building, including podium and penthouse expression*. In this respect, the proposed 1.5m front setback applied for the upper two (2) storeys is insufficient to enable a clearly defined four (4) storey base/podium (i.e - on the levels below) to be achieved and read from the public domain; and
- The proposal presents a blank six (6) storey wall along the southern boundary on nil setback, thereby not conforming to control (10) which states that *"Large expanses of blank walls are to be avoided through the use of architectural design features, modelling and fenestration"*.

5.3 Mixed Use - Front Setbacks

The front setback controls in this part of RDCP 2011 state the following:

Front setbacks must define a coherent alignment to the public domain and accentuate street corners.

Development is to be built to the street alignment with a zero setback. The uppermost floor level may be setback. If there is a predominant parapet line in the street, a setback from this line may be required to achieve a cohesive streetscape.

Development on a busy road is to have a zero setback for at least the first three levels. A setback may be provided above the third level to ameliorate the impact of traffic noise and pollution.

The proposed development provides a nil front setback for the first four (4) storeys (ground floor retail tenancies incorporate a 2m front setback to enable the use of tables and chairs). The upper two (2) storeys are proposed to be setback 1.5m to the edge of the balconies.

As identified throughout this report, Council and the Design Review Panel considers there to be justification to provide a greater setback of the upper 2 storeys from the front boundary alignment, noting that the existing residential flat buildings in the R4 - High Density Residential zone of the opposite (eastern side) of Kingsland Road have deep front setbacks which contribute to the character of the locality and minimise the visual impact of those developments.

Council requested the upper two (2) storeys to observe a minimum 3m front setback.

The amended plans provide for a 1.5m front setback for the upper two levels. This is considered to be insufficient to:

- Adequately regulate the overwhelming bulk and scale of the development;
- Ensure that a clearly defined four (4) storey base/podium is achieved;
- Respond to the local context and existing character of nearby residential flat buildings;
- Set a desirable precedent for the re-development of other nearby sites which have been up-zoned in the recent Planning Proposal.

5.3 Mixed Use - Side Setbacks

Control (4) states that *For minimum side and rear setbacks for shoptop housing refer to 5.2 Residential flat buildings of this DCP and Generally the lower levels of buildings are to be built to side and rear boundaries or be set back no less than 3m.*

Refer to previous comments under Part 5.2 - Residential flat buildings.

5.3 Mixed Use - Rear Setbacks

Refer to previous discussion under the ADG and Part 5.2 - Residential Flat Buildings within RDCP 2011.

5.3 Mixed Use - Retail

Control (14) requires a minimum of 10% of the gross floor area of a mixed use development to be for retail and/or commercial uses. The proposed development provides approximately 5.3% of the total gross floor area for retail uses on the ground floor. This represents a non-compliance of 95.5m² and is suggestive that the density of the development is too high.

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. Conditions of consent could be imposed to ensure compliance with the standard, however the application is not supported for other reasons.

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 and have been found to be unacceptable.

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

The site is unable to accommodate the density proposed in a manner which achieves a high level of residential amenity for future occupants and presents a form that responds to the local context. As such, the site is not suitable for the development as proposed.

S4.15(1)(d) - Public submissions

The development has been notified in accordance with the provisions of Rockdale DCP 2011. A total of 5 submissions and an online petition containing 83 signatures have been received. The key issues raised are discussed below:

Issue 1: The street is too narrow to accommodate high density buildings/traffic generation

Comment: Kingsland Road permits two-way passing traffic. The application was reviewed by Council's Development Engineer and no objections are raised on traffic and parking grounds.

Issue 2: The application is unclear as to how the affordable dwellings will be assessed and allocated.

Comment: This aspect of the proposal has been considered within the relevant requirements of SEPP (Affordable Rental Housing) 2009.

Issue 3: Kingsland Road has several unit blocks in the street which are 3 storeys height and blend in with other homes in the street. This development although within the height limits of the newly rezoned area is totally wrong for a street of this size.

Comment: The bulk and scale of the proposed development is not supported for reasons identified throughout this report.

Issue 4: Insufficient setbacks

Comment: This matter is discussed in the main body of this report.

Issue 5: Loss of sunlight to the existing dwelling at No.1 Abercorn Street

Comment: This dwelling is located at the rear of the subject site. Whilst the proposed development will cause some additional overshadowing of that property, it is an expected outcome in view of the applicable planning controls.

Issue 6: The proposed on how to redevelop 11 Kingsland Road in the future is flawed

Comment: This matter is discussed in the main body of the report.

S4.15(1)(e) - Public interest

The proposed development is considered to be unsatisfactory having regard to the objectives and requirements of the applicable environmental planning instruments and the Rockdale DCP 2011. As such it is considered that the proposed development is not in the public interest.

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

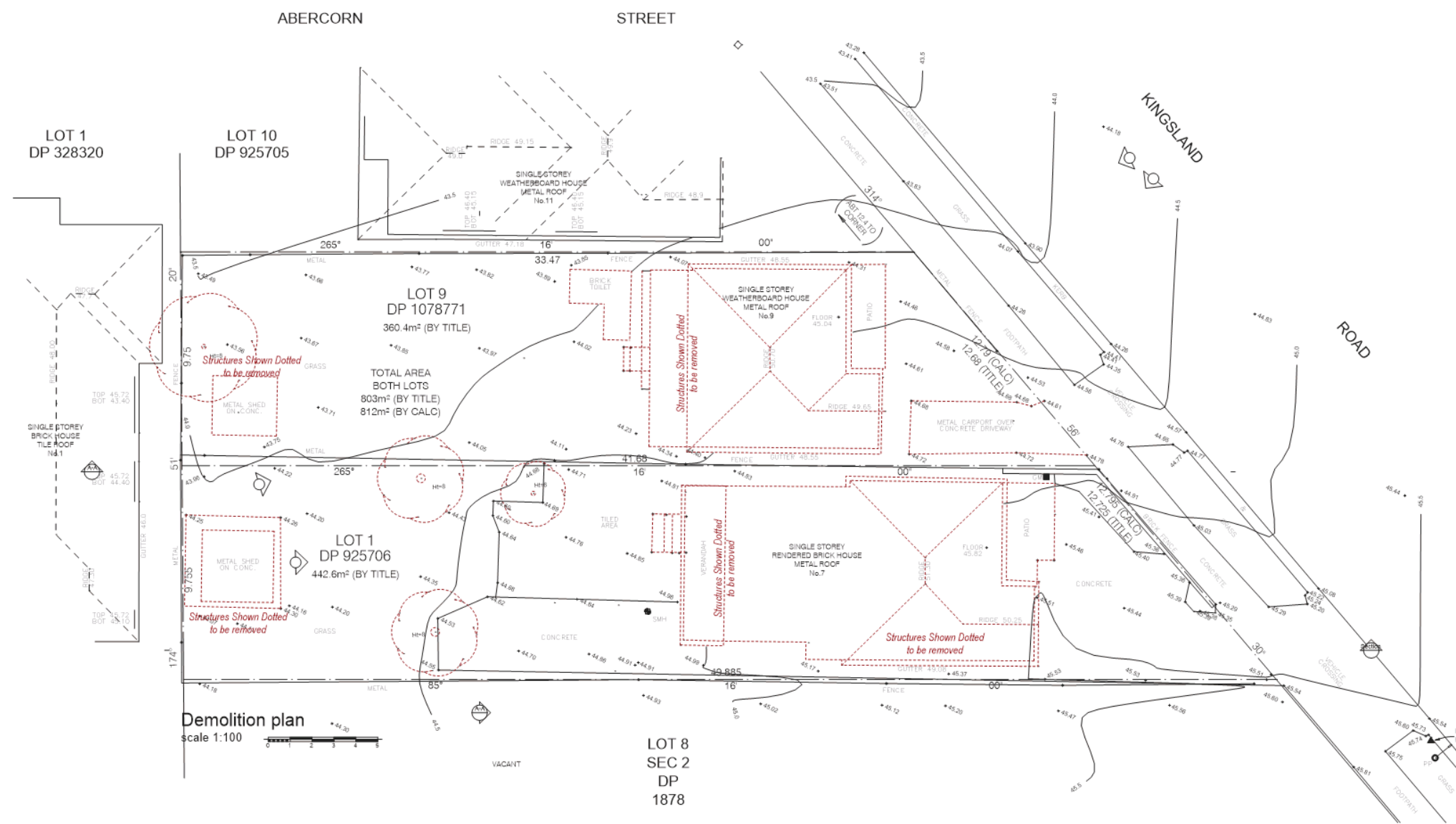
The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas

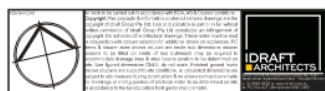
The subject site is affected by the 15.23m building height Civil Aviation Regulation. The proposed building height at 63.45m, and therefore the proposal was referred to Sydney Airports for comment who did not raise any concerns with the height of the proposed development but have indicated that approval from the Commonwealth is required.

Other Matters

The application contains incomplete/insufficient information as the pergolas proposed within the Level 5 Communal Plan are not shown on the elevations and the intended external colours and materials are unclear as there is no key/symbols provided on the drawings.

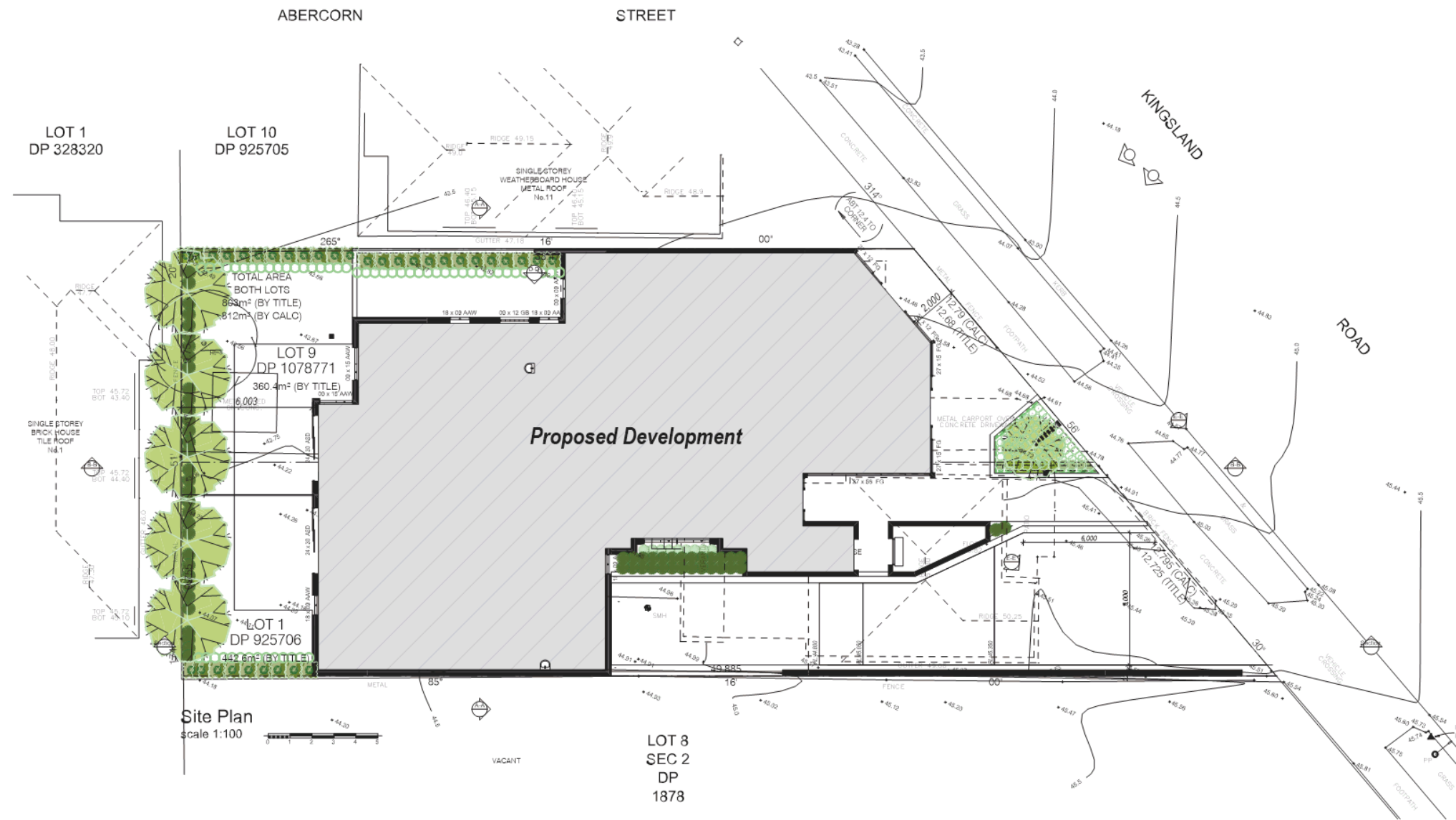


Demolition plan
scale 1:100

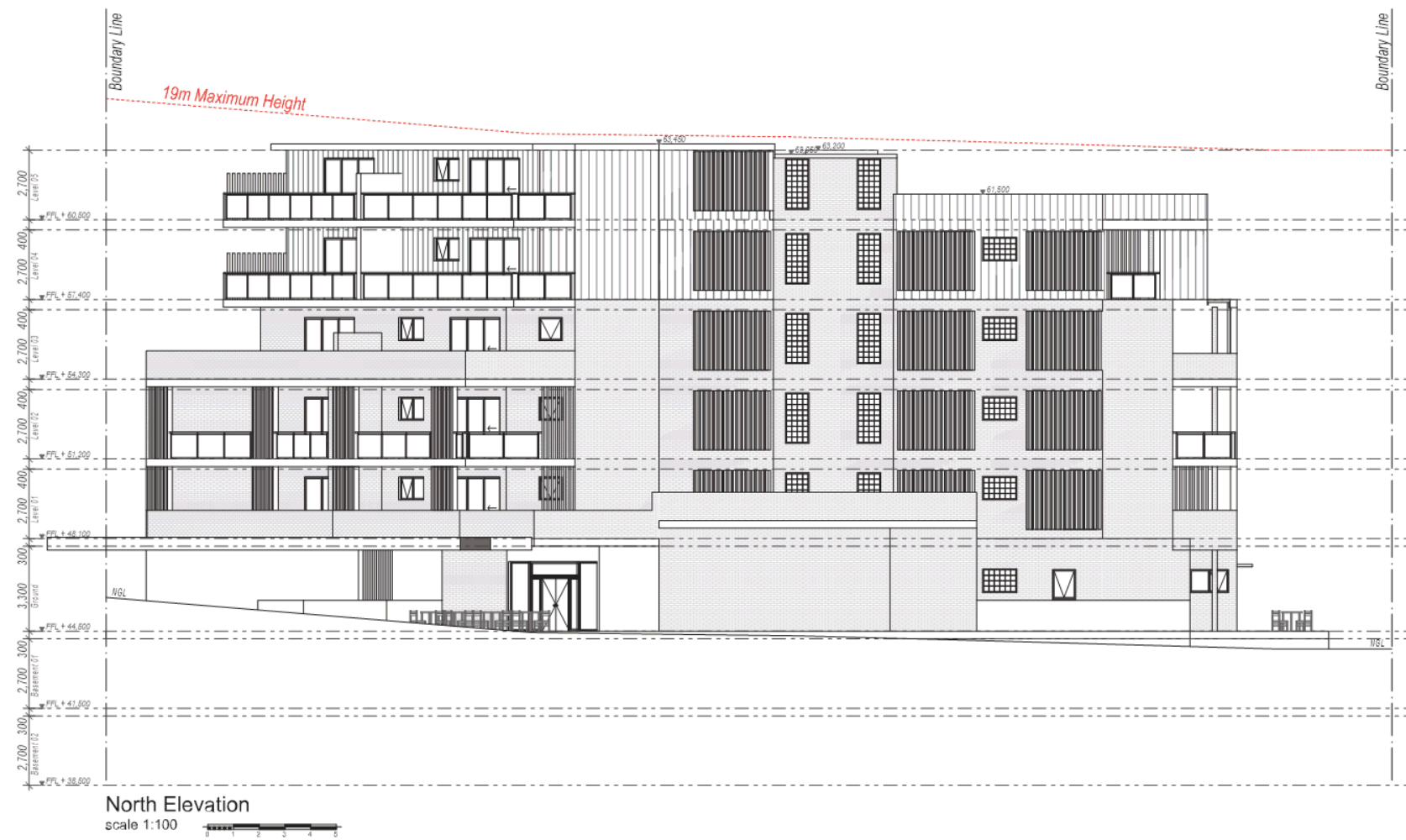


<p>PROJECT: 7-9 Kingsland Road, Kingsland, NSW 1585</p> <p>CLIENT: 2017 Investments Pty Ltd</p> <p>DATE: 18/12/2018</p> <p>DRAWN BY: [Name]</p> <p>CHECKED BY: [Name]</p> <p>SCALE: 1:100</p> <p>PROJECT NO: 2017-001</p>	<p>7-9 Kingsland Road, Kingsland, NSW 1585</p> <p>2017 Investments Pty Ltd</p>
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<p>Demolition Plan</p> <p>Scale: 1:100</p> <p>Project No: 2017-001</p>	<p>Client: 2017 Investments Pty Ltd</p> <p>Project Name: 7-9 Kingsland Road, Kingsland, NSW 1585</p>
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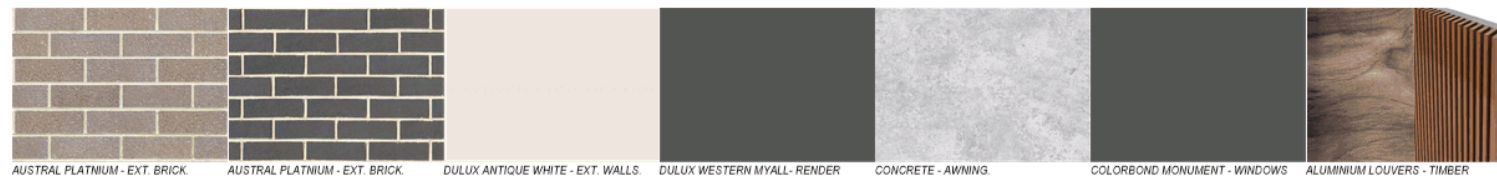
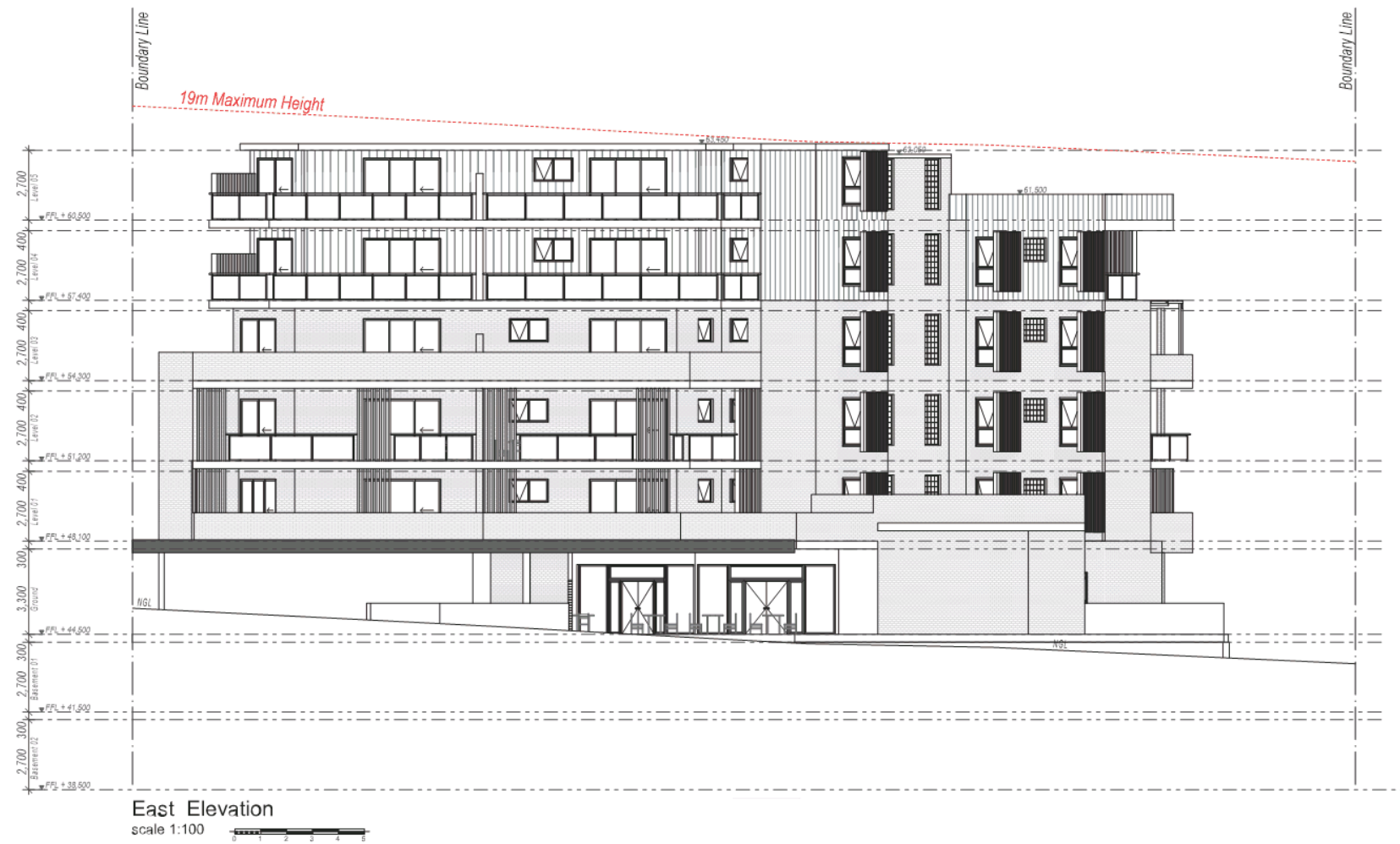
	IDRAFT ARCHITECTS 1/111 BAYVIEW ROAD BAYVIEW VIC 3185 PH: 03 9594 1111 WWW.IDRAFTARCHITECTS.COM.AU	7-9 Kingsland Road Bayside VIC 3185 PH: 03 9594 1111 WWW.IDRAFTARCHITECTS.COM.AU	Kingsland Road Bayside VIC 3185 PH: 03 9594 1111 WWW.IDRAFTARCHITECTS.COM.AU
	2017 Architects Pty Ltd	2017 Architects Pty Ltd	2017 Architects Pty Ltd



IDRAFT ARCHITECTS
 1/100 Kingsland Road, Bayside NSW 1505
 Tel: (02) 9511 1111
 Email: info@idraft.com.au
 www.idraft.com.au

Project: 7-9 Kingsland Road, Bayside NSW
 Drawing: North Elevation
 Date: 18/12/2018
 Scale: 1:100

7-9 Kingsland Road Bayside	
Project Name	7-9 Kingsland Road Bayside
Client	2017 Investments Pty Ltd
Architect	IDRAFT ARCHITECTS
Project No.	2017-001
Drawing No.	NA-100
Scale	1:100
Date	18/12/2018
Project Status	CONSTRUCTION & DEVELOPMENT
Project Stage	2018 2019



IDRAFT ARCHITECTS
 1/100 Kingsland Road, Bayside NSW 1502
 Tel: (02) 9511 1111
 Email: info@idraft.com.au
 www.idraft.com.au

7-9 Kingsland Road Bayside NSW 1502
 7-9 Kingsland Road Bayside NSW 1502
 7-9 Kingsland Road Bayside NSW 1502
 7-9 Kingsland Road Bayside NSW 1502

7-9 Kingsland Road Bayside	
Project Name	7-9 Kingsland Road Bayside
Client	2017 Investments Pty Ltd
Architect	IDRAFT ARCHITECTS
Scale	1:100
Date	15/12/2018
Sheet No.	0052
Total Sheets	0052



IDRAFT ARCHITECTS
 1/100 Kingsland Road, Bayside NSW 1508
 Tel: (02) 9511 1111
 Fax: (02) 9511 1112
 Email: info@idraft.com.au
 Website: www.idraft.com.au

Project: 7-9 Kingsland Road Bayside
 Drawing: West Elevation
 Date: 18/12/2018
 Scale: 1:100
 Author: [Name]
 Checker: [Name]

7-9 Kingsland Road Bayside	
Project Name	7-9 Kingsland Road Bayside
Client	2017 Investments Pty Ltd
Project No.	2017-001
Project Stage	CONSTRUCTION & DEVELOPMENT
Project Status	2018-001
Project Date	18/12/2018
Project Location	7-9 Kingsland Road Bayside NSW 1508
Project Description	CONSTRUCTION & DEVELOPMENT
Project Reference	2017-001
Project Contact	2017 Investments Pty Ltd
Project Phone	(02) 9511 1111
Project Email	info@idraft.com.au
Project Website	www.idraft.com.au

ABERCORN STREET

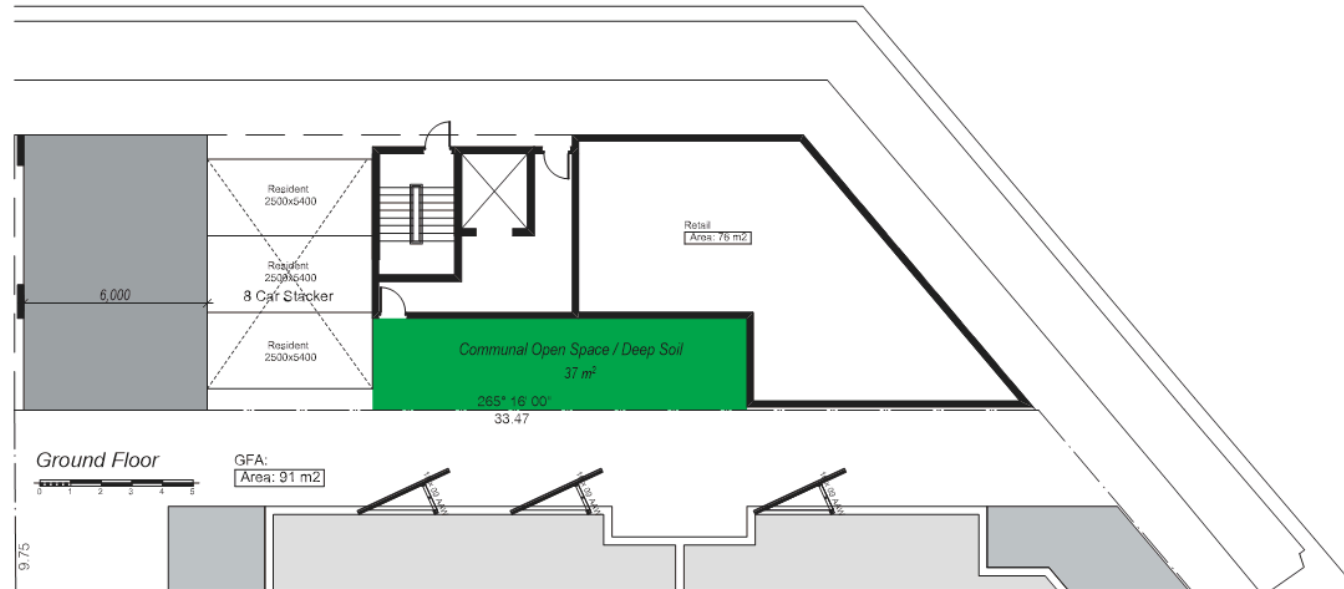
Site details
 Site area approx 250m²
 Zoning B4
 FSR 2:1 (500m² max develop area)

Residential Breakdown
 12 x Studio
 1 Retail

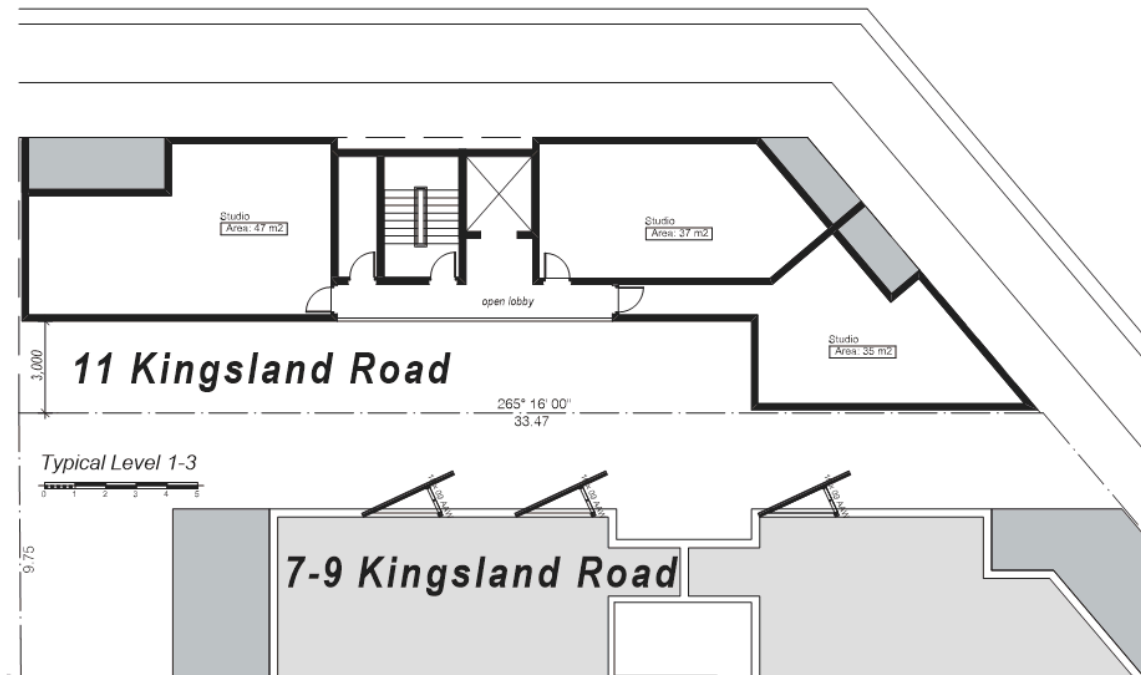
Area calculation
 Ground 88m²
 Level 1 123.29m²
 Level 2 123.29m²
 Level 3 123.29m²
 Total 457.87m² gross floor area (1.8:1)

Deep soil
 35.21m² (14%)

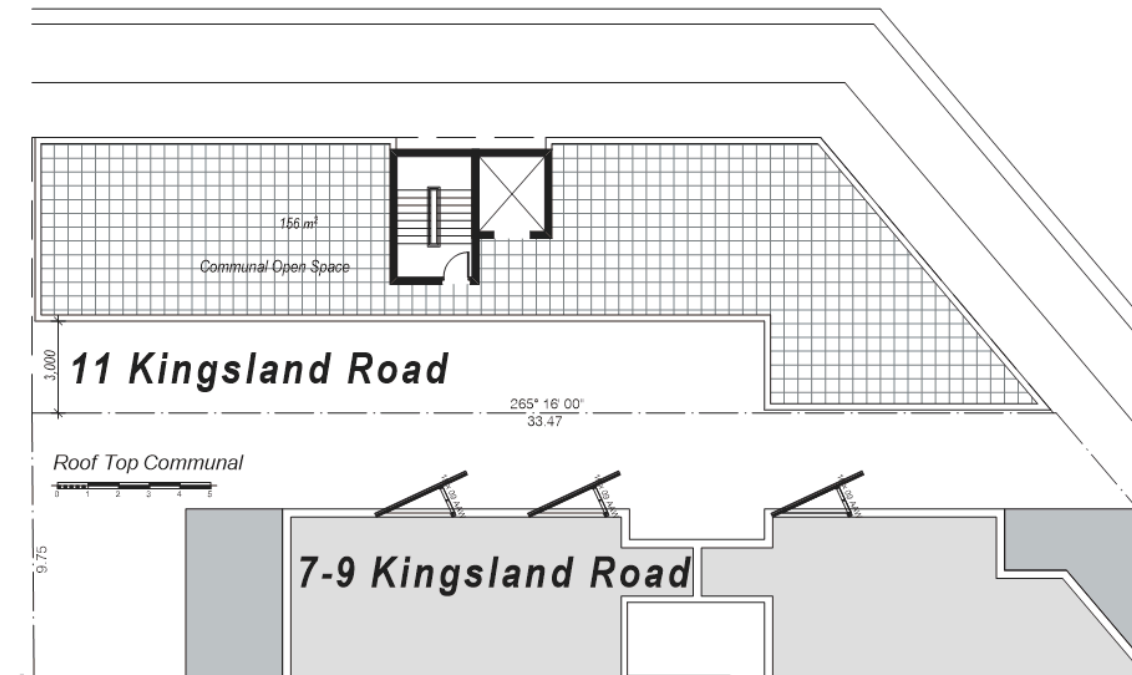
Parking under DCP
 Requires 0.5 space per room
 6 spaces required + 2 for retail



ABERCORN STREET



ABERCORN STREET



IDRAFT ARCHITECTS
 11 Kingsland Road
 Bayside NSW 2215
 Tel: 02 9390 1234
 Email: info@idraft.com.au
 Website: www.idraft.com.au

Project Name	7-9 Kingsland Road Bayside
Client	2017 Investments Pty Ltd
Architect	IDRAFT ARCHITECTS
Scale	1:100
Date	15/12/2018
Drawn by	[Name]
Checked by	[Name]
Approved by	[Name]

7-9 Kingsland Road Bayside	
Adjoining neighbour	Bayside Council
Lot/Zone/EBLs	33A/B
Project No.	1511-100
Designation	CONSTRUCTION & STURDY WARE USE
Date	15/12/2018
Scale	1:100
Drawn by	[Name]
Checked by	[Name]
Approved by	[Name]



	IDRAFT ARCHITECTS 10/11 BAYVIEW DRIVE BAYVIEW VIC 3185 PH: 03 9594 1111 WWW.IDRAFTARCHITECTS.COM.AU	7-9 Kingsland Road Bexley Bayside Council 10/11 BAYVIEW DRIVE BAYVIEW VIC 3185 PH: 03 9594 1111 WWW.IDRAFTARCHITECTS.COM.AU	SHEET DIAGRAMS CONSTRUCTION & STAFF WARE USE DEVELOPMENT	2017 Architects Pty Ltd
	21st June - 9am 21st June - 12pm 21st June - 15pm	21st June - 9am 21st June - 12pm 21st June - 15pm	21st June - 9am 21st June - 12pm 21st June - 15pm	21st June - 9am 21st June - 12pm 21st June - 15pm

Bayside Design Review Panel

REPORT OF THE BAYSIDE DESIGN REVIEW PANEL

Meeting held on Thursday, 5 July 2018 at Bayside Council

Panel members: Mr Alan Cadogan – Deputy Chairperson, Ms Obelia Tait and Mr Dean Boone

ITEM 2

Date of Panel Assessment:	5 July 2018
Applicant:	Mr S Ayache
Architect:	iDraft Architects
Property Address:	7-9 Kingsland Road, Bexley
Description:	Demolition of existing dwellings and construction of a six (6) storey mixed use development containing twenty (20) residential units (of which 20% are affordable housing), two (2) commercial units and two (2) level basement car parking. <i>The Design Review Panel considered a previous Pre-DA on the site at its meeting on 1 February 2018.</i>
No. of Buildings:	1
No. of Storeys:	6
No. of Units:	20 Residential 2 Commercial 2 level basement car parking
Consent Authority Responsible:	Bayside Council
Application No.:	DA-2018/120
Declaration of Conflict of Interest:	Nil

Italics – Bayside Design Review Panel Minutes of 1 February 2018 – PDA-2017/37

The Panel inspected the site, reviewed the submitted documentation and met with representatives of the applicant including Michael Trinh (Architect, IDRAFT Architects), Sam Ayache (Applicant), Anthony Betros (ABC Planning) and Marta Gonozale-Valdes (Council's Coordinator Development Assessment) .

Design Principle	Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>The Panel acknowledged that the context of the site is, at present, subject to change given a recent planning proposal for the area that is currently before the Minister.</i></p> <p><i>The Panel also noted that the site is isolated and there have been continuing attempts to acquire adjacent property to the north.</i></p> <p><i>These factors make designing a new building with regard to context and neighbourhood character particularly challenging.</i></p> <p><i>Good design responds and contributes to its context as well as providing amenity for occupants and users, as well as occupants and users of surrounding developments. The current design does not provide adequate amenity for apartment occupants and will have detrimental impacts on occupants and users of surrounding developments.</i></p> <p>The Panel notes the site must achieve a transition between the town centre typology further south and more residential typology to the north and east, and is challenged by the isolated site immediate to the north. As a result the Panel supports the setbacks of the lower levels as a more commercial typology being built to the boundary, but considers the upper levels must have greater setbacks if the building is to deliver an effective transition.</p> <p>The Panel supports a nil setback to the Kingsland Road frontage and to the southern boundary but only up to level 3. Above this level the buildings should be setback by at least 3 metres (including balconies) from the boundaries.</p> <p>On the north elevation the Panel accepts that the interface with the existing one storey residential dwelling is challenging. This is because even though this site will likely be developed in the future it may be many years or decades before this occurs and the building needs to respond to both potentialities. On balance the Panel considers the north elevation interface is acceptable with setbacks as shown.</p> <p>The Panel is concerned that the comments made at pre-DA stage regarding amenity for occupants and users have not been adequately addressed in the DA design. This is largely due to the poor amenity of apartments relying on recesses in the south elevation that work as light wells for borrowed light and air from the adjacent property.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>The Panel noted that built form, in terms of height and scale, is not of itself inappropriate to the site.</i></p> <p><i>However, the floor-to-floor height of 3000mm does not reflect the ADG recommendation of 3100mm and provision for lift overrun has not been made.</i></p> <p><i>The Panel's concerns regarding the design failures with regard to provide adequate amenity for apartment occupants and will have detrimental impacts on occupants and users of future surrounding developments. Until these issues are adequately addressed, the Panel is unable to provide proper comment on the built form and scale of the development.</i></p> <p><i>Notwithstanding, the Panel expressed concern that the design does not provide for sufficient side setbacks of the upper level apartments in terms of built form and scale. The shear wall on the southern elevation also requires further articulation, particularly once the light wells on this side of the building are reconsidered.</i></p> <p>The Panel notes many of the Pre-DA comments have not been addressed.</p>

Design Principle	Comments
	<p>The Panel generally supports the height of the proposal, and the rear setback.</p> <p>The Panel has concerns about:</p> <ul style="list-style-type: none"> • The recesses in the south elevation, which do not have an adequate width to provide for appropriate visual and acoustic privacy between habitable spaces between different apartments in the event that the site to the south is built to the boundary. These recesses also currently open to the driveway providing an inappropriate source of noise and fumes. These spaces are not supported in their current form. The Panel notes the minimum width in the ADG is 12 metres. • The Kingsland Road frontage, which is inappropriately bulky largely as a result of the use of oversized balconies with a heavy masonry form and nil setback. The Panel considers this part of the design must be lightened, and set back above level 3 (by at least 3 metres to the face of the balcony). • The overall bulk of the building above level 3.
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>The Panel noted that the current proposal would not comply with the proposed B4 zoning and the applicable FSR of 2.5:1.</i></p> <p><i>The Panel's also noted that the identified concerns with regard to Amenity preclude it from making a proper assessment of density.</i></p> <p><i>The Panel additionally expressed concern that the set-backs between windows within the development and those of neighbouring existing and future development are inadequate and do not reflect ADG criteria.</i></p> <p>The Panel considers the lack of setbacks, small light wells and undersized bedrooms indicate the design has a density too great for the site.</p>
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p><i>The Panel noted that the design attempts to take advantage of the northerly aspect. However, this is compromised by insufficient setback – at side and between windows and needs to be given further consideration.</i></p> <p><i>In its current context and form, the design provides for cross ventilation for apartments. However, consideration should be given to privacy and amenity issues associated with:</i></p> <ul style="list-style-type: none"> • <i>Narrow light wells which may be later enclosed by future development</i> • <i>The proximity of windows to neighbouring apartments in future developments</i> <p><i>Sufficient deep soil zones for groundwater recharge and vegetation must be provided.</i></p> <p><i>Consideration of the use of solar PV panels for power production and water tanks for storage and reuse should be given further consideration.</i></p> <p>The Panel notes the design achieves adequate solar access and has provided sufficient deep soil zones. The Panel notes the design technically achieves cross ventilation but considers this is not viable for apartments relying on light wells in their current form.</p> <p>The Panel notes there are further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc.</p>

Design Principle	Comments
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p><i>The Panel noted that the proposed landscape fails to meet the stated criteria for good design.</i></p> <p><i>The development does not meet minimum deep soil requirements.</i></p> <p><i>The quality of the proposed communal open space must also be given further consideration, with regard to aesthetics, amenity and privacy of adjoining developments.</i></p> <p>The Panel generally supports the landscape design however:</p> <ul style="list-style-type: none"> • The depth provided to podium planter boxes should be clarified as per the ADG. • Further detail should be provided regarding the screening trees on the west boundary which should be large scale canopy trees with lower level screening below. • The Level 1 non-trafficable concrete roof should be converted to a podium planter box and amalgamated with the proposed planter box which should be under body corporate maintenance. • The potential of the light wells in an expanded form to incorporate landscape should be explored.
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>The Panel expressed concern regarding Amenity on several points:</i></p> <ul style="list-style-type: none"> • <i>the proposal does not meet ADG guidelines for minimum setbacks between windows within the development and those of neighbouring existing and future development</i> • <i>window size, shape, sill height and orientation fail to meet ADG guidelines and need to be given detailed consideration.</i> • <i>room dimensions require further consideration</i> • <i>outlook requires further consideration</i> • <i>visual impact/privacy require further consideration</i> • <i>acoustic privacy requires further consideration</i> <p><i>Services should be consolidated in the entry area to provide greater light and visual benefit to the adjacent light well.</i></p> <p>The Panel considers the design overall has the potential to provide good amenity however:</p> <ul style="list-style-type: none"> • As noted above the Panel does not consider that adequate amenity is provided to rooms overlooking the light wells in their current configuration. • Many bedrooms appear to be undersized despite the apartments themselves being very large. • Internal apartment layouts should be improved. • Roof top communal open space should be provided with a variety of amenity options such as seating, shade structures, BBQ facilities and astro turf. • Privacy screens should be provided to the balconies of units 03, 07, 11 and 15 to prevent overlooking of the site to the north.

Design Principle	Comments
<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p><i>The Panel noted Safety concerns and recommended enhancements in the following areas:</i></p> <ul style="list-style-type: none"> • <i>Opportunities to maximise passive surveillance of communal areas to promote safety should be given further consideration, particularly the communal open space</i> • <i>Swept paths in the basement carpark, and traffic movements on ramps must be given further consideration</i> <p><i>Relocation of the driveway to the lower northern side of the site to shorten the distance of the ramp (while acknowledging the reduction in distance from the street corner to the north) should be given further consideration.</i></p> <p>The Panel has not identified any significant issues.</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The Panel questioned whether the proposal adequately addressed ADG requirements for housing diversity. The applicant must provide evidence of this.</i></p> <p><i>The Panel expressed concern that the single communal open space does not meet the stated criteria for good design regarding flexibility and variety.</i></p> <p><i>The Panel supported the provision of commercial premises that may be used for café/ food and beverage outlets, as well as the provision of adequate space for covered outdoor seating.</i></p> <p>The Panel has not identified any significant issues.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>The Panel appreciated the architect's attempt to define the commercial and entry base of the building. However, further consideration of the façade treatment – articulation, material variation, setbacks, and form manipulation is required to provide a high quality aesthetic response.</i></p> <p>The Panel is generally supportive of the aesthetics and materiality however has significant concerns about the overuse of face brick in the Kingsland Road frontage which contributes to the excessive bulk of the building. Whilst some use of face brick is supported, the Panel recommends this part of the design be lightened and reconfigured. As part of the reconfiguration the Panel recommends reconsidering the use of clear glass balustrades to lower level apartments (where a solid balustrade treatment will protect the residential amenity of these dwellings).</p>

RECOMMENDATION

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

Bayside Local Planning Panel

18/12/2018

Item No	6.7
Application Type	Development Application
Application No	SF18/2374
Lodgement Date	23/10/2017
Property	DA-2017/1189 - 1170-1172 Botany Road, Botany
Ward	Botany Bay
Owner	Natoby Pty Ltd
Applicant	Joe Sleiman
Proposal	Integrated development for the demolition and construction of a shop top housing development comprising of nineteen (19) units with six (6) of the units as affordable housing, one commercial tenancy, basement car park and associated strata title subdivision.
No. of Submissions	Two (2) submissions
Cost of Development	\$5,000,000
Report by	Michael McCabe, Director City Futures

Officer Recommendation

- 1 That the Bayside Local Planning Panel is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Botany Bay Local Environmental Plan 2013 in regards to Clause 4.3- Height of Building and Clause 4.4- Floor space ratio
- 2 That the Development Application No. 2017/1189 for the demolition and construction of a shop top housing development comprising of nineteen (19) units with six of the units as affordable housing, one commercial tenancy, basement car park and associated strata title subdivision at 1170-1172 Botany Road Botany, be REFUSED pursuant to Section 4.6(1)(b) of the Environmental Planning and Assessment Act 1979 (EPA Act) and is recommended for refusal subject to the following reasons:
 - a The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the State Environmental Planning Policy (Affordable Rental Housing) 2009 with respect to the following:
 - i. Clause 13(1) - the proposed affordable housing component in the development is less than 20% of the total gross floor area proposed therefore no FSR bonus is applicable for the site. The proposed FSR does not comply;
 - ii. Clause 14(1)(c)(ii) - the proposed landscaped area does not comply with the minimum 30% requirement;

- iii. Clause 14(1)(d) - the proposed deep soil area does not comply with the minimum 15% requirement;
 - iv. Clause 14(1)(e) - the proposed development does not comply with the minimum 70% of apartments receiving at least 3 hours direct sunlight between 9am to 3pm mid-winter to private open spaces and living areas; and
 - v. Clause 16A – the proposed development is not compatible with the heritage and local character of the immediate area.
- 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 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:
- i. Part 2F - Building Separation - the proposed development does not comply with the minimum building separation requirements along the side and front boundaries;
 - ii. Part 3D - Communal Open Space - the proposed development does not comply with the minimum 25% communal open space requirement;
 - iii. Part 4C - Ceiling Heights – the proposed development does not demonstrate whether 2.7 metre high ceiling heights could be accommodated within the residential units. The proposal contains 3 metre high floor to floor levels;
 - iv. Part 4D - Unit sizes - the proposed development does not comply with the minimum unit size requirement of 75sqm for two bedroom unit with second bathroom;
 - v. Part 4E - Balcony sizes- the proposed development does not comply with the minimum 15sqm private open space requirement for ground floor apartments; and
 - vi. Part 4G - Storage- the proposed development does not comply with the minimum storage requirement within the units.
- 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 Clause 4.3 of the Botany Bay Local Environmental Plan 2013 relating to non-compliance with the height of building development standard of 14 metres. The Panel is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Botany Bay Local Environmental Plan 2013 in regards to building height.
- d Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.4 of the Botany Bay Local Environmental Plan 2013 relating to non-compliance with the floor space ratio development standard of 2:1. The Panel is not satisfied that the applicant's
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written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Botany Bay Local Environmental Plan 2013 in regards to floor space ratio.

- e Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 6.15- Active Street frontages of the Botany Bay Local Environmental Plan 2013 as the development provides insufficient active street frontage along Botany Road.
 - f 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. The proposed development does not comply with the minimum car parking requirement under Table 1 of Part 3A.2- Parking Provisions of Specific Uses and does not provide loading and unloading facilities on site;
 - ii. Part 3B – Heritage. The proposed development is not compatible or consistent with the existing built form and character of the Botany Township Heritage Conservation Area in addition to conserving the existing dwelling on the site;
 - iii. Part 3G – Stormwater Management. The proposed development does not comply with Section 7.1(i) of Part 10 of the Botany Bay Development Control Plan 2013 and does not provide sufficient detail as to the On-site detention system proposed on the site;
 - iv. Part 3J – Aircraft Noise and OLS. The acoustic report provided with the development application is not satisfactory as the report has assessed the site based on a 20-25 ANEF Contour which is incorrect;
 - v. Part 3N – Waste Minimisation and Management. The development proposal does not comply with the required garbage bins required as well as does not distinguish between the residential and commercial uses;
 - vi. Part 4C.4.1- Dwelling Mix and Layout within High Density Residential. The proposed development does not comply with the maximum 25% studio/one bedroom requirement within high density residential/mixed use development;
 - vii. Part 4C.4.2- Family Friendly Apartment Buildings within High Density Residential. The proposed development does not comply with the family friendly controls relating to separate living areas, waterproofing common areas, having two separate bathrooms and storage space requirements;
 - viii. Part 5 – Business Centres. The proposed development do not comply with the objectives and controls of Part 5.2.2.7- Botany Local Centre of the Botany Bay Development Control Plan 2013 relating to site consolidation, desired future character, building height, setbacks, material choice, car parking, design excellence, building design, active
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street frontage, solar amenity, private open space, communal open space, servicing, visual privacy and solar amenity.

- g 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.
- h Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk, scale, size, height, density, inconsistent with local character and would adversely impact upon the amenity of the locality.
- i The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of its size of the site and density proposed in correlation with the existing heritage context of the street and is likely to adversely impact on the adjoining heritage items and heritage conservation area.
- j Having regard to the advice received from Roads and Maritime Services, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the development application cannot be supported on the basis of sightlines and right turn access.
- k Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable visual privacy, solar amenity, excessive density and heritage impacts on adjoining /nearby properties.
- l Pursuant to the provisions of Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, and in consideration of the impacts and submissions made, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

3 That the objectors be informed of the Bayside Local Planning Panel's decision.

Location Plan



Attachments

- 1 Planning Assessment Report [↓](#)
- 2 Site Plan [↓](#)
- 3 Roof Plan [↓](#)
- 4 Northern and Eastern Elevation Plan [↓](#)
- 5 Southern and Western Elevation Plan [↓](#)
- 6 Areas Schedule Plan [↓](#)
- 7 Clause 4.6 variation for height [↓](#)
- 8 DRP Minutes [↓](#)

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2017/1189
Date of Receipt:	23 October 2018
Property:	1170-1172 Botany Road Botany Lot B in DP 176066 Lot 1 in DP 907188
Owners:	Natoby Pty Ltd
Applicant:	Joe Sleiman
Proposal:	Integrated development for the demolition and construction of a shop top housing development comprising of nineteen (19) units with six (6) of the units as affordable housing, one commercial tenancy, basement car park and associated strata title subdivision
Recommendation:	Refusal, subject to reasons of refusal in the attached schedule
Value:	\$5,000,000.00
No. of submissions:	Two (2) objections
Author:	Angela Lazaridis, Senior Development Assessment Planner
Date of Report:	23 November 2018

Key Issues

Bayside Council received Development Application No. 2017/1189 on 23 October 2018 seeking consent for an integrated development for the demolition and construction of a shop top housing development comprising of nineteen (19) units with six (6) of the units as affordable housing, one commercial tenancy, basement car park and associated strata title subdivision at 1170-1172 Botany Road, Botany.

The application was placed on public exhibition for a thirty (30) day period from 15 November to 15 December 2017. Two (2) objections were received and this is discussed in the report below.

Key issues in the assessment of the development application include non-compliances with the State Environmental Planning Policy (Affordable Rental Housing) 2009, non-compliances with the State Environmental Planning Policy No. 65 – Quality Design of Residential Apartment Buildings, non-compliances with the height and FSR development standards within the Botany Bay Local Environmental Plan 2013, non-compliances with the BBDCP 2013 car parking provisions and loading and unloading, setbacks, landscaping and the heritage context of the street and conservation area.

The applicant seeks to provide affordable housing within the development therefore has relied on the controls within the State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposal has elected 6 studio units as affordable housing which is less than the 20% minimum amount of affordable housing to allow for an FSR bonus under the SEPP. The

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applicant has proposed an FSR with a bonus however this is not applicable. Additionally the proposal does not comply with the minimum landscaping and deep soil requirements under the SEPP as well as does not maintain the minimum 70% of units as receiving at least 3 hours of solar during mid-winter. The key issue though is the local character analysis as the proposal seeks to develop a contemporary development amidst a single storey heritage streetscape. The proposed design is not compatible with the existing built form in the area and therefore is not consistent with the character.

The proposal also does not comply with the provisions of the ADG as there are non-compliance relating to building separation particularly along the northern setback of the site, non-compliance with the communal open space provisions, lack of storage on the site as well as unit sizes for the two bedroom units with additional bathrooms as well as floor to floor heights in achieving the minimum 2.7 metre high ceiling heights for habitable spaces.

In accordance with the Botany Bay Local Environmental Plan 2013, the proposal does not comply with the maximum FSR of 2:1 development standard as the proposal seeks 2.31:1 under the Affordable Rental Housing SEPP. Additionally, the proposal seeks a variance to the building height by proposing 15.7 metres. The applicant did not provide a Clause 4.6 variation for the FSR and provided a variation for the height however Council does not support this variation. Additionally, minor non-compliances in the amount of active street frontage proposed as well as the categorisation of 'shop top housing' to what is being proposed as a residential flat building and commercial use will need to be further refined.

In accordance with the Botany Bay Development Control Plan 2013, the proposal does not comply with the car parking required under Part 3A. The application calculator for the car parking rates of the Affordable Rental Housing SEPP for all the units as well as the units which are not affordable. This interpretation is disputed. The proposal also was considered under Part 3B- Heritage of the DCP. The site is located within the Botany Township Heritage Conservation Area and is located adjoining and opposite heritage items. The proposal has not sufficiently considered the heritage items in regards to scale with the only substantive change being the adoption of a single storey street wall as well as greater building separation on the northern elevation. The setbacks along the eastern elevation continue to be prevalent on the site. The proposal was referred to Council's Heritage Advisor who had strong objections to the proposal. Additionally, the proposal did not comply in regards to stormwater management with additional information being required as well as having an inaccurate acoustic report which did not address the correct ANEF Contour. The proposal is inconsistent with the objectives and controls within Part 5 of the BBDCP which relate to the Botany Local Centre and are inconsistent with the desired future character envisaged for the site.

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

Recommendation

It is RECOMMENDED:

1. That the Bayside Local Planning Panel not support the variation to clause 4.3 and clause 4.4 of the Botany Bay Local Environmental Plan 2013 as justified in the applicant's Clause 4.6 request; and
2. That the Development Application No. 2017/1189 for the demolition and construction of a shop top housing development comprising of nineteen (19) units with six of the units as

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affordable housing, one commercial tenancy, basement car park and associated strata title subdivision at 1170-1172 Botany Road Botany, be REFUSED pursuant to Section 4.6(1)(b) of the Environmental Planning and Assessment Act 1979 (EPA Act) and is recommended for refusal subject to the reasons of refusal in the attached Schedule.

3. That the objectors be informed of the Bayside Local Planning Panel's decision.

Background

History

Development Application No. 00(279) was issued with a deferred commencement for the construction of a two storey dwelling house. The consent was never enacted.

A pre-DA meeting was held on 28 March 2017 to discuss the current proposal.

Development Application History

23 October 2017 – Development Application was lodged with Council

15 November to 15 December 2017 – Development Application was publicly notified.

15 February 2018 – The application was presented to a design review panel

17 January 2018 – Discussions with the applicant regarding preliminary concerns was carried out.

31 January 2018 – Amended plans were provided demonstrating reduced building height under 10% variance.

24 May 2018 – Additional information was requested by Council in particular relating to heritage, affordable rental housing SEPP non-compliances such as car parking calculation, FSR bonus calculation, landscaped area, deep soil, solar access requirements and character of the local area, ADG non-compliances such as building separation, visual privacy, cross ventilation, storage, communal open space, solar amenity, ceiling heights, FSR and height of building non-compliances under the BBLEP 2013, non-compliance with acoustic treatment, car parking, stormwater and drainage and desired future character. Additional information and amended plans were provided on 4 July 2018 to partially address the above issues.

30 May 2018 – Meeting was held with the applicants to discuss the additional information letter. Points relating to the character and the design of the building to blend in with the existing streetscape were discussed as well as building separation and visual privacy. Interpretation of the FSR and car parking calculations were had which were not agreed on by both parties.

8 August 2018 – Email was sent to the applicants after a preliminary assessment of the amended information was provided. A number of the issues that were raised in the additional information email of 24 May 2018 were not addressed

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Proposal

The development application, in its amended form, seeks consent for the demolition and construction of a shop top housing development comprising of nineteen (19) units with six of the units as affordable housing, one commercial tenancy, basement car park and associated strata title subdivision.

The proposed development is described in detail below:

Basement Floor

- Car parking for fourteen (14) vehicles provided. Two of the spaces are accessible spaces;
- Storage for the units;
- Basement ramp along the northern side of the basement; and
- Lift up to the upper levels.

Ground Floor

- One commercial tenancy is proposed along the Botany Road street frontage measuring 60sqm;
- Two units (1 x 1 bedroom unit and 1 x 3 bedroom unit);
- Above ground garbage room;
- Bicycle spaces; and
- Car parking ramp down to the basement along the northern side of the site.

First to Third Floor

- Five units on each floor (2 x studios which is affordable and 3 x 2 bedroom units). There is a total of 15 units with six of these proposed as affordable housing.

Fourth Floor

- Two units (1 x 1 bedroom unit and 1 x 2 bedroom unit) are proposed.
- 23sqm communal rooftop terrace is provided.

The following figures demonstrate the proposed development as amended:

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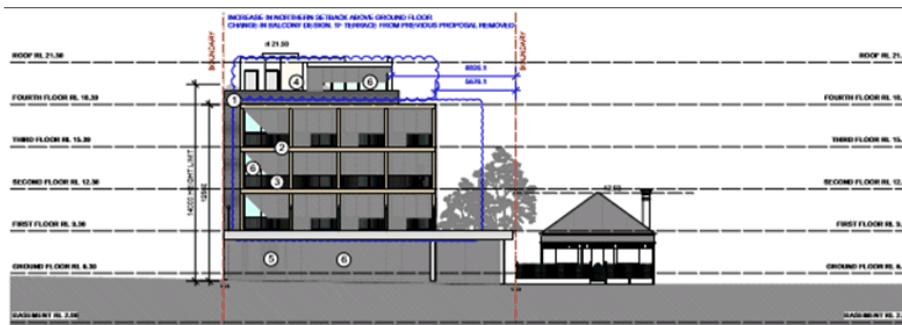


Figure 1. Proposed Eastern Elevation

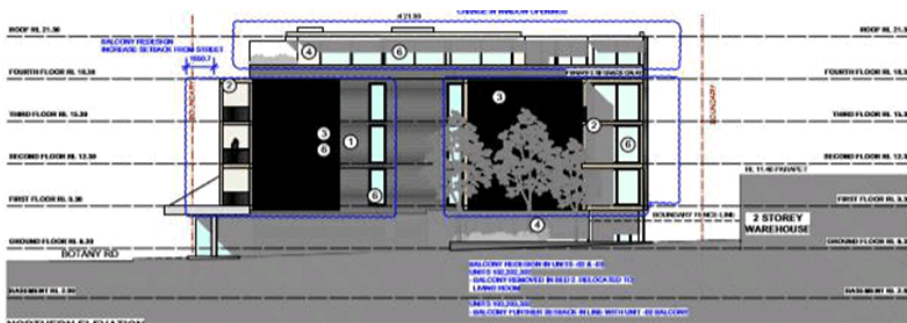


Figure 2. Proposed Northern Elevation

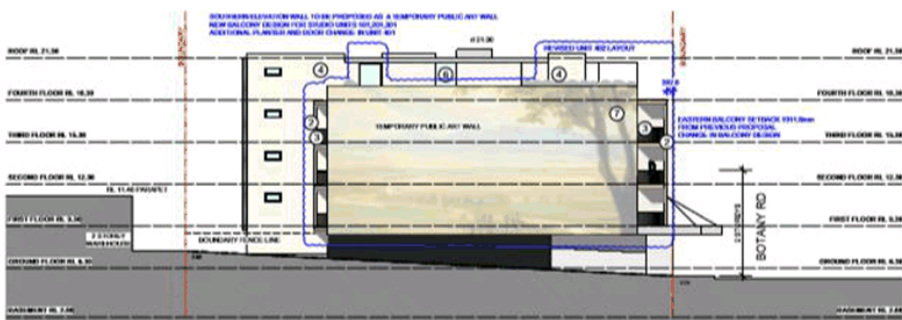


Figure 3. Proposed Southern Elevation

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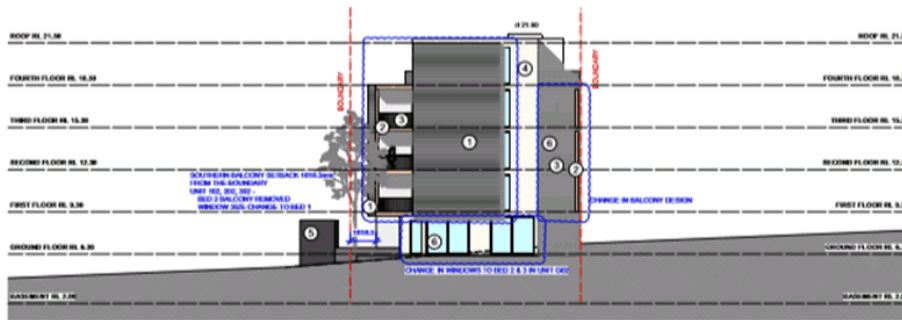


Figure 4. Proposed Western Elevation

Site Description

The subject site is legally known as Lot B in DP 176066 and Lot 1 in DP 907188 and is named 1170-1172 Botany Road Botany. The site is located on the western side of Botany Road between Bay Street to the north and Hale Street to the south. The site has a east-west orientation with east being the front of the site (Botany Road) and west being the rear of the site.

The subject site is comprised of two (2) separate allotments which combined have a site area of 607sqm and an has an irregular street frontage width of 20.97 metres, rear boundary width of 13.74 metres, a northern boundary length of 37.13 metres and a southern boundary length of 34.75 metres. The site has a fall of 0.5 metres from the western side to the eastern side and 0.7 metres from the southern side to the northern side.





Figure 6. Subject Site

On 1170 Botany Road, the site is predominantly vacant with a retaining wall along the northern boundary. On 1172 Botany Road, the site contains a single storey cottage and detached metal structure which is located on the southwestern corner of the site. There are a number of trees that are located within the front and rear setback of the site.

Development surrounding the site include industrial warehouses adjoining the western side of the site, low density attached residential cottages which are heritage items adjoining the northern side of the site and detached dwelling houses on the southern side of the site.

There are a number of heritage items surrounding the site which include 1158-1168 Botany Road (Item 49- House Group), 1441 Botany Road (Item 24- Police Station (circa 1871), 1443 Botany Road (Item 57- Boarding House- front building) and 1447 Botany Road (Item 58- House). The site is located within the Botany Township Heritage Conservation Area as well as located on Botany Road which is a classified road. The site is located within the 25-30 ANEF Contour and is impacted by road noise.

Statutory Considerations

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

Part 4 Division 5 – Special procedures for integrated development

The relevant requirements under Division 4.8 of the EP&A Act and Part 6, Division 3 of the EP&A Regulations have been considered in the assessment of the Development Application. The Development Application is Integrated Development in accordance with the Water Management Act 2000 as the development is deemed to be an Aquifer Interference Activity. In this regard, the Development Application was referred to Water NSW. On 24 January 2018,

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Water NSW provided conditions of consent however as the proposal is recommended for refusal, these conditions do not apply.

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.

There is a total of fourteen (14) trees on the site for which consent for removal is sought. The species of trees include Grey Gum (*Eucalyptus punctate*), Sydney Blue Gum (*Eucalyptus saligna*), Queen Palm (*Syagrus romanzoffiana*), Argyle Apple (*Eucalyptus cinerea*), Swamp Oak (*Casuarina glauca*), Umbrella Tree (*Schefflera actinophylla*) and Hills Fig (*Ficus microcarpa* "Hillii"). The majority of the trees are located within the front setback of 1172 Botany Road with a number of trees also located within the rear setback. The trees are in excess of 30 years with two trees (Sydney Blue Gum and the Hills Fig tree) being 60 years plus. The arborist report states that the overall health of the trees are predominantly good with two of the trees in poor condition, three trees in fair condition, three trees are either undesirable to Council or heavily pruned and the remainder of the trees are in good conditions.

The tree coverage within the front setback in addition to the existing street trees directly outside the site contribute to the streetscape character of the lower portion of the Botany Local Centre. However Council's Tree Management Officer has reviewed the trees within the site and has agreed to their removal. As there is no issue with Council's tree officer, the removal of the trees is acceptable.

State Environmental Planning Policy (Infrastructure) 2007

The site is located on Botany Road which is a classified road. All proposed vehicular access will be off Botany Road and the proposed vehicular crossing and basement ramp will be located along the northern side of the site.

Clause 101 of the SEPP requires to address the clauses relating to development with a frontage to classified road. The proposed site is located on Botany Road which is a classified road. There is an existing driveway and vehicular crossing on the site however the applicant proposes to relocate the existing driveway/crossing to the northern side of the site at 1170 Botany Road. The development application was referred to RMS for comment as a new road

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opening is proposed. A response was provided dated 21 February 2018 which did not provide concurrence and comments were as follows:

- a) *"The traffic impact assessment provided with the application states that: "The sight distance as required by AS2890.1:2004 Figure 3.2 is not achieved for a right turn exit manoeuvre, such that the sight distance of the desirable 5 s gap of 69m for a 50km/h speed zone is obstructed by large trees. Therefore, it is recommended that "No Right Turn" signage be provided within the property's exit driveway." The driveway should be redesigned such that right turn exit movements are not possible.*
- b) *Dimensions of the amended driveway should be included on plans to show that the driveway is at least 5.5 metres wide for the first 6 metres from the property boundary to allow simultaneous entry and exit of vehicles".*

Amended plans provided to Council did not reflect any changes to the address RMS' comments. The amended plans were not forwarded onto RMS for further comments as no improvements were provided. Therefore the proposal continues to not be compliant in this regard and is one of the reasons for refusal.

The development is not considered to be a traffic generating development under the table within Schedule 3 of the SEPP.

Clause 102 of the SEPP requires the impact of road noise or vibration on non-road development. As the proposal is located on Botany Road which is a major thoroughfare between Port Botany and the inner south, the amount of vehicular movements is large. The applicant has provided an acoustic report which addresses the impact of traffic and road noise on the development however the report has not been amended particularly as the materials on the development have changed to predominantly glass framed.

Clause 45 of the SEPP relates to development which involves undergrounding of powerlines. The application was referred to Ausgrid which was received on 7 February 2018 and who had no objection to the proposal. There is an existing power pole that is located directly outside the site. The proposed driveway is to be a minimum 1 metre clear of the existing power pole. The applicant has not taken into consideration this pole and its proximity to the new driveway and vehicular crossing. The site and floor plans also do not demonstrate the location and width of the new vehicular crossing. Any future submission is to take these elements into consideration in the design of the development including undergrounding of powerlines at the applicants cost prior to any works commencing on the development.

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. 649437M_02 dated 2 August 2017 prepared by GEC Consulting Pty Ltd. The proposal has been amended numerous times which may have affected the thermal comfort, water and energy targets. No amended BASIX Certificate has been provided therefore does not comply with the SEPP requirements.

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

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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 proposal seeks to excavate for one level of car parking below ground. The applicant provided a number of reports which include a geotechnical investigation report prepared by Benviron Group and dated May 2015, a preliminary site 1 investigation report completed by Benviron Group dated September 2017, an acid sulfate soils assessment completed by Benviron Group dated May 2015 and a groundwater assessment completed by Benviron Group dated November 2015. The proposal was referred to Council's Environmental Scientist to review and who had the following comments:

"There were several errors in the reports from incorrect dates of reports, statement that samples were taken but no results provided in the PSI, and several errors in the ASS Report referencing incorrect council, said the site was commercial use, completed in May and August 2015. However the primary testing and procedures and conclusions including lot and DP were correct and I have relied on the reports.

The basement FFL is RL 2.8m (3.5m bgl at west and 3.2m bgl at east). The geotechnical report noted the groundwater to be 2.44-2.75 m bgl and noted that any excavations below 2.4m bgl will require the management of groundwater. Groundwater is noted just below the basement, and therefore will be intercepted for excavation and also the basement is likely to be within the influence of groundwater and will require tanking. I could not see this recommended in the geotechnical report.

The site itself has been used for residential purposes only and is considered suitable for the proposed residential development with one level of basement car parking subject to waste classification on soils removed from the site and an asbestos clearance certificate being issued once all buildings and structures have been demolished."

The environmental scientist has no objections to the proposal subject to the imposition of conditions of consent. However, an assessment for one level of basement car parking has been carried out only. The development generates a greater number of car parking spaces than quoted by the applicant which would require a second or even third level of basement. The conclusions in the geo-tech and contamination reports as well as from Council's Environmental Scientist may alter as a result of the additional excavation. The rear of the site adjoining to the west contains industrial warehouses which may have produced some form of contamination in the past that is now found on the subject site. Additionally, the existing dwelling on the site may contain asbestos which if removed, will need to be done in accordance with Workcover regulations.

State Environmental Planning Policy (Affordable Rental Housing) 2009

The proposal seeks to provide six units as affordable housing. These are units 101, 105, 201, 205, 301 and 305 and are studio apartments with an internal living area of 37sqm. Below is an assessment of the amended plans against the provisions in Part 2 Division 1 – Infill Affordable Housing in the SEPP:

Principal Provisions of ARH SEPP	Proposal	Complies
Development to which Division applies (CI 10)	Development is permissible as the site is not a heritage item, is permitted with consent under any other EPI and is within a B2 zone.	Yes

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<p>Floor space ratios (CI 13(1)) – This clause applies if at least 20% of the gross floor area (GFA) of the development is to be used for affordable housing.</p>	<p>The proposal has a site area of 607.4sqm. The GFA attributed to the affordable housing component is 222sqm. The overall GFA within the development is 1,404.6sqm (as calculated by Council). Therefore the affordable rental housing component is 15.8% of the development.</p>	<p>No – Refer to Note 1 below</p>
<p>Standards that cannot be used to refuse consent (CI 14) Council cannot refuse the development for the reasons below of this table, if the development complies with the standards</p>		
<p>Site Area (CI 14(1)(b)) If the site area on which it is proposed to carry out the development is at least 450sqm.</p>	<p>The site has a total area of 607.4sqm which complies.</p>	<p>Yes</p>
<p>Landscaped Area (CI 14(1)(c)) (ii) At least 30% of the site is to be landscaped. Landscape area under the SEPP is as defined in the Standard Instrument and means part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.</p>	<p>The site has a total of 95.93sqm of landscaped area which includes deep soil area and raised planter area. This results in a total percentage of 15.8%.</p>	<p>No – Refer to Note 2 below</p>
<p>Deep Soil Zones (CI 14(1)(d)) In relation to that part of the site area that is not built on, paved or otherwise sealed: (i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not <15% of the site area (the deep soil zone), and (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and (iii) if practicable, at least 2/3 of the deep soil zone is located at the rear of the site area.</p>	<p>The deep soil area is 51.37sqm which is located within the rear setback. This is 8.5% of the total site area which does not comply with the SEPP requirements.</p>	<p>No – Refer to Note 2 below</p>
<p>Solar Access (CI 14(1)(e)) Living rooms and private open spaces for min 70% of dwellings in development receive min 3 hours direct</p>	<p>13/19 (68.4%) units receive minimum 3 hours of sunlight mid-winter</p>	<p>No – Refer to Note 3 below</p>

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sunlight between 9am & 3pm in mid-winter.		
Car Parking (CI14(2)(a)) (ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,	It is unclear whether the affordable units comply with car parking as the applicant has not allocated spaces within the basement however the affordable units are all studios. The SEPP is silent on car parking for studios and it is assumed that studios do not require any car parking. Therefore the development complies in regards to the affordable units.	Yes
Dwelling Size (CI 14(2)(b)) (i) 35sqm studio (ii) 50sqm 1 bedroom (iii) 70sqm 2 bedrooms; (iv) 90sqm 3+ bedrooms.	The unit sizes comply	Yes
Continued application of SEPP 65 (CI 16)	Noted. Refer to SEPP 65.	Refer to SEPP 65/ADG discussion
Character of local area (CI 16A) 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.	The design of the development is inconsistent with the existing character of the southern portion of Botany Road and the Botany Township HCA. The development surrounding the site consists of predominantly single storey buildings with one or two storey shop top housing developments. The development as a five storey building is out of context with the immediate area and will set a precedent within this area.	No – Refer to Note 4
Must be used for affordable housing for 10 years (CI 17) Conditions are required to be imposed by the consent authority to the effect that: (a) for 10 years from the date of the issue of the occupation certificate: (i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and (ii) all accommodation that is used for affordable housing will be managed by a registered community	This has not been discussed however as the proposal is recommended for refusal, no conditions will be imposed requiring this.	N/A

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<p>housing provider, and (b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.</p>		
<p>Subdivision (CI 18) Subdivision is permissible with consent</p>	<p>Strata subdivision is proposed.</p>	<p>Yes</p>

Note 1 – Floor Space Ratio non-compliance and bonus provisions under the Affordable Rental Housing SEPP

Clause 13 of Division 1 – *Infill Affordable Housing* of the Affordable Rental Housing SEPP addresses the FSR requirements that developments will need to meet to be eligible for an FSR bonus. Clause 13(1) requires development to achieve at least 20% of their floor space area as affordable housing to be eligible for the FSR bonus. The development proposes a total of 222sqm floor area which is contributed from 6 x studio units measuring 37sqm each in area. This results in 15.8% of the overall proposed floor area to be used as affordable housing. This is below the minimum 20% requirement and therefore a bonus is not applicable. As the applicant has not met Clause 13(1) of the SEPP, Clause 13(2)(a)(ii) has been ruled out.

The applicant has calculated 20% affordable housing by including common lobbies and hallways as part of the calculation for affordable floor space. This is incorrect as common circulation are not specifically used as affordable housing nor do they contribute to the private internal living areas for the occupants of the affordable housing units. This non-compliance is a reason for the development to be refused. The development proposes a floor space area of 1,404.6sqm, as calculated by Council as the applicant did not include the above ground waste room within the calculation. This results in an overall FSR of 2.31:1 which is over the maximum FSR of 2:1 that is permissible on the site under the BBLEP 2013 and a variance of 15.6%. Non-compliance with Clause 4.4 of the BBLEP 2013 is discussed in greater detail in the report below.

Note 2 – Landscaped Area and Deep Soil

Clause 14(1)(c)(ii) requires infill housing to have access to at least 30% landscaped area on the site. The proposal provides a total of 95.93sqm which is a percentage of 15.8%. The site requires 182.22sqm on the site therefore there is a shortfall of 86.29sqm. The majority of the landscaped area is contained in the rear setback as deep soil with the remaining landscaped areas forming part of raised planters located on the ground level and Level 4. The amount of landscaped area across the site is unacceptable and additional landscaped area should be provided to allow an appropriate buffer between the adjoining sites particularly for screening and privacy. Amended landscape plans have not been provided with the final set of plans to Council for assessment.

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Additionally, Clause 14(1)(d) requires the site to provide at least 15% of the site area as deep soil. The development provides 51.37sqm (8.5%) deep soil which does not comply with the minimum 15%. The deep soil area is contained within the rear setback and has a minimum dimension of 3 metres wide. This complies with point 2 and 3 of the clause. The non-compliance for a minimum of 15% deep soil is acceptable in this instance as it continues to comply with the minimum ADG requirement of 7%.

Note 3 – Solar Amenity

The applicant has provided aerial and elevation shadow diagrams, both for winter solstice and equinox, as part of the original set lodged within Council. No amended shadow analysis has been provided based on amended plans of the development therefore an analysis of the solar principle will be carried out on these drawings. Due to the east-west orientation of the site and the proposed five storeys of development, the proposal will predominantly overshadow the southern properties throughout 9am to 3pm mid-winter. Additionally, consideration of the amount of sunlight that is achieved on the proposed development has been assessed.

Clause 14(1)(e) of the Affordable Rental Housing SEPP states that living rooms and private open spaces for minimum 70% of dwellings in development is to receive a minimum of 3 hours direct sunlight between 9am & 3pm in mid-winter with 50% of the communal open space is to receive full sunlight for 2 hours in mid-winter. Further to this, consideration of the ADG requirement of at least 2 hours of sunlight in mid-winter to 70% of development is provided.

Part 5.3.3.3- Solar Access and Shadow of BBDCP 2013 states that the development must demonstrate that the neighbouring developments will obtain at least 2 hours of direct sunlight to 50% of the primary private open space and 50% of windows to habitable rooms as well as 30% of the communal open space proposed within the development to obtain at least 2 hours of direct sunlight between 9am to 3pm mid-winter.

The proposed development contains 19 units with 13 receiving at least 2-3 hours of sunlight during mid-winter. This results in a percentage of 68.5% which does not comply with the minimum 70% requirement under the SEPP and ADG. The applicant has not provided any shadow analysis of the amount of sunlight to the proposed development therefore assessment is carried out by Council on the unit's orientation and access to sunlight. The communal open space is located at ground level and on the fourth floor. As further discussed below, the amount of sunlight to the communal open area is less than 50% of the space which does not satisfactorily address this control.

The extent of the additional overshadowing onto the neighbouring sites is unacceptable notwithstanding the prescribed height and FSR that is applicable for this site and surrounding sites. The proposal is taller and denser than what the BBLEP 2013 allows for and the additional height and bulk presents a greater form of overshadowing onto the southern neighbouring properties.

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 proposed development sought is high density and is located within an area which allows for a building up to 14 metres. In saying this, the current local context is to be considered when assessing the proposal as the surrounding development is predominantly single storey in nature which would allow retention of solar to the neighbouring sites. The proposal seeks to go over the 14 metre height limit which would further contribute to additional overshadowing. The applicant has not provided comparison shadow diagrams demonstrating the difference between a compliant development and the current development.

- *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: As stated above, the proposal is seeking a height that is over the 14 metre height requirement under the BBLEP 2013. Including this issue as well as the limited southern side setback and the front eastern setback, the amount of sunlight that the property to the south at 1174 Botany Road is limited at mid-winter. The dwelling currently has four windows on its northern elevation which currently receive sunlight in the morning hours to at least two of the windows. The proposed development would completely overshadow these windows at both winter solstice and equinox. Greater setback from the street of the upper levels would allow for solar to be protected to at least two of the neighbouring windows.

- *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 applicant has not assessed the degree of sunlight that the proposal will receive as detailed above however due to the size of the windows and orientation of the units towards the north, it is anticipated that these units would receive at least 2 hours of sunlight. This is not taking into consideration the proposed privacy screens and their operability that is proposed over the windows. This could limit the amount of solar to these units. The neighbouring windows are smaller in nature and more likely to be overshadowed by the development.

- *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 open space on the neighbouring site at 1174 Botany Road is substantial with the majority of it located within the rear setback. The proposed development will overshadow the majority of the open space between 9am to 3pm with less than 50% of the private open space receiving sunlight in mid-winter. Greater setbacks including rear and side setbacks would allow for sunlight to be preserved to the neighbours open space however this has not been considered as the proposal seeks to be built to the side boundary.

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation*

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may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.

Comment: The neighbouring sites are not overshadowed by fences or eaves as the proposal is built to the side boundary. No vegetation is proposed as part of this proposal.

- *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 acknowledged that the BBLEP 2013 allows for a transitional zoning by having a 14 metre building height and FSR of 2:1. The property to the south may be demolished to accommodate a development similar to the one proposed however it is not anticipated that the development to the north and to the east will be developed as they are heritage items. In any case, should 1174 Botany Road redevelop in the future, the proposal significantly inhibits the potential for the property to the south to achieve adequate solar access.

In summary, the degree of overshadowing onto the neighbouring properties as well as the lack of compliance that the development has in achieving the 70% required solar to units and 50% solar to the communal open space areas is unacceptable and is a reason of refusal of the proposal.

Note 4 – Local Character

The site is located within the Botany Township Heritage Conservation Area which is formed by a row of two storey shop top housing with shopfronts at ground level and residential dwellings above. The portion of Botany Road in which the site falls is surrounded by low density dwelling developments with a number of heritage items within close proximity to the site. The street in general is predominantly of a low scale nature with only a few high density developments approved or under construction/built located to the north of the site. The applicant has used these approved developments to justify exceeding the height and FSR standards however these sites are in a different context to the site and are adjoining different uses that are not single storey cottages.

The proposed development seeks a height of five storeys which is inconsistent with the predominantly single storey nature of the street. The front setbacks that are proposed seek to emulate the setbacks of the neighbouring heritage cottages however is inconsistent with the existing street frontage setback of the current dwelling on the site. Additionally, the proposed development does not seek to maintain an appropriate transitional setback along the side and front setbacks to allow for a complimentary for a complimentary scale and density of the site.

A maximum FSR of 2:1 and a maximum height limit of 14 metres applies to the site. The applicant seeks to further exceed these two development standards and has not taken into consideration the curtilage of the surrounding development. The proposed materials include light coloured render, aluminium framed windows and off-form concrete which is materials generally not found within the area or form part of the streetscape. Modulation and articulation of the building away from the street has not been considered to address the prominent bend/separation on Botany Road. The current site contains a single dwelling house which has heritage (contributory) merit and a large expanse of open space associated with the dwelling. The proposal will remove any current building separation that is existing.

Additionally, this portion of Botany Road contains dwellings that predominantly do not have off-street car parking where road openings and driveways do not form part of the character of the street. The street has a number of trees that help ameliorate and visually hide the built

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form. The site currently has 14 trees located within the front and rear setbacks that are proposed to be removed. The trees have provided a landscaped setting that is appealing and should be maintained within the street.

The applicant has not provided a proper streetscape analysis of this portion of Botany Road. While a heritage impact statement has been provided, the document is insufficient in addressing how the development has complied with the heritage considerations of the DCP as well as how the proposal fits into the existing context of the site. Considering the large number of non-compliances with the development and the increased density and scale of the proposal, it is not considered to be suitable within the local context and does not reflect the existing streetscape presentation or character of the southern Botany area.

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

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

During the development application process, the applicant submitted the proposal to the DRP for consideration. The meeting was held on 15 February 2018. A copy of the minutes from the meeting are attached to the report. The Design Review Panel did not support the design and their comments are attached to the report.

Apartment Design Guide

A Design Verification Statement has been prepared by Cracknell and Lonergan 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, ceiling heights 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	Studio units: 37sqm 1 bed units: 52-81sqm 2 bed units: 72-77sqm 3 bed unit: 115sqm	Yes Yes No- Refer to Note 5

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	3 bed unit: 90sqm 3 bed unit with 2 nd bathroom: 95sqm		Yes
Ceiling Height	Habitable Rooms: 2.7m Non-habitable: 2.4m Mixed Use: 3.3m for ground and first floor	Habitable rooms: not provided Non-habitable rooms: not provided Floor to floor height for residential levels: 3 metres Mixed Use (GF): 3 metres	No – Refer to Note 6
Deep Soil	Objective 3E-1 requires 7% of the site (for sites less than 650sqm) as deep soil area (requires 42.3sqm)	51.37sqm (8.5%)	Yes
Communal Open Space	25% of site (151.85sqm)	62sqm (10.2%)	No – Refer to Note 7
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.	Less than 50% of COS receives greater than 2 hours of sun due to its location of the rooftop terrace.	No- Refer to Note 3 above
	Living rooms and POS for at least 70% of apartments (and in neighbouring development) to achieve 2 hours between 9am and 3pm	68% (13/19) of apartments will receive at least two hours of sunlight during June 21 st The properties to the south will be overshadowed for the majority of the day during mid-winter.	No – Refer to Note 3 above
Building Depth	Use a range of appropriate maximum building depths of 12-18 metres	The building does not exceed 18 metres in depth.	Yes
Building Separation	<u>Up to 4 storeys (approx. 12m):</u> 3m from non-habitable rooms to site boundary	<u>Eastern (front) setback:</u> • Nil (Ground), 1.95 metres (Levels 1-3), 2.7m to 4 metres (Level 4)	No – Refer to Note 8

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	6m from habitable rooms/balconies to site boundary	<p><u>Northern (side) setback:</u></p> <ul style="list-style-type: none"> • Nil (Ground Level), 0.9m to 4.7 metres (Levels 1 to 3), 2.3 metres (Level 4) <p><u>Southern (side) setback:</u></p> <ul style="list-style-type: none"> • Nil (Ground to Level 4) <p><u>Western (rear) setback:</u></p> <ul style="list-style-type: none"> • 2.8m to 3.7 metres (Ground to Level 4) 	
Balcony Sizes	<p>Studios: 6sqm 1 bed: 8sqm 2 bed: 10sqm 3 bed: 12sqm Ground Floor: 15sqm</p>	<p>Studios: 5sqm-6.9sqm 1 bed: 14.4sqm 2 bed: 10sqm-20.7sqm 3 bed: 36sqm- 44sqm Ground Floor: 10sqm to 17sqm</p>	<p>Yes Yes Yes Yes No – Refer to Note 9</p>
Cross Ventilation	60%	63 % (12/19 units)	Yes
Storage	<p>Studio: 4m3 1 bed: 6m3 2 bed: 8m3 3 bed: 10m3</p>	Has not been demonstrated in the majority of the units	No – Refer to Note 10

Note 5 – Unit sizes

Part 4D of the ADG requires two bedroom units to have an internal unit size of 70sqm. Should a second bathroom be proposed, the minimum unit size required is 75sqm. There are three units (Units 103, 203 and 303) which all have a second bathroom however propose a unit size of 72sqm. This is a departure of 3sqm from the minimum unit size of a 2 bedroom. The proposal is already over the maximum FSR requirement of 2:1 therefore the proposal is maximises the yield of the development at the cost of compromising the size of the units. This impacts on the amenity and layout of the unit therefore full compliance should be met. The units do not demonstrate sufficient amenity to warrant a variation.

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Note 6 – Ceiling Height

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

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

Amended plans have been provided for the proposal however no amended section plans have been given to Council for assessment. From the amended elevation plan, it is demonstrated that the development has a floor to floor height of 3 metres for the residential levels from Level 1 to Level 4. Floor to ceiling heights are not provided. By having a 3 metre floor to floor height, there is limited capacity to provide any servicing or ducting within the ceiling due to its limited width as well as maintain a minimum of 2.7 metre ceiling height for habitable spaces. The development is located within a mixed use zone therefore both the ground and first floor are to achieve a floor to ceiling height of 3.3 metres. The elevation plans demonstrate that the ground floor does not comply with the 3.3 metres. Additionally, there are two residential units on the ground floor. As no amended section plan has been provided it is not clear whether these units achieve a 2.7 metre ceiling height clearance due to the slope of the land. The first floor does not provide for an increased floor to ceiling height of 3.3 metres to allow for flexibility of commercial uses, should it be required.

The development already exceeds the maximum building height of 14 metres therefore compliance with a 3.1 metre floor to floor height will further push the building height greater and may possibly contribute to additional impacts on the surrounding development relating to overshadowing, and bulk and scale. Compliance with ground floor 3.3 metre floor to ceiling height and at a minimum 3.05 metre floor to floor height for the residential levels above is required. This may result in the top level being removed.

Note 7 – 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 receive 50% of its area at least 2 hours of sunlight between 9am to 3pm mid winter. The development proposes two areas of communal open area. One is located on the fourth level and measures 23sqm (including the planter beds) while the second is located on the ground floor on the south-eastern corner of the site adjoining the commercial tenancy. This area is more accessible to the public and is not public. The total communal open area provided measures 62sqm or 10% therefore there is a departure of 89.95sqm.

The communal open space at ground level does not receive any sunlight while the communal open space on Level 4 receives morning sunlight to approximately 12pm. However the size of the rooftop communal open space is less than 50% therefore the proposal does not comply with the solar requirements in the ADG. The communal open space on the rooftop is not considered large enough to accommodate 19 units and does not provide efficient seating and BBQ facilities. The site is not within close proximity of a park or open space and the balconies proposed are close to the minimum requirement other than the units that face Botany Road. The applicant has not proposed an alternative or has addressed this non-compliance therefore the proposal is not supported with the minimal communal open space.

Note 8 – 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:

Eastern (front) setback: Nil (Ground), 1.95 metres (Levels 1-3), 2.7m to 4 metres (Level 4)

Northern (side) setback: Nil (Ground Level), 0.9m to 4.7 metres (Levels 1 to 3), 2.3 metres (Level 4)

Southern (side) setback: Nil (Ground to Level 4)

Western (rear) setback: 2.8m to 3.7 metres (Ground to Level 4)

The proposal has sought to address the building separation particularly to the northern elevation by providing privacy louvres along the windows and balconies. While this may address privacy to a degree, the amount of privacy screen will prevent appropriate sunlight entering into the principal living areas and private open space of the proposed dwellings. This will be even worse if the privacy screens are fixed. The setbacks proposed along this elevation also are within 3 metres of the boundary therefore any openings will require to be fire rated in accordance with the BCA. It was recommended at previous meetings with the developer to setback the northern setback further and relocate the side balconies however this has partially been addressed by the applicant.

The setbacks proposed along the eastern front setback is not consistent with the desired future character of the street and the Botany Local Centre as outlined in Figure 24 of Part 5. The desired future character requires a nil boundary setback for a two storey street wall and the upper two levels setback considerably from the street. The proposal seeks consent for a five storey building with the upper levels considerably closer to Botany Road than envisaged within the DCP and is inconsistent with the desired future character. The setbacks proposed do not allow the development to provide appropriate setbacks in reducing the scale and bulk of the building within the single storey heritage context of the street. While the applicant took on board Council's initial feedback relating to a single storey street wall with levels above setback appropriately, Council is of the opinion that the setbacks are inadequate and will create visual privacy concerns as well as greater bulk on the site. Therefore the proposal is recommended for refusal on this basis.

Note 9 – Balcony Sizes

Part 4E of the ADG requires apartments that are located at the ground floor level to provide private open space instead of a balcony which is to have a minimum area of 15sqm and a minimum depth of 3 metres. The ground floor of the development comprises of two units with the 1 bedroom unit located on the northern side of the site having a private courtyard. The private courtyard measures 10sqm therefore this does not comply with the minimum amount of the ADG. The courtyard is not large enough and the applicant has not provided an alternate balcony or private open space to this unit. The courtyard is in close proximity to the northern side fence which will not be shielded by noise or privacy unless planting is accommodated.

Note 10 - Storage

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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 10 sqm for three bedroom units. The development proposes storage cages located within the basement and limited units have any storage provided internally within the units. It is unclear which unit owns which storage cage within the basement and the applicant has not allocated these to the units. Additionally the floor plans demonstrate that there is room within the units to accommodate storage however this has not been shown. Storage is to be provided for each unit and is to comply with the minimum requirements under the ADG.

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 B2 Local Centre zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	No- See Note 11 below	The proposed use as a shoptop housing development is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the following objectives of the B2 Local Centre:</p> <ul style="list-style-type: none"> • To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area. • To encourage employment opportunities in accessible locations. • To maximise public transport patronage and encourage walking and cycling
What is the height of the building?	-	<p>A maximum height of 14 metres applies to the subject site.</p> <p>Lift Overrun- 15.6m (RL21.90)</p>

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Does the height of the building comply with the maximum building height?	No – Refer to Note 12 below	Building- 15.4m (RL21.70) The maximum height of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation was provided with the application and is discussed in greater detail in the report below.
What is the proposed Floor Space Ratio? Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	- No – Refer to Note 13	The maximum Floor Space Ratio requirement is 2:1 (1,214sqm). <u>Proposed calculation:</u> GFA: 1,404.6sqm FSR: 2.31:1 The Floor Space Ratio of the development does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A clause 4.6 variation has not been provided with the development application.
Is the site within land marked "Area 3" on the Floor Space Ratio Map? If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	N/A	The site is not located in an Area 3 zone.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	Yes	The site is not a heritage item however is located in close proximity to a number of heritage items at 1158-1168 Botany Road (Item 49- House Group), 1441 Botany Road (Item 24- Police Station (circa 1871),

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		1443 Botany Road (Item 57- Boarding House- front building) and 1447 Botany Road (Item 58- House). The site is located within the Botany Township Heritage Conservation Area.
<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>No – Refer to Part 3G below</p> <p>No – Refer to Part 3J below</p> <p>No - Refer to Note 14</p>	<p>The site is located within a Class 4 ASS zone. The proposed development is seeking to excavate greater than 2 metres below ground. A geotechnical report has been received.</p> <p>The proposal seeks one level of basement car parking. The proposal has provided the relevant reports to address excavation. The proposal was referred to Council's Environmental Scientist who had no issue to the proposal subject to conditions of consent.</p> <p>The development proposes OSD however the proposal was referred to Council's Development Engineer who had issues with the stormwater system and required additional information which has not been addressed.</p> <p>The site falls within the 25-30 ANEF contour. The development provided an acoustic report which made an assessment against the 20-25 ANEF Contour which is inaccurate and does not satisfy the objectives of the BBLEP and BBDCP.</p> <p>The proposal provides a commercial tenancy on the ground floor however the proposal does not significantly address active street frontage as the shop does not extend more than 50% of the frontage.</p>

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Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment

Note 11 – Shop top housing development proposal

The applicant has defined the proposed development as shop top housing. The definition of a shop top housing development under the BBLEP 2013 is as follows:

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

As defined, the proposal contains one 60sqm sized commercial tenancy with the remainder of the ground floor residential. The residential units are not wholly encompassed above a retail or business premises therefore do not comply with the definition of shop top housing. The retail component is not the predominant use on the ground floor and does not achieve the objectives of the zone which requires an active street frontage along Botany Road.

As the site is located within a B2 Local Centre, residential flat building and commercial premises are permissible on the site therefore it is recommended that the applicant redefine the development as this and not as shop top housing in any future development application.

Note 12 – Variance to Building Height Standard

The applicant seeks to vary the building height of 14 metres under the BBLEP 2013 as follows:

- Lift Overrun- 15.6m (RL21.90)
- Building- 15.4m (RL21.70)

The proposal departs from the development standard by 1.4 metres to the top of the building and 1.6 metres to the top of the lift overrun. This is a variation of 11.4%.

Clause 4.3 of BBLEP 2013 specifies that the height of a building may not exceed the maximum height specified on the relevant Height of Buildings Map. The site is subject to a variable height limit of 14 metres. The proposed development exceeds the maximum height allowance when measured in accordance with the BBLEP definition of building height.

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

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

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

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

The applicant originally provided a Clause 4.6 variation with the development application which demonstrated a higher height of 15.9 metres under a previous design however the variation was not amended to reflect the current height of the proposal. The Clause 4.6 variation cannot be relied upon.

Officer's comment:

A review of the Clause 4.6 variation has found a number of inconsistencies throughout the document. The variation starts off by quoting a different proposal and different Council area and does not address the true nature of the proposal. The document also makes references to streets that are not located within close proximity to the site or within the suburb. Secondly, the proposal has not been updated to reflect the current proposed height of 15.6 metres which was reduced down from 15.9 metres as originally lodged.

The discussion that was presented within the variation is limited and does not successfully address the reasons as to why the development should be permitted over the maximum building height of 14 metres. The street setback proposed is not considered acceptable in obstructing or hiding the top floor which will be located away from the boundaries, is a prominent feature contributing to the additional bulk and density of the site. The applicant has stated that the additional height will not contribute to additional overshadowing onto the neighbouring properties. This has clearly not been demonstrated as shadow diagrams comparing a compliant development and the subject proposal has not been provided to Council for assessment.

The justification provided by the applicant that flexibility should be provided in this instance as compliance with the height control would result in a significant loss of amenity to the apartments is untrue. The proposed development currently has reduced floor to floor heights of 3 metres which may impact on the floor to ceiling heights and any proposed servicing being provided. The additional height does not impact on solar or on cross ventilation therefore the statement is not effective. Maintaining a height that is commensurate with the 14 metres would not result in an underdevelopment of the site.

It is considered that the argument put forward by the applicant detailing whether there is sufficient environmental planning grounds to justify contravening the development standard is not accepted. The applicant goes into detail relating to communal open space and building separation and other SEPP 65 related issues. Additionally the applicant has stated that the proposal with the exception of the building height successfully responds to and adequately addresses all the BBLEP and BBDCP 2013 provisions. As shown throughout the report, this is not the case as there is multiple non-compliances with the proposal. The above reasons are not environmental planning grounds to allow variation of the standard. The site is not flood affected, is generally level with only a slight fall to side boundaries and proposes to be at ground. Reliance on approved developments further to the north that have been approved with a fifth storey does not warrant approval of this development proposal.

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The proposal is inconsistent with the existing building height surrounding the site, in particular immediately to the north, east and south. The proposal has not taken into consideration the heritage items directly to the north and is out of character with the built form. The height attributes to additional bulk and scale particularly onto the adjoining single storey cottages and when viewed from the street. The additional height will also result in a loss of solar amenity to direct neighbours' private open space and to their principal living areas. The development does not provide a transition from a single storey dwellings from the northern end of the site to the southern end. Therefore Council does not support the additional height or the Clause 4.6 variation.

Note 13 – Variance to Floor Space Ratio Standard

The applicant seeks to vary the Floor Space Ratio development standard of 2:1 under the BBLEP 2013 by proposing a gross floor area of 1,404.6sqm or FSR of 2.31:1. This is 189.8sqm over the development standard by 15.6%.

The applicant has not provided a Clause 4.6 variation as they claim compliance with the FSR bonus that is provided within the Affordable Rental Housing SEPP. As stated above in Note 1, the site is not applicable in receiving an FSR bonus as the proposal does not provide the minimum 20% affordable housing that is required for a bonus to be considered.

The applicant has also provided a different FSR and GFA calculation than what Council has provided. The GFA calculation plans provided by the applicant has proposed a GFA of 1,390.83sqm or FSR of 2.29:1. The calculation has not included the above ground waste collection room which contributes an additional 15sqm to the GFA.

Without a Clause 4.6 variation, the additional FSR cannot be considered or supported.

Note 14 – Active Street Frontage

The site has been marked as 'Active Street Frontage' within the BBLEP 2013. Therefore the ground floor of the development is to be dedicated for retail and commercial businesses. The development proposes one commercial tenancy on the ground floor with a 60sqm GFA. The site has a combined street frontage width of 20.97 metres however the commercial tenancy has a frontage that is less than 50% of the street frontage along Botany Road. This does not satisfy Clause 6.15 of the BBLEP 2013. Additionally, the applicant has specified the development as shop top housing. As discussed in the above note, the proposal is not consistent with the definition of shop top housing. The development has a small portion of the ground floor as retail with the rest being a driveway and basement car parking access as well as access to the residential lobby. This could be contributed to the size and narrowness of the site to accommodate appropriate commercial space as well as cater for the residential uses above.

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

The proposal accommodates a total of fourteen (14) car parking spaces in association with the residential and commercial uses. These spaces are contained within the basement car parking level. The breakdown in the amount of car parking required across the site as per the SEPP, ADG and Part 3A is as follows:

- Office premises: 1 space/ 40sqm (2 spaces req)
- Infill Housing units: 0.5 spaces/1 bedroom unit, 1 space/2 bedroom unit and 1.5 spaces/3 bedroom unit (0 spaces req)
- Regular units: 1 space for studio/1 bedroom unit, 2 spaces for 2 + bedroom units, 1 visitor space/5 units (24 residential spaces, 4 visitor spaces req- total 29 spaces req)

The development generates a total of 30 car parking spaces under the requirements of the Affordable Rental Housing SEPP and Part 3A of the BBDCP 2013. The proposal has a shortfall of 16 car parking spaces.

Note 15 – Departure in Car Parking and loading and unloading

Discussions with the applicant/architect have resulted in the proposal being assessed entirely under the Affordable Rental Housing SEPP for the regular units and not just the affordable infill housing units. The interpretation of the SEPP requirement under Clause 14(2)(a)(ii) does not state the entire development but only states the units that form the infill housing component of the development. Therefore the car parking rates under the BBDCP 2013 for the remaining 13 units that are not affordable apply. Additionally, in regards to the visitor car parking spaces, the entire development is included therefore all 19 units have contributed to the breakdown of the additional 4 visitor car parking spaces required. The commercial tenancy is proposed as an office premises therefore based on a GFA of 60sqm the use generates 1.5 spaces which is rounded up to 2 car parking spaces required. Only one space has been provided within the basement car parking level.

A traffic impact assessment report prepared by McLaren Traffic Engineering accompanied the development application. The report has assessed the development as if the entire development was affordable housing therefore the interpretation and proposed development is incorrect. The proposal traffic report cannot be relied upon as an assessment for a different use has been carried out. Additionally the report states that there is on-street car parking spaces directly outside the site that could be utilised to address and accommodate the loss of on-site car parking. This is not acceptable as Botany Road is a busy thoroughfare between the Port and the city. This portion of Botany Road is currently two lanes each way with one of the lanes utilised for car parking. There is no guarantee that RMS will place restrictions/clearways to allow for the additional density within the Botany/Mascot areas and to free up the congested street.

The option of having a second or third level of basement car parking was initially discussed however the applicant declined to amend the proposal to allow this due to the groundwater issue. The departure in the car parking, particularly the residential car parking, is not supported and forms one of the reasons of refusal.

The proposal does not provide for on-site loading or unloading for both the residential and the commercial tenancy. It is anticipated that the loading will be carried out from Botany Road in

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front of the site. While Council's DCP requires on-site loading/unloading for developments that have greater than 20 units, the site being located on a classified road with only access from this aspect and not from a secondary street may result in issues with both RMS and with Council and special provisions are required to accommodate this should a proposal be lodged in the future.

Furthermore, the site does not provide for any motorbike parking spaces. It is acknowledged that the basement currently proposed is constrained in size and does not allow for additional parking spaces, both vehicular and motorbike. It is recommended that additional parking levels be provided to allow full compliance with the car parking requirements under the BBDCP and the Affordable Rental Housing SEPP.

Part 3B – Heritage

The site is located within the Botany Township Heritage Conservation Area and is located in close proximity to a number of heritage items along Botany Road. The heritage items that are in the immediate vicinity include 1158-1168 Botany Road (Item 49- House Group), 1441 Botany Road (Item 24- Police Station (circa 1871), 1443 Botany Road (Item 57- Boarding House- front building) and 1447 Botany Road (Item 58- House).. Additionally, the site is located within a visible distance of the Botany Town Hall which is located on the corner of Botany Road and Edward Street.

The application was referred to Council's Heritage Advisor prior to the lodgement of the DA as well as part of the referral process. The feedback that was received both times did not favour the proposal and its proposed bulk, scale and design with the surrounding context and character of the HCA as well as this section of Botany Road. A heritage impact statement was prepared by Craknell and Lonegran Architects which was reviewed by Council and was not supported.

The comments that were provided by the heritage advisor are as follows:

"The proposed development would have an adverse impact upon the HCA and the surrounding heritage items. It would also lead to the demolition of a building that makes a contribution through its ability to demonstrate the historical development of the HCA. The development is unsatisfactory for the following reasons:

- *The proposed development is in direct contrast to the existing character. Inserting the proposed five storey building into this precinct would introduce a dramatically different height building into the middle of the significant streetscape of small single storey dwellings. The building would block views along Botany Road and disrupt the continuity of the housing type, disturbing its historic and aesthetic values. The proposed two storey element aligned with the front boundary also contributes to the obstruction of views along Botany Road.*
- *The proposed building materials have no contextual relationship to existing materials in the precinct. The use of glazed ceramic tiles, large expanse of glass and concrete is at odds with the traditional timber dwellings in its vicinity. The form of the building consists of sheer walls, flat roofs, horizontal and vertical elements whereas the existing built form of the HCA consists of pitched roofs, wide eaves, pitched verandah roofs and traditional fenestration.*
- *The large expanse of glazing at ground floor level facing Botany Road is contrary to the solid to void ratios of traditional houses at this end of the HCA.*

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- *The four floors of blank walls on the southern elevation will dominate and overwhelm the HCA contributory buildings as well as presenting an unsympathetic façade on the southern approach to the HCA.*
- *Historic views along Botany Road that are a valuable part of the significance of the HCA will be adversely impacted by the incongruity of the bulk, form and scale of the proposed building.*
- *The driveway adjacent to the row of heritage items will introduce an unsympathetic built form/void space immediately adjacent to a small cottage*

The proposal will have an unacceptable level of heritage impact upon the neighbouring heritage items in the vicinity and upon the Botany Township HCA.”

The subject site contains a small cottage which is contributory to the heritage significance of the HCA. In managing a HCA, the first aim should be retention and conservation of existing intact buildings from the significant historical periods represented within the heritage conservation area- in this case 1172 Botany Road appears to be a late 19th Century Victorian period cottage, detached, rendered brick, with a bullnose front verandah and setback further from the road than its neighbours which may indicate an earlier date of construction than its neighbours. The cottage at 1172 Botany Road therefore appears to be a building of significance to the Botany Road heritage conservation area, which is also located within a context of buildings of similar age, some of these listed heritage items, and therefore demolition of the cottage should be refused on heritage grounds as its loss would cause erosion of the significance of the HCA.

It is acknowledged that the controls under the BBLEP 2013 prescribe an FSR of 2:1 and a height limit of 14 metres to this portion of Botany Road. This is out of context and does not reflect the true nature of the existing built form in this area as well as does not acknowledge the existing heritage items that are located in close proximity to the site. In comparison to the controls, the controls that are provided under Part 3B of the BBDCP 2013 that relate to heritage are more practical and applicable in this instance and when taking into consideration the curtilage of the surrounding heritage items and the subject site.

Part 3B.4 of the BBDCP 2013 goes into details relating to heritage conservation areas. As stated above, the site is located within the Botany Township HCA. The controls within this section predominantly relate to the existing shopfronts and shop top housing developments that are located within the main local centre of Botany. However Part 3B.7 of the BBDCP 2013 which relates to development in the vicinity of heritage items or HCA's would be more applicable in this case. The proposed massing, scale, proportion, symmetry and articulation that is proposed in the development does not reflect the existing building architectural style of the adjoining heritage items or buildings in the HCA.

The bulk in particular proposed is five storeys with the fourth level slightly setback from the street is not characteristic of the setbacks proposed and presents a significant visual intrusion within the HCA. The setbacks of the first floor and above should be setback further from Botany Road to allow for any significant views to be maintained as well as provide an appropriate transition between the low density cottages on either side of the site. This applies to the side setbacks particularly along the northern setback which adjoins the heritage cottages. While the applicant has amended their design to allow for a greater setback or gap on the northern side of the site, this is not acceptable as the development allows for a setback and then goes up straight to four storeys. This does not allow for an appropriate transition from low density to high density.

The materials proposed, that is off form concrete, vertical aluminium blades and light brickwork or a light render does not reflect the existing materials found within the immediate area.

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Additionally, the development is not consistent to the scale of the adjoining single storey heritage cottages. The proposed driveway and basement ramp to the car parking level dominates the north-eastern section of the site which is closest to the heritage items. The existing dwelling is located over two sites with 1170 Botany Road being predominantly the private open space area for the dwelling at 1172 Botany Road. This existing space allows for sufficient separation between the existing dwelling and northern heritage cottages and appropriate curtilage for the site. The large expanse of open space would have been representative of the heritage character of this part of Botany Road and hence a significant element to the heritage context of the site. The proposal is not complimentary or orientated to the HCA and surrounding buildings therefore should not be supported. It is recommended that the existing dwelling on the site be retained and restored.

Part 3C – Access and Mobility

The proposal provides for two disabled car parking spaces within the basement as well as appropriate lift access from the basement to the residential and commercial uses above ground. The proposal also allows for a ramp up to the ground floor foyer from Botany Road. Unit G02 has been accommodated as an adaptable unit. The elements of Part 3C comply however the proposal is recommended for refusal on the basis of other outstanding issues that are addressed in the report above.

Part 3E – Subdivision and Amalgamation

The proposal seeks to strata subdivide the development into 19 units which is acceptable and permissible within the zone. The applicant originally provided a strata plan which demonstrated the subdivision of 20 units and one commercial tenancy. The plan has not been updated however as the proposal is recommended for refusal on the basis of other outstanding issues, an amended strata plan was not requested in this instance.

Part 3G- Stormwater Management

The development proposes OSD tanks in addition to 2 x 5,000L above ground rainwater tanks which are proposed to be located within the rear setback of the development. Council's Development Engineer reviewed the stormwater plans and has found it insufficient. The comments provided by Council's engineer as part of the additional information required for further assessment is as follows:

- *"The OSD system does not provide sufficient detail as to the areas that drain to each of the tanks, as stated in the design each tank receives 303 m² of the site but it is unclear as to which parts of the site drain to what tank. The applicant is to provide a catchment plan along with detailed calculations for each OSD tank proposed.*
- *The location of the two OSD tanks below the ground floor need to be further detailed by showing how their encroachment into the basement area affects the headroom clearance along with how the inlet and outlet pipeworks are suspended in this area. A cross section through the OSD tanks and Basement area should show the how the tanks encroach into the basement.*
- *Each of the OSD tanks must provide a clear overflow path to the street from each of their access grates, this overflow is not to be contained within the building or affect access to the development.*

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- *Details of the basement water proofing method as required by Botany DCP Part 10 Section 7.1 (i) are to be provided with the application."*

No amended documentation relating to the above has been received by the applicant therefore the points of concern raised have not been addressed and form part of the refusal of the application.

Part 3J – Aircraft Noise and OLS

The site is located within the 25-30 ANEF Contour which generally finds it unacceptable to allow residential intensification within this contour. Council has approved development within this section subject to the buildings being designed and acoustically treated from aircraft noise and traffic noise. The development application was accompanied by an acoustic report prepared by Acoustic Logic. The report states that the site is located within a 20-25 ANEF Contour which is incorrect therefore reliance on the report, both for aircraft and traffic noise cannot be guaranteed. The materials proposed which on the upper levels have been modified to be predominately framed glass have not been considered in terms of acoustic measures and whether it complies with the Australian Standards. An amended acoustic report for assessment of this nature was not provided to Council and therefore is an outstanding issue which forms the refusal of the development.

Part 3K – Contamination

Refer to SEPP 55 section above which discusses the contamination of the site.

Part 3L – Landscaping and Tree Management

The proposal seeks to provide a total of 95.93sqm (15.8%) landscaped area with 51.37sqm of deep soil on the site. While this is not consistent with the Affordable Rental Housing SEPP requirements, it is consistent with the ADG and BBDCP 2013 requirements. The proposal also involves the removal of fourteen trees within the rear and front setbacks of the site. Further details are discussed within the Vegetation SEPP part of the report above.

Part 3N – Waste Minimisation and Management

The development application was accompanied by a waste management plan which provided details on waste removal during demolition, construction and ongoing use of the premises and was found that the amount of waste collection in the ground floor waste holding room is unacceptable and does not comply with Council's controls. The garbage collection does not distinguish between residential waste and commercial waste.

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

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<p>C2 The combined total number of one-bedroom dwellings shall not exceed 25% of the total number of dwellings within any single site area in residential zones.</p> <p>All 2 and 3 bedroom apartments are to satisfy the family friendly controls.</p>	<p>The development proposes 6 x studios and 1 x one bedroom therefore the total studio/one bedroom mix is 36.58%,</p>	<p>No – Refer to Note 16</p>
<p>4C.4.2 Family Friendly Apartment Buildings</p>		
<p>C1 Family apartments are apartments with two or more bedrooms designed so as to accommodate the living needs of families with children.</p>	<p>The floor plans are not detailed enough to demonstrate compliance.</p>	<p>No – Refer to Note 17</p>
<p>C2 Family apartments are to include a study to meet the needs of couple families with dependents households. The design of the study should allow for a parent to easily work from home whilst supervising a child</p>	<p>None of the two and three bedroom apartments have demonstrated a separate study area or a study nook.</p>	<p>No – Refer to Note 17</p>
<p>C3 Other than the master bedroom, each bedroom is to be large enough to accommodate a single bed, a desk or table, and floor space for playing, to be illustrated on a standard apartment layout plan</p>	<p>Given the size of the apartments, there is considered to be sufficient space in a secondary bedroom for a bed and desk or within the living room to accommodate a desk however this has not been demonstrated.</p>	<p>No – Refer to Note 17</p>
<p>C4 The floor surface of the entry, dining room and kitchen floor and internal storage area are to be water-resistant and easy to be cleaned and maintained, not carpet</p>	<p>Has not been demonstrated.</p>	<p>No – Refer to Note 17</p>
<p>C5 Two bathrooms are required. One bathroom is to be a shared bathroom which is accessible off a common corridor. This shared bathroom is to have a bathtub, and is to be large enough to allow for parental supervision</p>	<p>All two and three bedroom units with the exception of Unit 401 has two bathrooms.</p>	<p>No – Refer to Note 17</p>
<p>C6 The private outdoor space is to be clearly visible from the kitchen</p>	<p>All apartments have POS clearly visible from the kitchen.</p>	<p>No – Refer to Note 17</p>
<p>C7 The entry areas and main corridors within apartments are to be generous in proportion to permit room for toys and sporting equipment, and for drying of wet shoes, boots and clothing</p>	<p>There is considered to be sufficient space in entry areas for storage however this has not been demonstrated.</p>	<p>No – Refer to Note 17</p>
<p>C8 The Apartment Design Guide sets out storage space requirements. The storage room is to be located near the entry, and be of adequate proportions to accommodate large household items including strollers, wheeled toys, suitcases, and sporting equipment</p>	<p>This has not been demonstrated.</p>	<p>No – Refer to Note 17</p>

Note 16 – Unit Mix

Part 4C.4.1 requires a maximum of 25% studio/one bedroom units to be provided within the development. The proposal provides 7 out of the 19 units as studio/one bedroom units which results in 36.58% and is over the maximum 25% requirement. The majority of these units (6 x studios) are marked as affordable housing therefore the departure is not considered too onerous as they will cater for the affordability issue within the Sydney region. However the

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proposal does not comply with the requirements of affordable housing under the SEPP which is discussed in greater detail in the report above.

Note 17 – Family Friendly Apartments

Part 4C.4.2 requires 2 + bedrooms are to be meet the family friendly controls of the BBDCP 2013. The amended plans that were provided with the development application did not demonstrate a second living area/study or study nook, did not demonstrate whether the units would be waterproofed or catered for families with children or whether adequate amount of storage was provided within the units. Additionally Unit 401 does not contain a second bathroom. A majority of these issues could be conditioned to comply however as the development is recommended for refusal, no conditions will be imposed.

The two and three bedroom units do not comply with Control C5 as they do not provide a second bathroom. The rear building at the ground floor does not comply with Control C6 which requires kitchens and living areas to have direct views to the private open space as the floor levels proposed as a result of the basement change does not allow for direct surveillance to this area.

Part 5 – Business Centre

The site is located within the Botany Local Centre. The objectives of the Centre that apply to the site under Part 5.2.2.7 of the BBDCP is as follows:

Objective	Response
O1 To retain and conserve the Botany Local Centre and encourage a viable and attractive Local Centre by improving the public domain and the public/private interface	The proposal does not retain or conserve the heritage conservation area or the town centre. The proposal did not provide any improvements to the public domain.
O2 To protect and reinforce the distinctive and characteristic elements (i.e. setbacks & traditional facades and design features) of the Botany Township Heritage Conservation Area	The proposal does not emulate the existing setbacks of the heritage items, density and materials of the HCA.
O3 To conserve and respect the main architectural features and form of Heritage Items	The existing dwelling is not a heritage item however is a contributory item that should be retained. The proposal seeks to demolish this structure and replace it with a five storey development.
O4 To improve and extend the pedestrian environment and to encourage appropriate outdoor uses with good solar access, such as cafes	The proposal does not provide appropriate outdoor use and proposes an office premises at ground level. The commercial tenancy is not considered to respond to the active street frontage that is required on the site.
O5 To ensure new development complements the height and architectural style found in the immediate vicinity, particularly where this has a clearly established character	The proposal is over the height and FSR standard and is inconsistent with the predominantly single and two storey streetscape and character of the lower section of the Botany Township HCA.

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O6 To retain existing trees and provide additional trees within the streetscape	All fourteen trees that are located within the front and rear setback are to be removed. The existing street tree is proposed to be retained.
O7 To retain a coherent streetscape with a consistent street wall and parapet line	The proposal is the first of its kind at this end of the Botany Township HCA. The proposal is not consistent with any parapet or street wall height found in the immediate vicinity.
O8 To ensure that dwellings provide passive surveillance, resident interaction and addresses the street	There are balconies proposed fronting the street which allow for passive surveillance.
O9 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); and	This is not encouraged and has not been provided.
O10 To encourage site consolidation and provision of through site pedestrian links and arcades	This has not been considered however it is recommended that the subject site and the sites to the south at 1174-1176 be consolidated to allow for an appropriate density and compliant development.

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Figure 24 - Desired Future Character - Botany Local Centre

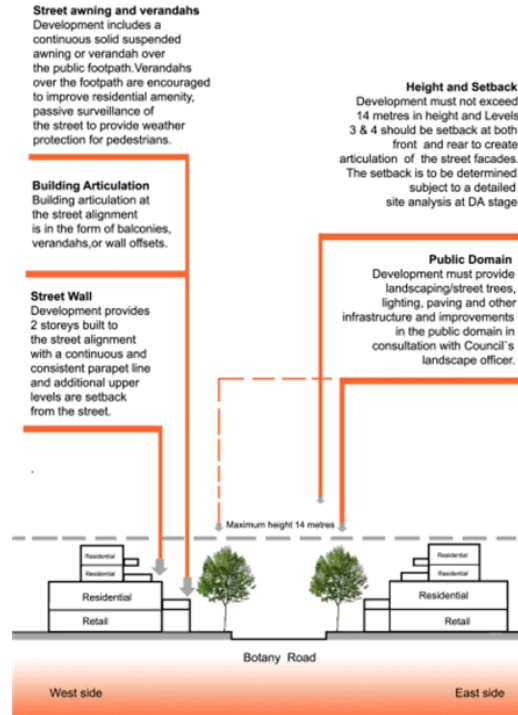


Figure 7. Reproduction of Figure 24 from Part 5 of the BBDP 2013

The following controls apply to the Botany Local Centre and are as follows:

Control	Proposed	Complies
5.2.2.7 Botany Local 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 24	The proposal does not provide an appropriate public domain setting. All landscaping is contained away from the street frontage.	No
C2 Pedestrian amenity and connectivity must be enhanced in conjunction with new development. Through site links and arcades are encouraged with redevelopment to improve pedestrian access, amenity and safety	There are no site links proposed and it is unreasonable to request site links as there is industrial development directly behind the site.	Acceptable
C3 Redevelopment is encouraged through logical lot consolidation of sites and infill development. Avoid inappropriate lot consolidation patterns that would isolate and	Site consolidation has not been considered as part of the proposal. The site is too narrow and too small to accommodate a development of this size and density. The applicant has not provided	No – Refer to Note 18 below

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unreasonably restrict redevelopment on a single lot.	any evidence that negotiations with the neighbour to consolidate have been carried out.	
C4 New development is to take into account and respond sympathetically to the established heritage streetscape, within the Botany Local Heritage Conservation Area, which exhibits strong architectural features and identity. New buildings are to reinforce these features and contribute to its character by incorporating traditional shopfronts and building facades.	The development does not respond to the heritage character of the street or the HCA and does not reflect an appropriate scale and setback from the heritage items and off Botany Road.	No – Refer to Part 3B of the report above
C5 The design of development must be generally consistent with the desired future character of the centre identified in Figure 24 and the existing character of buildings within the Botany Township Heritage Conservation Area.	The desired future character allows for four stories with the top two stories setback further away from the street. The proposal has five stories with limited setback from Botany Road. This is inconsistent with the desired future character of the area.	No
C6 New development is to take into account and respond sympathetically to an established heritage streetscape with strong architectural features and identity. New buildings are to reinforce these historic features and contribute to its character.	The proposal does not sympathetically fit in with the surrounding built form and will form a precedent of high density development in the area that has not been designed or considered with the HCA streetscape.	No
C7 A maximum height of 14 metres applies under BBLEP 2013. Building height along the street frontage is a maximum of two stories, with Levels 3 and 4 to be setback from the street in accordance with the desired future character identified for the centre in Figure 24.	The development proposes a maximum height of 15.6 metres which does not comply with the 14 metre height limit or with the desired future character.	No – Refer to Note 12 above
C8 A setback to the rear may be required where a site adjoins a residential area and is to be determined following a detailed site analysis at development application stage. Applicants must therefore demonstrate to Council with the development application that the amenity of neighbouring residential properties are protected in terms of sunlight and natural daylight access, privacy and visual amenity.	The rear contains industrial warehouses with an industrial zoning. Nevertheless, the applicant has provided a rear setback to allow for deep soil planting.	Yes

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C9 Buildings must address the street and their entries are to be readily apparent from the street. Developments on sites with two or more frontages must address both frontages, to promote, add prominence and diversity to the streetscape. Buildings that are orientated across sites, contrary to the established development pattern, are intrusive and often overlook adjoining properties (refer to Figure 17).	The building entry to both the residential and commercial tenancy have access off Botany Road.	Yes
C10 Dwellings within a mixed use development and shop top housing are to have windows and/or verandahs in the street elevation to encourage surveillance of the street. If the Verandah is built over the street then a lease fee is payable to Council. The fee is set out in Council's Fees and Charges.	The east facing units have their balconies and large windows positioned looking onto Botany Road which provides passive surveillance.	Yes
C11 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. The materials used are not consistent with the materials found in the existing streetscape and are out of character.	No
C12 New development when viewed from the street is to be compatible with the character of buildings within the site's visible locality by using similar shaped windows, doors and similar building materials.	The development as stated above is inconsistent with the existing heritage streetscape of the HCA due to built form, bulk, setbacks and materials.	No
C13 Building design is to ensure individual dwellings can be identified clearly from public streets.	The proposal is for shop top housing not individual dwellings	N/A
C14 A street number for the property is to be clearly identifiable from the street.	This has not been demonstrated on the development.	No
C15 Awnings must be provided continuously along the shop frontages to provide pedestrian shelter to the footpath area.	An awning along Botany Road is provided for the development.	Yes
C16 Air conditioners must not be installed on street awnings or the front facade of buildings.	This has not been demonstrated on the proposal.	No
C17 Development design is to encourage active street life while providing a high residential amenity	The proposal does not provide high residential amenity with limited sunlight to a number of units, reduced floor to floor heights between stories,	No

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		limited car parking on site and private open space.	
C18 Development must comply with Council's sustainable development requirements as identified in Part 3H - Sustainable Design.		A Basix Certificate has been provided however as the design has been modified no amended BASIX Certificate has been provided.	No
C19 Vehicular access on Botany Road must be avoided where access is available from a side street or rear laneway.		Access is provided off Botany Road as there is no secondary street.	Acceptable
C20 Where a rear laneway exists loading and unloading must occur from the laneway.		No rear lane exists	N/A
C21 Development must comply with Part 3A - Car Parking.		The development does not comply with car parking	No – Refer to Part 3A above
C22 Through site links and arcades are encouraged with new development to improve pedestrian access and safety.		No site links proposed and are not warranted as industrial is located behind the site.	N/A
5.3 General Controls			
5.3.1.2 Height	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.	As discussed above, the development does not comply with the maximum building height of 14 metres under the BBLEP 2013 or with the desired future character under Figure 24	No – Refer to Note 12 above
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	The proposal has a single storey street wall with the upper levels setback. The applicant has designed this to attempt to replicate the single storey streetscape however the result is not successful. The upper levels should be further setback away from the street.	No

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	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 provides a nil boundary setback along the southern elevation and limited setback along the northern elevation where balconies are located within 3 metres of the boundary. There is concern to visual privacy onto the neighbouring property as well as compliance with the BCA.	No – Refer to Note 8 above
	C2 Development to which SEPP 65 applies are to adhere to the Apartment Design Guide for building separation.	SEPP 65 and ADG assessment has been carried out above.	See 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 is the first of its kind in this portion of Botany Road and will set a precedent in street wall height. The surrounding developments are single storey dwelling houses therefore there is no continuous street frontage and awning height.	No
5.3.2.1 Design Excellence	C2 The Development Application must identify how design excellence will be achieved in the proposed development.	The applicant has provided a SEPP 65 assessment however this is not supported.	No – Refer to SEPP 65 assessment above
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 verification statement has been provided by the applicant however has not adequately addressed privacy.	No
	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	Screening is proposed to the balconies and windows along the northern elevation of the proposed development to assist in visual privacy however the limited setbacks are not sufficient.	No

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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 materials was submitted with the amended architectural plans.	Yes
5.3.2.3 Reflectivity	C3 The solar reflectance value of building materials must not exceed 20%.	This has not been considered.	No
5.3.2.4 Awnings and Verandahs	C1 New development must provide awnings above the footpath to provide weather protection for pedestrians.	The proposal provides for an awning over the front of the site.	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 of the Botany Local Centre.	No
	C2 Development must be designed so that it has a clearly definable entry and addresses the street.	The front entries to the commercial and residential are distinguishable.	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.	The primary communal open space area is located on the fourth level.	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.	The proposal provides one commercial tenancy at ground level however the size of the tenancy is less than 50% of the street frontage therefore is not considered active.	No – Refer to Note 14 above
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.	The front entry to the residential lobby is accessible from the public areas and may have concerns relating to security and safety.	No
	C2 Shadow diagrams must be provided for all development proposals for the summer and winter	Shadow diagrams have been provided for the development however they are not satisfactory.	No – Refer to Note 3 above

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	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.		
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	The proposal does not provide any setback from the street for landscaping however this contradicts the active street frontage requirement.	Acceptable
	C3 Provide a sufficient depth of soil on podium areas in accordance with the Council's Technical Guideline for Landscape in Development Sites.	Deep soil is provided within the rear setback which complies with the ADG requirements.	Yes
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.	The private open space is not located on the ground level at the front of the site.	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.	Communal open space is located on the fourth floor with communal area at ground level within the lobby. The communal open space is too small and cannot accommodate seating, landscape features and play areas.	No – Refer to Note 7 above
	C4 Where a site adjoins a residential property, 3 metre wide landscape planting must be provided along the common boundary to provide a visual separation between the residential and the non-residential development. The area is to be mass planted with tall shrubs and suitable dense trees.	Three metre wide landscaping has not been provided along the northern boundary which adjoins residential dwellings. The ground floor terraces obstruct any planting from occurring.	No

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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.	The proposal does not allow for any loading and unloading to be carried out from within the site.	No- Refer to Part 3A 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 spaces complying with AS2890.6. 	Access and mobility has been accounted for within the development.	Yes
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	The proposal provided an acoustic report which details aircraft and road noise. The acoustic report has not assessed the development within the right	No- Refer to Part 3J above

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	spaces away from noise sources and be protected by appropriate noise shielding techniques.	ANEF contour therefore cannot be relied upon.	
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 proposal is located in close proximity to the northern neighbour and contains their balconies facing the northern boundary. Privacy screening is proposed along the windows and balconies of these neighbours however as the balconies are within 3 metres of the boundary, it is considered that privacy screening would be ineffective.	No – Refer to Note 8 above
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 was accompanied by shadow diagrams at both mid-winter and equinox. The proposal will completely overshadow the southern neighbouring properties principal living areas and private open space.	No – Refer to Note 3 above

Note 18 – Site Consolidation

The proposed development application seeks to consolidate two sites at 1170 and 1172 Botany Road to have a total site area of 607.4sqm. The proposed development is irregular in shape with the site slightly narrowing towards the rear. The proposed development seeks a density and scale that is greater than the development standards for height and floor space ratio.

It is noted that the applicant has not demonstrated to Council attempts to consolidate with the sites to the south to allow for a larger site for a similar density. This would allow for a reduced height and spread out gross floor area however the applicant did not pursue this idea. Considering the size of the existing site and the proposed yield that the developer is seeking to achieve, the site cannot accommodate the development and is considered as overdevelopment.

Part 8 – Botany Character Precinct

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See Local Character section of the Affordable Rental Housing SEPP above which discusses local character.

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 has been used for residential in the past number of years however adjoining the rear, the site abuts industrial warehouses which may have impacted the soil and groundwater quality of the site. Additional testing would be required particularly if additional excavation is required.

The site is located within a 25-30 ANEF contour and is affected by traffic noise. An acoustic report was provided with the development application however modifications to the design of the development involving changes to the material have not been taken into consideration within the report. Additionally, the report originally carried out an assessment on a contour of 20-25 ANEF which is incorrect.

The proposed development is permissible in the zone however it does not satisfy the objectives of the zone.

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 thirty (30) day period from 15 November to 15 December 2017. Two (2) objections have been received and a summary of the issues is as below:

- Non-compliant southern setback and building separation
- Overshadowing and loss of privacy to existing and future potential development of the neighbouring site
- Loss of solar amenity
- Inconsistencies with Part 5 of the BBDCP 2013
- Integration of southern lots to achieve larger site
- Impact on heritage items to the north and inconsistencies with the local character within the heritage context
- Loss of dwelling value
- Excessive bulk and scale

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 these issues.

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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. 2017/1189 was lodged on 23 October 2018 seeking consent for an integrated development for the demolition and construction of a shop top housing development comprising of nineteen (19) units with six of the units as affordable housing, one commercial tenancy, basement car park and associated strata title subdivision at 1170-1172 Botany Road, Botany.

The proposal has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act. The non-compliances as listed above relating to the Affordable Rental Housing SEPP 2009, SEPP No. 65, the BBLEP 2013 and the BBDCP 2013 have not been addressed and it is considered that the proposed development is not suitable for this site and the developer is seeking greater density, scale and yield than what was envisaged for the site. The proposal is within a heritage context and it is considered that the proposal has not been designed to be compatible or consistent with the heritage nature of the HCA or the surrounding heritage items as well as the local character of the street. It is considered that the site is too small and narrow to accommodate a design and development of this size and nature.

The application the subject of two submissions which raised concerns relating to bulk and density, visual privacy, overshadowing, building separation and setbacks and heritage context. The issues raised as part of this application has been addressed throughout the report. Therefore the proposed development is recommended for refusal subject to the reasons of refusal in the attached schedule.

Attachment**Schedule 1 – Reasons for refusal****Premises: 1170-1172 Botany Road, Botany****Da No.: DA-2017/1189****REASONS FOR REFUSAL**

1. The proposed development, pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, is not consistent with the State Environmental Planning Policy (Affordable Rental Housing) 2009 with respect to the following:

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- a) Clause 13(1) - the proposed affordable housing component in the development is less than 20% of the total gross floor area proposed therefore no FSR bonus is applicable for the site. The proposed FSR does not comply;
 - b) Clause 14(1)(c)(ii) - the proposed landscaped area does not comply with the minimum 30% requirement;
 - c) Clause 14(1)(d) - the proposed deep soil area does not comply with the minimum 15% requirement;
 - d) Clause 14(1)(e) - the proposed development does not comply with the minimum 70% of apartments receiving at least 3 hours direct sunlight between 9am to 3pm mid-winter to private open spaces and living areas; and
 - e) Clause 16A – the proposed development is not compatible with the heritage and local character of the immediate area.
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 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment and the design criteria and guidelines of the following sections of the Apartment Design Guide with respect to the following:
- a) Part 2F - Building Separation - the proposed development does not comply with the minimum building separation requirements along the side and front boundaries;
 - b) Part 3D - Communal Open Space - the proposed development does not comply with the minimum 25% communal open space requirement;
 - c) Part 4C - Ceiling Heights – the proposed development does not demonstrate whether 2.7 metre high ceiling heights could be accommodated within the residential units. The proposal contains 3 metre high floor to floor levels;
 - d) Part 4D - Unit sizes - the proposed development does not comply with the minimum unit size requirement of 75sqm for two bedroom unit with second bathroom;
 - e) Part 4E - Balcony sizes- the proposed development does not comply with the minimum 15sqm private open space requirement for ground floor apartments; and
 - f) Part 4G - Storage- the proposed development does not comply with the minimum storage requirement within the units.
3. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 4.3 of the Botany Bay Local Environmental Plan 2013 relating to non-compliance with the height of building development standard of 14 metres. The Panel is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Botany Bay Local Environmental Plan 2013 in regards to building height.
4. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not

Item

Bayside Planning Panel 18/12/2018

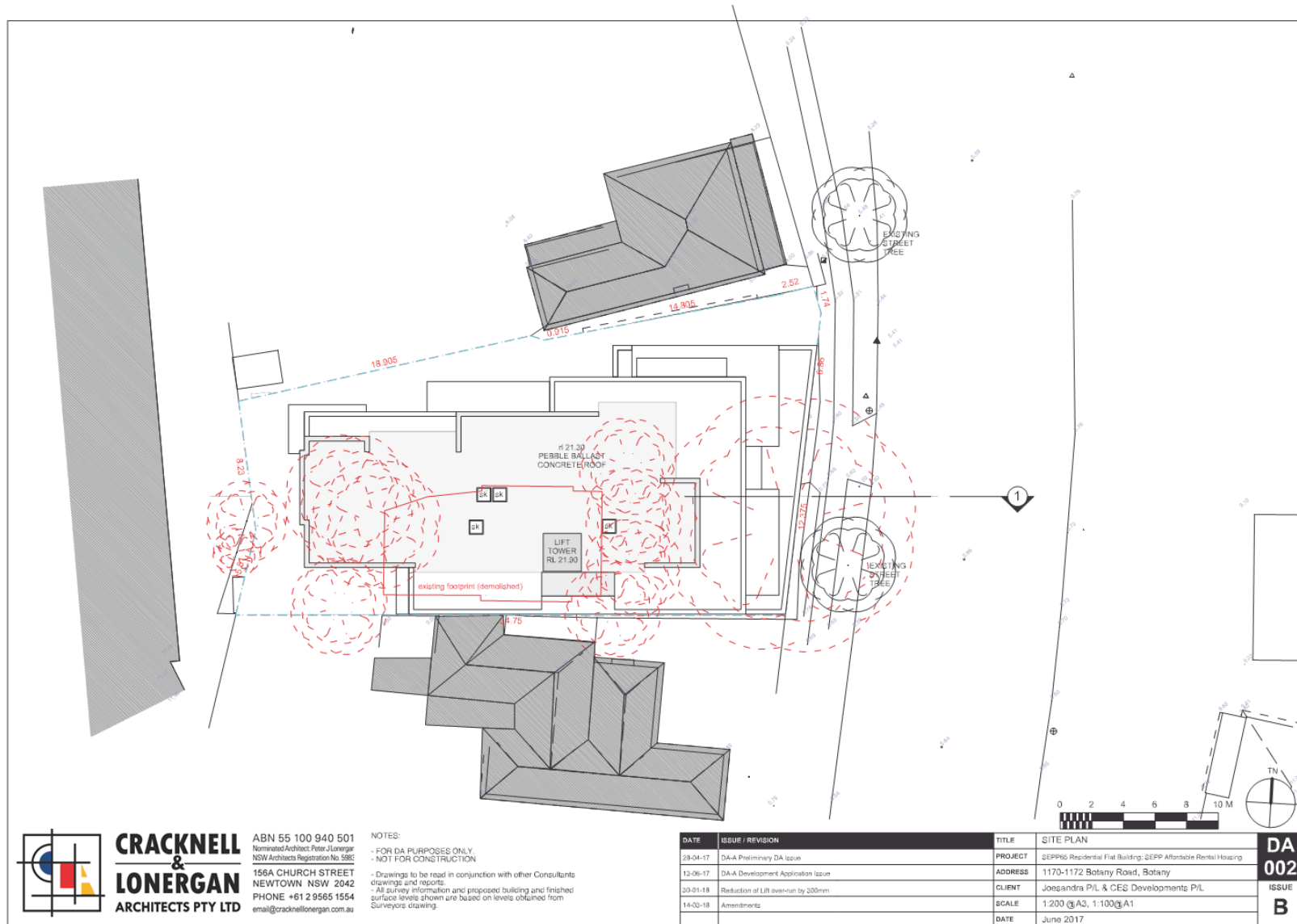
satisfy Clause 4.4 of the Botany Bay Local Environmental Plan 2013 relating to non-compliance with the floor space ratio development standard of 2:1. The Panel is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Botany Bay Local Environmental Plan 2013 in regards to floor space ratio.

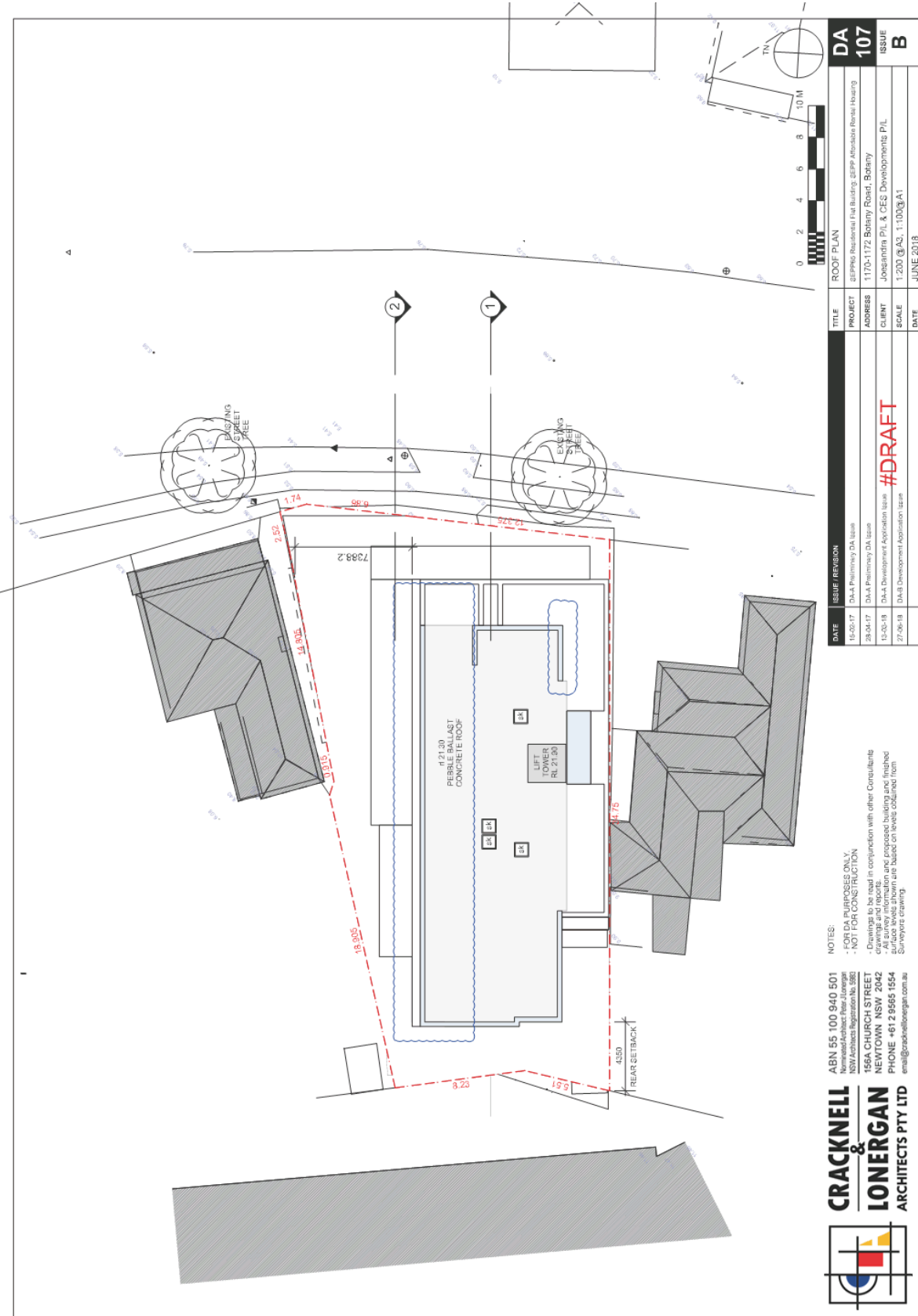
5. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development does not satisfy Clause 6.15- Active Street frontages of the Botany Bay Local Environmental Plan 2013 as the development provides insufficient active street frontage along Botany Road.
6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not meet the following sections of the Botany Bay Development Control Plan 2013 with respect to the following:
 - a) Part 3A – Car Parking and Access. The proposed development does not comply with the minimum car parking requirement under Table 1 of Part 3A.2- Parking Provisions of Specific Uses and does not provide loading and unloading facilities on site;
 - b) Part 3B – Heritage. The proposed development is not compatible or consistent with the existing built form and character of the Botany Township Heritage Conservation Area in addition to conserving the existing dwelling on the site;
 - c) Part 3G – Stormwater Management. The proposed development does not comply with Section 7.1(i) of Part 10 of the Botany Bay Development Control Plan 2013 and does not provide sufficient detail as to the On-site detention system proposed on the site;
 - d) Part 3J – Aircraft Noise and OLS. The acoustic report provided with the development application is not satisfactory as the report has assessed the site based on a 20-25 ANEF Contour which is incorrect;
 - e) Part 3N – Waste Minimisation and Management. The development proposal does not comply with the required garbage bins required as well as does not distinguish between the residential and commercial uses;
 - f) Part 4C.4.1- Dwelling Mix and Layout within High Density Residential. The proposed development does not comply with the maximum 25% studio/one bedroom requirement within high density residential/mixed use development;
 - g) Part 4C.4.2- Family Friendly Apartment Buildings within High Density Residential. The proposed development does not comply with the family friendly controls relating to separate living areas, waterproofing common areas, having two separate bathrooms and storage space requirements;
 - h) Part 5 – Business Centres. The proposed development do not comply with the objectives and controls of Part 5.2.2.7- Botany Local Centre of the Botany Bay Development Control Plan 2013 relating to site consolidation, desired future character, building height, setbacks, material choice, car parking, design excellence, building design, active street frontage, solar amenity, private open space, communal open space, servicing, visual privacy and solar amenity.

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7. The proposed development, pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, results in an undesirable and unacceptable impact on the streetscape and adverse impact on the surrounding built environment.
8. Pursuant to the provisions of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in terms of bulk, scale, size, height, density, inconsistent with local character and would adversely impact upon the amenity of the locality.
9. The proposed development, pursuant to the provisions of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, is not considered suitable for the site, in terms of its size of the site and density proposed in correlation with the existing heritage context of the street and is likely to adversely impact on the adjoining heritage items and heritage conservation area.
10. Having regard to the advice received from Roads and Maritime Services, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the development application cannot be supported on the basis of sightlines and right turn access.
11. Having regard to the issues raised in submissions received by Council in opposition to the proposed development, pursuant to the provisions of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the proposal results in unacceptable visual privacy, solar amenity, excessive density and heritage impacts on adjoining /nearby properties.
12. 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.



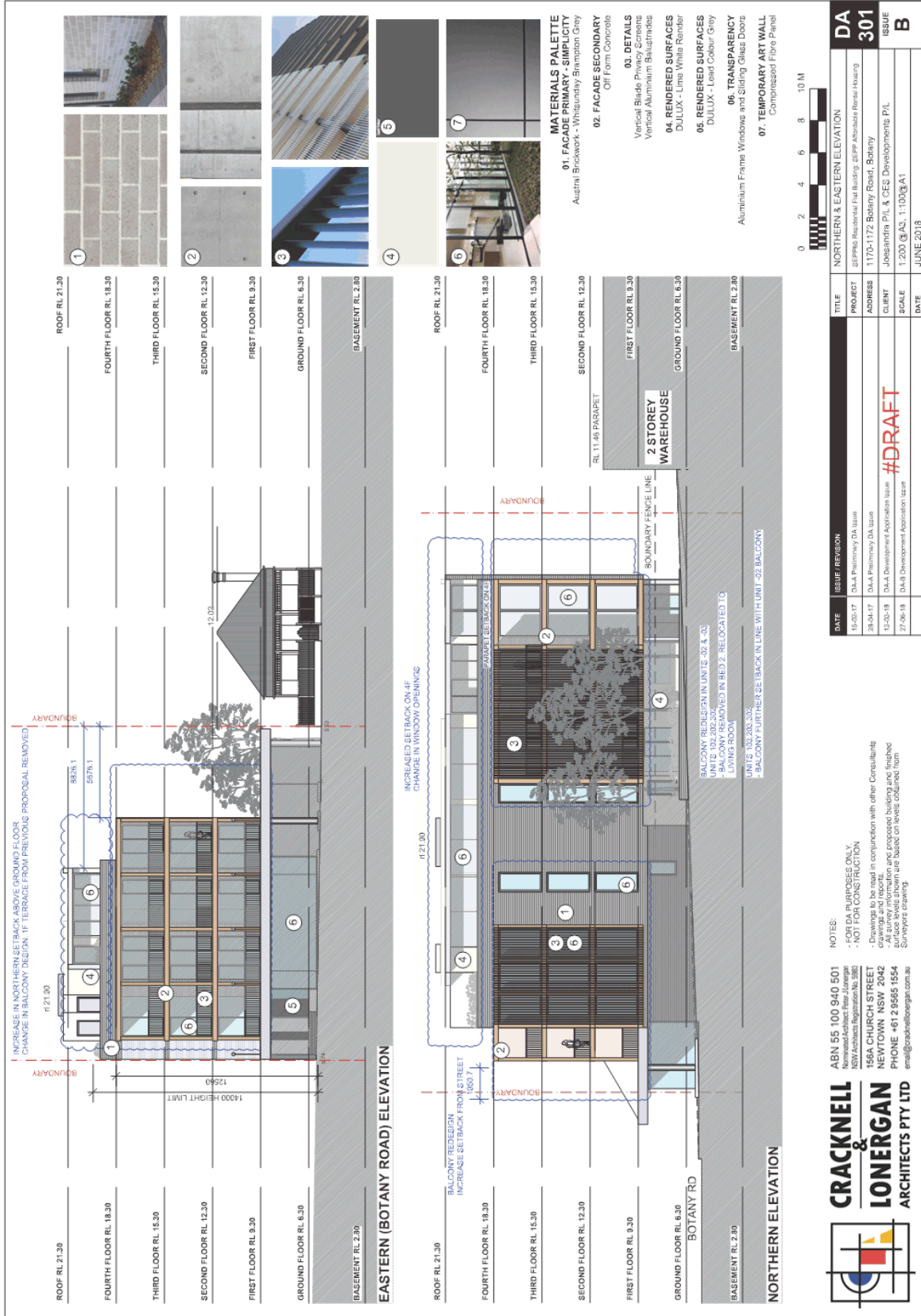


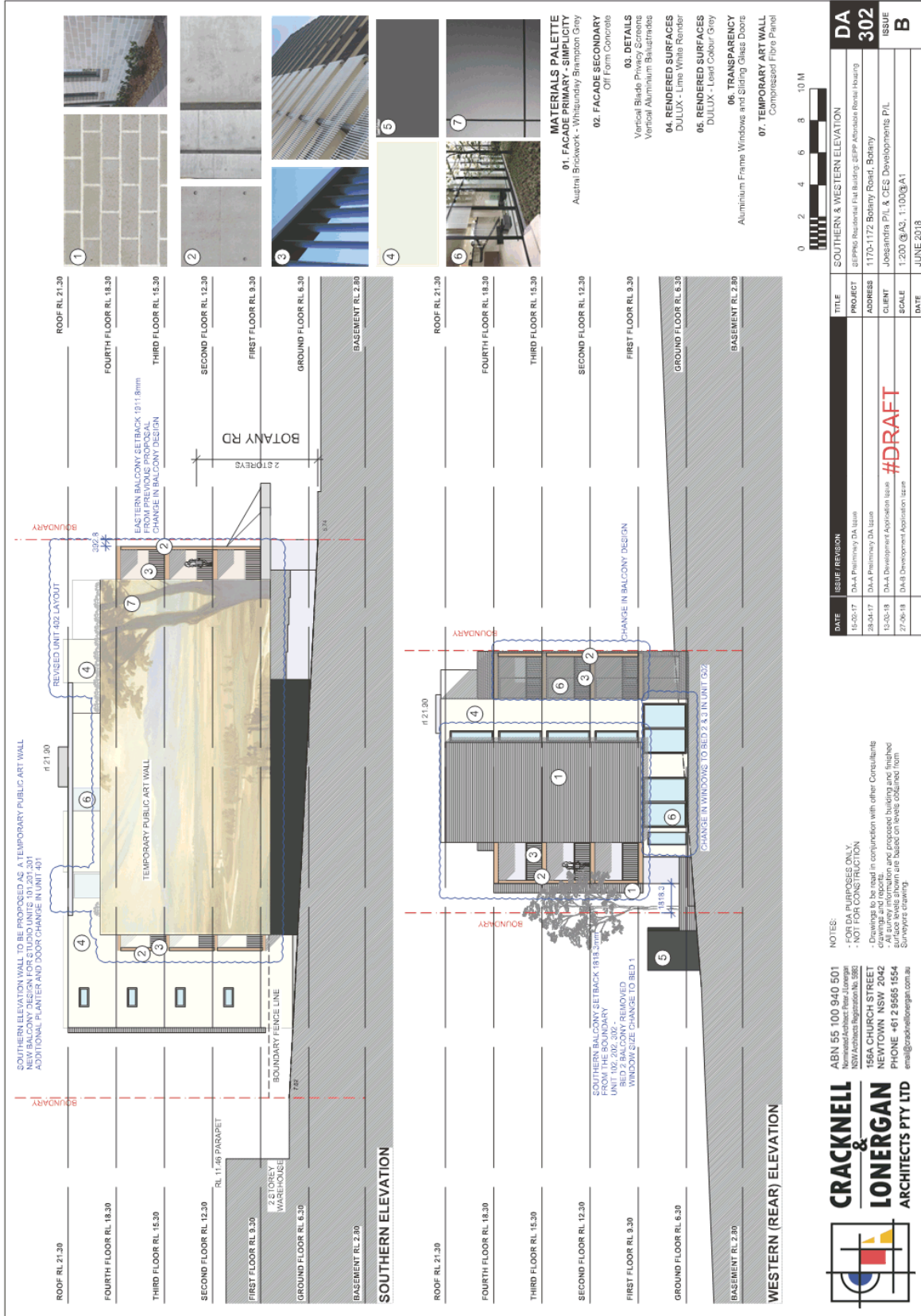
NOTES:
 - FOR DA PURPOSES ONLY.
 - NOT FOR CONSTRUCTION.
 - Drawings prepared in conjunction with other consultants.
 - Drawing is for information only.
 - All survey information and proposed building are finished.
 - Survey information are based on levels obtained from
 Surveyors drawing.

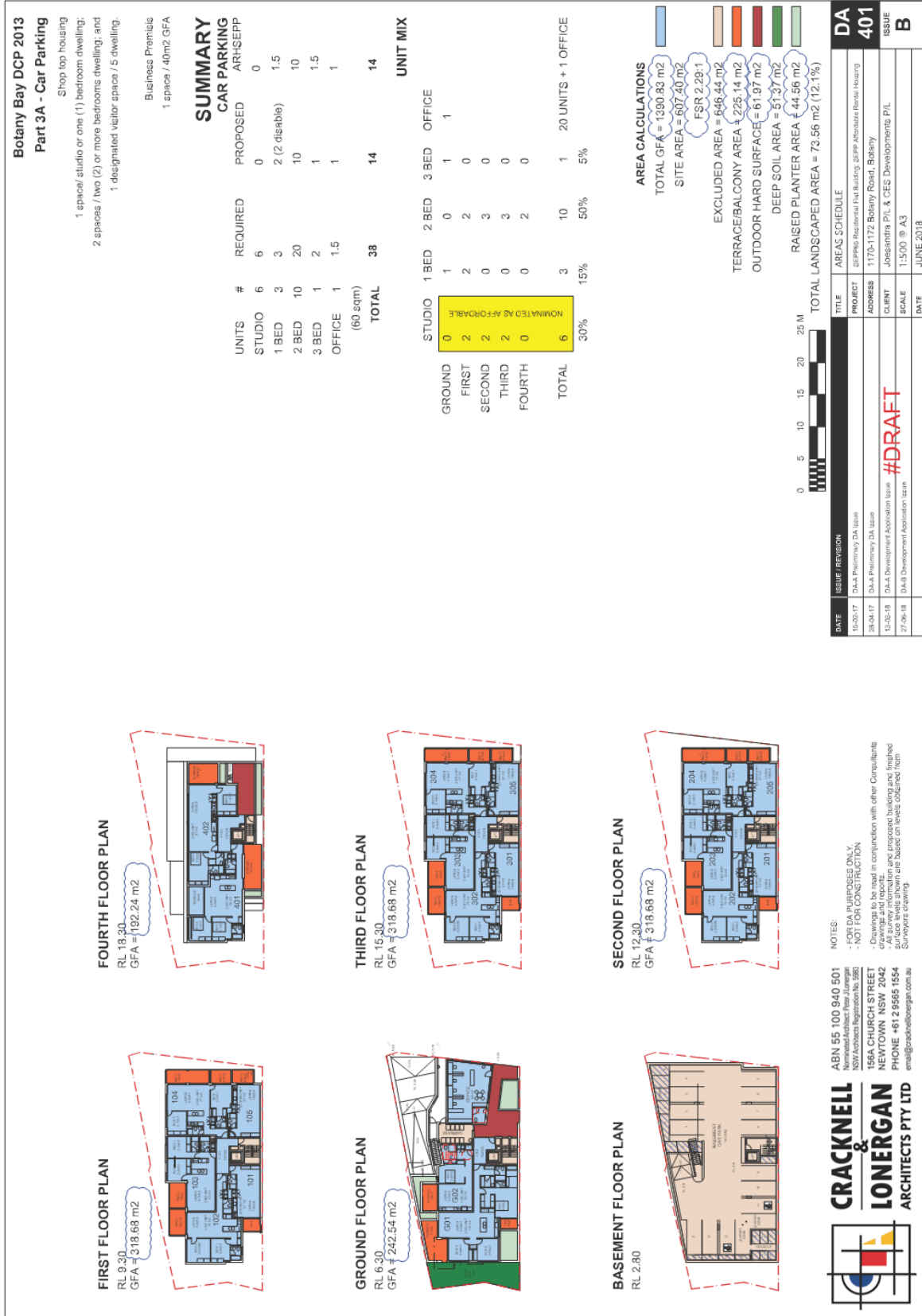
ABN 55 100 940 501
 NSW Architect Registration No. 5860
CRACKNELL & LONERGAN
 ARCHITECTS PTY LTD
 155A CHURCH STREET
 NEWTOWN NSW 2042
 PHONE +61 2 9565 1554
 email@cracknellorgan.com.au

DATE	ISSUE / REVISION	TITLE	ROOF PLAN
15-02-17	DAA Preliminary DA Issue	PROJECT	SEPP100 Residential Flat Building, SEPP Affordable Rental Housing
28-04-17	DAA Preliminary DA Issue	ADDRESS	1170-1172 Babbity Road, Babbity
15-02-18	DAA Development Application Issue	CLIENT	Jobsandra P/L & CFS Developments P/L
27-06-18	DAB Development Application Issue	SCALE	1:200 @ A2, 1:100 @ A1
		DATE	JUNE 2018

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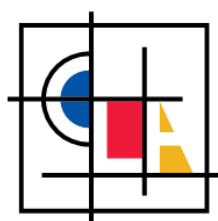


Clause 4.6 Statement

**1170-1172 Botany Road
Botany**

**Exception to
Development Standards:
Height of Buildings**

DA-A



**CRACKNELL
&
LONERGAN**
ARCHITECTS PTY LTD

Prepared on 31 July 2017
Prepared for Mr. Joe Sleiman

CRACKNELL
&
LONERGAN
ARCHITECTS PTY LTD

ABN 55 100 940 501
Nominated Architect: Peter J Lonergan
NSW Architects Registration No. 5983

156a Church Street
Newtown NSW 2042
(02) 9565 1554
email@cracknellonergan.com.au
www.cracknellonergan.com.au



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1.0 Project Details

Prepared On:

28 July 2017 [DRAFT]

31 July 2017 [FINAL]

Project Address:

1170-1172 Botany Road
Botany

Prepared For:

Mr. Joe Sleiman

Prepared By:

Cracknell & Lonergan
Architects Pty Ltd

Preamble

The following Clause 4.6 Exemption to Development Standard Statement has been prepared to assist the Bayside Council in making the assessment of the proposed works at 1170-1172 Botany Road, Botany. This document has been prepared in accordance with Clause 4.6 of the relevant Local Environmental Plan, which states that the Council may exercise flexibility in the application of development standards in particular circumstances.

The following statement has been prepared by Cracknell & Lonergan Architects Pty Ltd to accompany the Statement of Environmental Effects (SEE) and the Development Application for the proposed construction of a four storey mixed used residential flat building with ground floor office unit. The development comprises twenty individual self-contained units, of which 42% are SEPP Affordable Rental Housing (Division 1: Infill Affordable Housing) and fourteen basement car spaces.

The report in the subsequent pages is a submission pursuant to the requirements of Clause 4.6 of the Local Environmental Plan (LEP) to seek approval from Council for consent to be granted to an application that contravenes a development standard. The proposal seeks contravention from the LEP Clause 4.3 Height of Buildings. The maximum building height is 15.9 metres which represents a deviation from the height standard of 1.9 metres or 13.57% from the permissible building height standard of 14 metres.

It should be noted that as the application is made under SEPPARH, a Floor Space Ratio addition is in operation under Division 1, Clause 13, Sub-Clause 1 and 2. In light of this, it is noted that the proposal does not exceed the maximum permissible Floor Space Ratio for the site.

The subsequent sections of the report assesses the significance of the variation in accordance with the objectives of the original standard (Height of Buildings), the objectives of Clause 4.6 as well as relevant planning principles established in the New South Wales Land and Environment Court. The conclusion of this statement is that the proposal, whilst exceeding the numerical control of the development standard (Height of Buildings), is capable of complying with the objectives and will not represent an adverse addition to the locality. It is therefore the opinion of this statement that the development variation be supported to provide much needed affordable rental housing in Botany.



Peter Lonergan

Director
Cracknell Lonergan Architects Pty Limited
NSW Architects Registration No. 5983

2.0 Context of Objection to the Development Standard

2.1 Preamble

The following statement has been prepared by Cracknell & Lonergan Architects Pty Ltd to accompany the Statement of Environmental Effects (SEE) and the Development Application for the proposed demolition of seven (7) existing town house dwellings, removal of trees and the subsequent construction of a four storey building containing twenty-four (24) residential strata units with associated basement car parking and associated landscape works.

The report in the subsequent pages is a submission pursuant to the requirements of Clause 4.6 of the North Sydney Local Environmental Plan (LEP) to seek approval from Council for consent to be granted to an application that contravenes a development standard.



Streetview Photomontage of Proposed Development as seen along Botany Road

2.0 Context of Objection to the Development Standard



Botany Road streetscape of the subject site



Commercial/industrial development behind the subject site



Recent residential development on Botany Road

3.0 Clause 4.6 Objection

3.1 The Development Standard

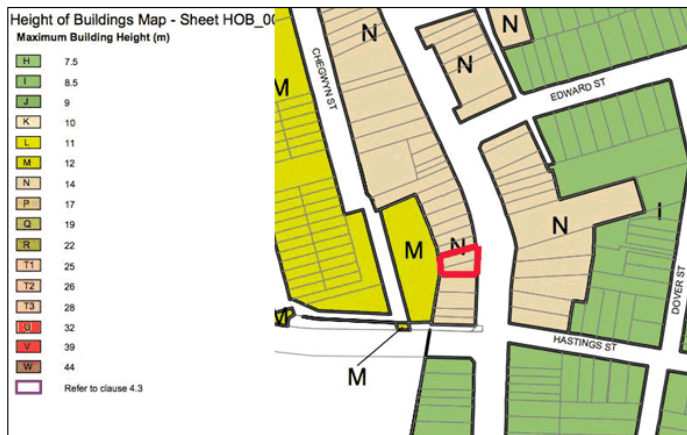
Pursuant to Clause 4.6 of the Botany Bay Local Environment Plan (LEP), this objection seeks to vary the building height standard stipulated in Clause 4.3 which states that:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The relevant portion of the Heights of Building Map (Sheet HOB_002) of the Botany Bay LEP shown in Figure 01 below indicates that the maximum permissible height for the subject site is 14 metres.

It is also noted for reference that the objectives of the standard area as follows:

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



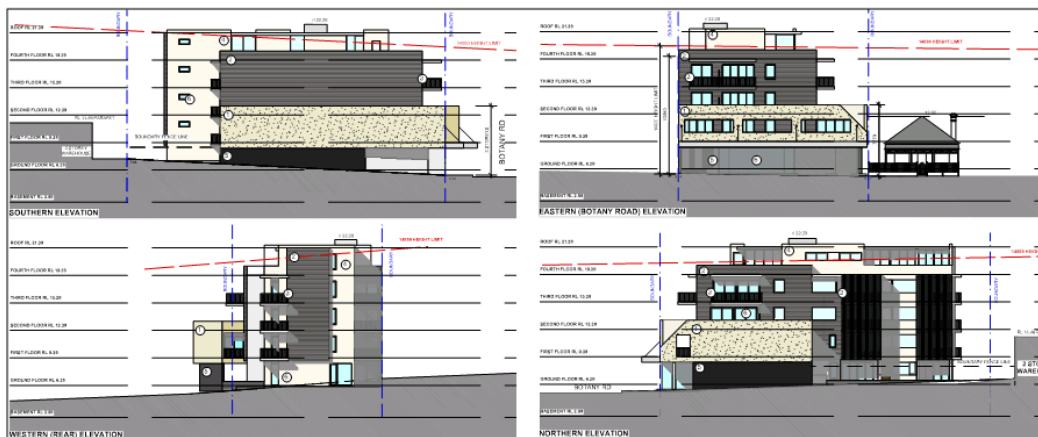
LEP Maximum Height of Buildings Map (14m) - Subject Site Highlighted

3.0 Clause 4.6 Objection

3.2 The Proposed Variation

An extract from the architectural plans illustrated here in Figure 02 below shows key elevations of the building. Highlighted in red are the extents of the non-compliance and the proposed variation of the building height standard.

LEP Clause 4.3: Building Height						
	Ground Level (RL)	Proposed Height Level at Parapet or Roof (RL)	Proposed Building Height (m)	LEP Permissible Height (m)	Proposed Variation from Standard (m)	Percentage of Deviation from Standard (%)
Residential (GFA) Components	RL. 6.30	RL. 21.60	15.30 m	14.00 m	1.30 m	9.29%
Services and Elevator Core	RL. 6.30	RL. 22.20	15.90 m	14.00 m	1.90 m	13.57%



Elevations of Proposed Development with Building Height Plane shown in Red

4.0 Assessment of Clause 4.6 Objectives

Clause 4.6 Objectives

a) To provide an appropriate degree of flexibility in applying certain development standards to a particular development.

The proposed non-complying building height of the residential flat building consists of 15.3m (residential and community) and 15.9m (services core), with three key intended purposes:

- To provide adequate community facility amenity by providing a generously sized outdoor recreation space.
- To accommodate the housing needs of the locality through the permissible additional Floor Space Ratio arising from the provision of SEPP Affordable Rental Housing.
- To provide for a lift and ventilation overrun.

In taking these needs for the successful construction of a residential flat building on the proposed site into consideration, it should be noted that the part of the proposed works where a building height greater than 14 metres occupies a small portion of the overall building footprint and building bulk. The scale, height and bulk form is adequately resolved through a careful articulation of the building façade to reduce the visible sense of bulk and scale. The selection of a lightweight articulation for this top floor, with louvred full height openings and delicate intercolumniations provides an articulated reading of the top floor elevation, contrasted against the primarily brickwork façade of the proposition.

As evidenced in the street level photomontage submitted with this application, a person of average height viewing the building at street level along Botany Road would not see any of the top floor, given its significant setback from the street and side boundaries. Moreover, the top floor of the proposed residential flat building is clearly not immediately or clearly visible from the adjacent rear sites.

The SEE which accompanies this application has already demonstrated beyond reasonable doubt that there will be no disruption to existing significant view corridors, no significant loss of privacy and no significant visual intrusion upon the streetscape despite the minor numerical excess in the maximum building height. The impact upon the current amenity of the neighbours will be minor and any additional overshadowing arising from the development will still maintain the minimum two our solar access at mid-winter to private open spaces of the adjoining properties.

Flexibility in the building height standard is in this particular instance, justifiable and it is believed that strict compliance is unnecessary as it will result in the significant loss of amenity to the proposed apartments. An adherence to the height standard in this instance would be tantamount to an underdevelopment of the site and would not be in keeping with the Botany LEP's zoning of the site for B2 Local Centre, nor would it be in keeping with the Botany DCP intention of providing new and high density apartment living to an area with close proximity to key transport corridors into the CBD.

4.0 Assessment of Clause 4.6 Objectives

Clause 4.6 Objectives

b) 1. To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The key objectives of the subject site's zone B2 Local Centre, as stipulated within the North Sydney LEP states that development on the site should:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

In considering the wider height plane which permeates the locality, it is extremely important to note that buildings which adjoin this site along Berry Street have a permissible height of well over 100 metres. Along Edward Street however, another key boundary for the site, the buildings are permitted to have a height no more than 9 metres. This information is clearly represented in the building height plane map previously shown.

The proposal seeks to negotiate the various changes in scale, bulk and height of the Botany Township Neighbourhood. As such, it is believed that a better design outcome which adheres to the aforementioned objectives is achieved by transgressing the 14 metre height plane in order to provide adequate flexibility for the proposed development to offer an appropriate visual transition along Botany Road.

The proposal seeks to provide twenty (20) residential apartments, with not only a mix of studio, one, two, three bedroom options but also providing 20% adaptable living units to the Silver level of the Australian Livable Housing guidelines. Furthermore, it is recognised that nine (9) units, all studios and one bedroom apartments are dedicated as SEPP ARH units. This is equivalent to 45% of the housing GFA and 42% of the total GFA of the development. This represents not merely a numerical increase in the number of residential properties from one dwelling house, but represents a significant increase in the urban density and an undeniable improvement in the amenity enjoyed by residents of the subject site.

The proposal will add a new layer of options available to an eclectic housing market, providing new facilities in the form of a roof top outdoor terraces. The development is therefore able to provide a high level of residential amenity, with only a moderate increase in the overshadowing of an existing neighbouring apartment blocks which but still ensuring that the adjoining neighbor enjoys the minimum required solar access amenity to its primary living space as stipulated within the DCP.

The proposed residential flat building, which is fully permissible and indeed intended within the B2 Local Centre Zone successfully, addresses all of the objectives and the desired character for the zone. The exceedance of the height restriction is considered to be a reasonable non-compliance because the resulting built form, the amenity to future residents of the site and the maintaining of existing amenity to neighbouring residents have all been considered and there are clearly better outcomes which will be enjoyed as a result of a minor exceedance of the building height standard in certain minor portions of the site.

4.0 Assessment of Clause 4.6 Objectives

Clause 4.6 Objectives
<p>2) Development consent may, subject to this clause be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p>
<p>The building height plane standard is not excluded from this clause.</p>
<p>3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</p> <p>3a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case</p>
<p>As previously discussed in sub-clause (1)(a) and (b), the strict adherence to the building height standard will not result in a better design outcome. It is therefore considered that the development standard is unnecessary given the unique circumstances of the case and in particular, owing to the bulk and scale transition necessitated by the site as the locality has buildings which varies significantly between a diverse range of single, two, three and four storey buildings.</p>
<p>3b) That there are sufficient environmental planning grounds to justify contravening a development standard.</p>
The Environmental Planning and Assessment Act (EPAA) 1979
<p>Flexibility in the application of the planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objectives specified in Section 5 of the Environmental Planning and Assessment Act 1979 with particular relevance in this instance being the following objectives:</p> <ul style="list-style-type: none"> <i>i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and a better environment.</i> <i>ii) The promotion and co-ordination of the orderly and economic use and development of land.</i> <p>In spite of the building's departure from the 14 metre constraint imposed upon the site by the development standard, it is fully believed that the proposal successfully adheres to the objectives as stipulated within the EPAA 1979 and acts in concert with the Botany Bay LEP. The project seeks to increase the housing stock currently available on the subject site to address a key need for increasing residential flat buildings in a locality which is situated near to a significant education precinct, a local business centre and a key transport artery with direct connections to Sydney CBD. The resulting proposal, which seeks to build 24 strata title units is wholly in keeping with the aims of the EPAA 1979 and makes an orderly, appropriate and economic development of a significant site.</p>

4.0 Assessment of Clause 4.6 Objectives

Clause 4.6 Objectives	
The State Environmental Planning Policy No. 65 (SEPP65) Design of Quality Residential Flat Buildings	
The design meets the SEPP65 amenity requirements, demonstrating the suitability of the site for the density proposed using careful planning and design strategies to reduce the environmental impact of the development. In specific relation to the variation from the development standard the proposal is able to successfully respond to the following objectives of SEPP65:	
i.	Objective 3B-1. Building types and layouts respond to the streetscape and site while optimizing solar access within the development.
3b) That there are sufficient environmental planning grounds to justify contravening a development standard.	
The State Environmental Planning Policy No. 65 (SEPP65) Design of Quality Residential Flat Buildings	
ii.	Objective 3D-1. An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.
COMMENT: The primary purpose of situating the primary communal open space on the top floor of the proposed development has been to improve residential amenity and satisfy this objective. Furthermore, placement of the communal open space on the top floor reduces the building footprint at ground level, enabling more opportunities for landscaping and a more considered retail address to the ground floor in line with this objective.	
iv.	Objective 3D-2. Communal Open Space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.
COMMENT: The purpose of the communal open space location on the top floor has been designed specifically to address this objective. Wide outdoor terrace areas provide passive and active opportunities for a wide range of activities to take place. The privileged views of this level will also provide amenity to all residents without impacting significantly upon the existing amenity enjoyed by neighbours.	
v.	Objective 3F-1. Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.
COMMENT: Notwithstanding the deviation from the building standard, the proposal maintains adequate separation distances as stipulated within SEPP65 and has generated a form within tight and unusual site constraints. The proposal achieves adequate levels of external and internal visual privacy by articulating windows and orientating the building and individual apartments in directions which minimize potential privacy impacts upon surrounding buildings and neighbours.	
vi.	Objective 3F-2. Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.
COMMENT: The proposal is able to maintain solar and natural ventilation access from the habitable rooms and private open spaces. The proposed apartments are almost all naturally cross ventilated and exceeds the minimum two hour solar access in mid-winter to over 70% of dwellings. The proposed building is able to balance the provision of these amenities to future residents whilst maintaining an adequate level of amenity to neighbouring residential development.	

4.0 Assessment of Clause 4.6 Objectives

Clause 4.6 Objectives
<p>CONCLUSION: The SEPP65 Design Verification Statement and the detailed Design Verification Report, an assessment of the proposal has been made by the nominated architect against all of the design guidance objectives and design criteria stipulated within the Apartment Design Guide (formerly, the Residential Flat Design Code). The findings of this statement, reiterated in this section of the Clause 4.6 statement, clearly and conclusively demonstrates that the proposal successfully interprets and adheres to the criteria stipulated and is therefore considered to be an appropriately design Residential Flat Building.</p>
<p>3b) That there are sufficient environmental planning grounds to justify contravening a development standard.</p>
<p>The Botany Bay Local Environmental Plan (LEP) and The Botany Bay Development Control Plan (DCP)</p>
<p>Clause 4.6 of the Botany Bay LEP allows the applicant to seek approval from Council (the consent authority) for consent to be granted to an application which contravenes a development standard, which in this case is the building height plane. A detailed consideration of how the proposal is able to satisfy the objectives of the development standard in question (Clause 4.3 Height of Buildings) is addressed in a detailed response in a subsequent section of this report.</p> <p>As outlined in previous sections of this report and in the detailed SEE, with the exception of the building height plane, the proposal successfully responds to and adequately addresses all of the provisions, controls and objectives of the Botany Bay LEP and the Botany Development Control Plan. It is the conclusion of the SEE that the proposal will not have significant adverse impacts upon the locality and its surroundings and that the amenity of the neighbours will be sufficiently respected and conserved.</p>
<p>4) Development consent must not be granted for development that contravenes a development standard unless:</p>
<p>a) The consent authority is satisfied that:</p> <p>i) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p>
<p>Sub-Clause 3 has been adequately addressed above and is also further addressed both in the subsequent sections of this document and in the Statement of Environmental Effects which accompanies the Development Application</p>

4.0 Assessment of Clause 4.6 Objectives

Clause 4.6 Objectives	
ii)	The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
	<p>The proposal successfully addresses the needs of the wider public because it is consistent with the needs of the zone (R2 Local Centre) as previously identified in assessment under Sub-clause (1)(b). To reiterate, the objectives of the zone are met by the proposal for the following reasons:</p> <ul style="list-style-type: none"> • The proposed development addresses a key housing need for a diverse range of housing options and provision of adaptable dwellings within contemporary apartment design. • The development sits comfortably within the existing and in particular, addresses the future desired character of the street and wider area. • The proposal takes full advantage of its privileged orientation and natural amenity as well as its proximity to key business and education precincts in Botany. The site is also situated near key transport corridors with a direct connection to the CBD. • The architectural response of the project adequately addresses the provisions outlined within SEPP65 and as such, provides an apartment project which will result in improved amenity to future inhabitants, whilst balancing and maintaining existing amenity to neighbours. • In accordance with the objectives and with the EPAA 1979, the proposal makes better social and economic use of land. • The proposal provides appropriate off-street parking which will alleviate pressures on local street parking needs. <p>For the reasons stipulated, it is concluded that the proposal is in the public interest.</p>
b)	The concurrence of the Secretary has been obtained.
	Not Applicable to this Submission.
5) In deciding whether to grant concurrence, the Secretary must consider	
a)	Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
	Not Applicable to this Submission.
b)	The public benefit of maintaining the development standard, and
	Not Applicable to this Submission.
c)	Any other matters required to be taken into consideration by the Secretary before granting concurrence.
	Not Applicable to this Submission.
	<p>Conclusion: In accordance with the provisions stipulated under Clause 4.6, a detailed comment is required in consideration of how the proposal, whilst seeking to be exempt from a development standard, in this instance Clause 4.3 Height of Buildings, is nevertheless able to satisfy and adequately address the objectives of the development standard.</p> <p>A response to each of the objectives (a) to (e) is addressed in this section of the statement.</p>

5.0 Assessment of Varied Development Standard Objectives

Clause 4.3 Objectives	
1) The objectives of this clause are as follows:	
a) To ensure that the built form of Botany Bay develops in a coordinated and cohesive manner;	<p>As previously stated, the part of the proposed works where a building height greater than 14 metres occupies a small portion of the overall building footprint and building bulk. The scale, height and bulk form is adequately resolved through a careful articulation of the building façade to reduce the visible sense of bulk and scale. The selection of a lightweight articulation for this top floor, with louvred full height openings and delicate intercolumniations provides an articulated reading of the top floor elevation, contrasted against the primarily brickwork façade of the proposition. Furthermore, the proposal seeks to negotiate the various changes in scale, bulk and height of the Botany Township Neighbourhood. As such, it is believed that a better design outcome which adheres to the aforementioned objectives is achieved by transgressing the 14 metre height plane in order to provide adequate flexibility for the proposed development to offer an appropriate visual transition along Botany Road.</p>
b) To ensure that taller buildings are appropriately located;	<p>The proposal is sited in an area where the typology of a SEPP65 Residential Flat Building is permissible and is within the vicinity of several significant residential apartment buildings. In its attempt to negotiate between these apartments as well as surrounding one and two storey houses and other industrial warehouses, the building has been appropriately setback from the street and side boundaries, and minimises the deviation from the height standard to an absolute minimum. Furthermore it is also reiterated that the proposed top floor addition is not in fact visible from the street as evidenced by the photomontage.</p>
c) To ensure that the building height is consistent with the desired future character of an area,	<p>In consideration of the desired future character statement, the presence of existing apartment development and the types of development permeating the area, it is fully believed that the proposed residential flat building, comprising a significant 42% of SEPP Affordable Rental Housing units will be beneficial to the desired future character of the area and is in accordance with the wider Sydney strategy of increasing urban density in sites where there are important infrastructural arteries.</p>
d) To minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development;	<p>The proposal has been designed specifically to enhance and address the compatibility between developments as the subject site is situated at a transitional zone boundary between a mix of warehouses, dwelling houses, shop fronts and apartments. All of these different types results in a diverse range of building heights between one, two, three and four storeys. The proposal is therefore an appropriate transition between all of these different building types and building heights. The proposal has also been appropriately set back in accordance with the requirements of the SEPP65 guidelines and furthermore, the hourly shadow diagrams demonstrates the ability for the development to comply with the minimum solar access amenity to be retained to neighbouring properties along the street.</p>
e) To ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.	<p>The proposed residential flat building, which is fully permissible and indeed intended within the B2 Local Centre Zone successfully, addresses all of the objectives and the desired character for the zone. The exceedance of the height restriction is considered to be a reasonable non-compliance because the resulting built form, the amenity to future residents of the site and the maintaining of existing amenity to neighbouring residents have all been considered and there are clearly better outcomes which will be enjoyed as a result of a minor exceedance of the building height standard in certain minor portions of the site.</p>

6.0 NSW Land & Environment Court Planning Principles

Other matters which are to be considered in the consideration an exemption to a development standard relate directly to the NSW Planning Principles provided by rulings of the NSW Land & Environment Court. Two key tests pertaining to the justification for an exemption are outlined in *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Winten Developments Pty Ltd v North Sydney Council* [2001] NSW LEC 46. These are discussed in the following sections.

5.1 *Wehbe v Pittwater Council* [2007] NSW LEC 827

In the decision of the commissioner in *Wehbe v Pittwater Council* [2007] NSW LEC 827, Chief Justice Preston expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. The five tests for this are tabulated and responded to.

1.1 *Winten Developments Pty Ltd v North Sydney Council* [2001] NSW LEC 46

In the decision of the commissioner in *Winten Developments Pty Ltd v North Sydney Council* [2001] NSW LEC 46, a means of assessment of the development standard variation being requested was established and is tabulated and responded to.

6.0 NSW Land & Environment Court Planning Principles

Webhe v Pittwater Council [2007] NSW LEC 827

01: The objectives of the standard are achieved notwithstanding non-compliance with the standard.

The objectives of Clause 4.3 Height of Buildings, as discussed in a previous section, are noted as follows:

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

The proposed non-complying building height of the residential flat building consists of 15.3m (residential and community) and 15.9m (services core), with three key intended purposes:

- To provide adequate community facility amenity by providing a generously sized outdoor recreation space.
- To accommodate the housing needs of the locality through the permissible additional Floor Space Ratio arising from the provision of SEPP Affordable Rental Housing.
- To provide for a lift and ventilation overrun.

In taking these needs for the successful construction of a residential flat building on the proposed site into consideration, it should be noted that the part of the proposed works where a building height greater than 14 metres occupies a small portion of the overall building footprint and building bulk. The scale, height and bulk form is adequately resolved through a careful articulation of the building façade to reduce the visible sense of bulk and scale. The selection of a lightweight articulation for this top floor, with louvred full height openings and delicate intercolumniations provides an articulated reading of the top floor elevation, contrasted against the primarily brickwork façade of the proposition.

As evidenced in the street level photomontage submitted with this application, a person of average height viewing the building at street level along Botany Road would not see any of the top floor, given its significant setback from the street and side boundaries. Moreover, the top floor of the proposed residential flat building is clearly not immediately or clearly visible from the adjacent rear sites.

The SEE which accompanies this application has already demonstrated beyond reasonable doubt that there will be no disruption to existing significant view corridors, no significant loss of privacy and no significant visual intrusion upon the streetscape despite the minor numerical excess in the maximum building height. The impact upon the current amenity of the neighbours will be minor and any additional overshadowing arising from the development will still maintain the minimum two our solar access at mid-winter to private open spaces of the adjoining properties.

Flexibility in the building height standard is in this particular instance, justifiable and it is believed that strict compliance is unnecessary as it will result in the significant loss of amenity to the proposed apartments. An adherence to the height standard in this instance would be tantamount to an underdevelopment of the site and would not be in keeping with the Botany LEP's zoning of the site for B2 Local Centre, nor would it be in keeping with the Botany DCP intention of providing new and high density apartment living to an area with close proximity to key transport corridors into the CBD.

6.0 NSW Land & Environment Court Planning Principles

Webhe v Pittwater Council [2007] NSW LEC 827
<p>In terms of the building's ability to respond to light and ventilation amenity, both the anticipated future residents and the existing neighbouring residents will continue to enjoy a good level of amenity. Shadow diagrams and street view photomontage included with the submission drawings clearly indicates that the building bulk, though deviating from the height standard, will nevertheless ensure that neighbours enjoy the level of solar amenity in mid-winter stipulated by the DCP. The future residents of the development at 1170 Botany Rd, Botany, similarly will be able to enjoy a level of solar amenity to their living rooms as required by SEPP65, in spite of difficult site constraints and a peculiar site orientation.</p> <p>Notwithstanding the deviation from the standard therefore, the objectives of the clause are adhered to and respected in order to produce a high-quality architectural solution to this part of Botany.</p>
<p>02: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.</p>
<p>Not Applicable to this Submission.</p>
<p>03: The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.</p>
<p>The underlying object of purpose would be defeated and thwarted if compliance was required, as a maximum 14-metre building cannot be reasonably considered to be a 'transition' for a surrounding with a clearly mixed palette of typologies and building heights. As two of the key objectives of the height of buildings standard clearly stipulate compatibility and appropriateness of scale, it is believed that a minor deviation from the 14-metre standard is necessary to justify an adequate transition in scale and bulk from the surrounding buildings. It is believed that the strict compliance with the development standard would also prevent an adequate density or scale which is being promulgated by the Land Zone (B2 Local Centre) and the desired future character of the area. Furthermore, the proposed SEPP ARH component of the proposal would also be thwarted by not exercising flexibility in the application of the building height standard as the proposal is seeking to provide for 42% of affordable housing in the development.</p>

6.0 NSW Land & Environment Court Planning Principles

Webhe v Pittwater Council [2007] NSW LEC 827
04: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and,
<p>It is advised that a Clause 4.6 Register (Formerly, SEPP 1 Register) could not be immediately or clearly identified from Council's website, a series of site visits conducted notes that along the vicinity of the subject site, several existing developments clearly exceed the fourteen metre height limit. Two of these examples are:</p> <ul style="list-style-type: none"> • 1421 Botany Road Botany - Presents a 9 metre street frontage, with higher apartments set back and an estimated height over fifteen metres. • 1141 Botany Road Botany - presents a 12 metre street frontage with further apartments set back and an estimated height also over fifteen metres. <p>In consideration of these two sites, it can be argued that Council is not necessarily opposed to development which seeks minor variations from the building height standard and that the local area is being developed to increase urban density. It can therefore be said that near to the subject site, the strict application of the building height standard has been abandoned by Council's own actions of granting consent for development which departs from the standard.</p> <p>[Information from Council's Clause 4.6 & SEPP01 Register Could not be located on Council's Webpage]</p>
05: The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.
<p>The exemption from the development standard does not reply upon this reason. It is worth noting however, as previously discussed, that the zone B2 Local Centre, with the key objective of increasing urban residential density is significantly compromised by the height standard of fourteen metres which does not necessarily occur within other sites within the Botany LGA. The strict application of the Botany Bay LEP Height of Buildings requirement would constitute an unreasonable restriction upon the potential for appropriate and economic development in accordance with the objectives of the EPAA 1979. As the building is able to generally comply with all of the LEP and DCP requirements pertaining to height and bulk, notwithstanding the minor deviation from the height plane, it is believed that the current design solution is considered to be suitable for the subject site.</p>

6.0 NSW Land & Environment Court Planning Principles

Winten Developments Pty Ltd v North Sydney Council [2001] NSW LEC 46
A. Is the planning control a development standard?
<p>Yes. Clause 4.3 Height of Buildings Sub-Clause (2) of the Botany LEP is a Development Standard. Furthermore, it is also recognised that SEPP65 objectives provide additional setback requirements for buildings, which have been addressed by this proposal.</p>
B. What is the underlying object or purpose of the standard?
<p>The objectives of Clause 4.3 Height of Buildings, as discussed in a previous section, are noted as follows:</p> <ul style="list-style-type: none"> • (a) to ensure that the built form of Botany Bay develops in a coordinated and cohesive manner, • (b) to ensure that taller buildings are appropriately located, • (c) to ensure that building height is consistent with the desired future character of an area, • (d) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development, • (e) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities.
C. Is compliance with the development standard unnecessary or unreasonable in the circumstances of this case?
<p>With reference to the multiple arguments made in the Clause 4.6 assessment of this report and sections of the SEE, it has been demonstrated that the strict compliance with the development standard is unnecessary in the particular and unique circumstances of this case. A summary of the key reasons for why the compliance with the development standard is unnecessary or unreasonable in the circumstances of this development is as follows:</p> <p>One of the key goals of deviation from the building standard is for the purposes of providing adequate building services, including mechanical systems and appropriate storage. This is not an irregular occurrence and indicates that the deviation from the development standard is not purely to provide additional residential apartments or an attempt to 'over-develop' the subject site.</p> <p>The second key aim for deviation from the building standard is for the provision of an adequate communal open space, which conforms to the requirements of SEPP65. It is fully believed that key views across the Botany area should be enjoyed communally and as such a roof top terrace with appropriate planting has been provided. This once again illustrates that the deviation of the development standard is for community benefit.</p> <p>Notwithstanding deviation from the building height standard, both the anticipated future residents and the existing neighbouring residents will continue to enjoy a good level of amenity in terms of solar access and natural ventilation. Shadow diagrams and 3D streetview photomontage included with the submission drawings clearly indicates that the building bulk, though deviating from the height standard, will nevertheless ensure that neighbours enjoy the level of solar amenity in mid-winter stipulated by the DCP. The future residents of the development at 1170 Botany, similarly will be able to enjoy a level of solar amenity to their living rooms as required by SEPP65, in spite of difficult site constraints and a peculiar site orientation.</p>

6.0 NSW Land & Environment Court Planning Principles

Winten Developments Pty Ltd v North Sydney Council [2001] NSW LEC 46

The exemption from the development standard does not rely on this reason however, it is noted that the zoning of a 14-metre height standard may be considered to be unnecessary when at least two other developments within the same locality (Botany Township) have been approved with a deviation from the building height standard. A design of a building with a maximum height of 14 metres would be considered unreasonable when other developments have been approved to exceed this standard. Finally, it is also recognised that, notwithstanding the numerical deviation, the objectives of the standard are achieved and successfully complied with.

Pertaining to this particular case, it is once again noted that the application of both the Botany LEP Height of Buildings requirement would constitute an unreasonable restriction upon the potential for appropriate and economic development in accordance with the objectives of the EPAA 1979. As the building is able to generally comply with all of the LEP and DCP requirements pertaining to height and bulk, notwithstanding the minor deviation from the height plane, it is believed that the current design solution is considered to be suitable for the subject site.

D. Is compliance with the development standard consistent with the aims of the Policy (to provide flexibility in the application of development standards); and, in particular, does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979?

The arguments contained within this Clause 4.6 variation support the case to allow flexibility in the application of the standard. The non-compliance with the development standard allows for an orderly and economic use of the land and has been addressed in detail in relation to the EPAA 1979 in Section 3.b of the Clause 4.6 assessment in this report. Additionally, it is further reiterated that:

- The departure from the height standard in the Botany LEP will not have negative consequences in terms of the proper management development and conservation of natural and artificial resources.
- The departure from the height standard in the Botany LEP allows for the orderly and economic use of the site in a manner which otherwise achieves the outcomes, objectives and adheres to the controls and criteria stipulated in other relevant planning documents.

E. Is the objection well founded?

As this document has demonstrated, the exception to the development standard has been appropriately addressed in accordance with the planning principle outlined in *Wehbe v Pittwater Council* [2007] NSW LEC 827 and the proposed deviation from the height standard is well founded.

7.0 Public Interest & Other Matters of State or Regional Significance

7.1 Proposed Development In The Public Interest

In order to reiterate some of the key points made previously pertaining to the matter of public interest, it is summarised that:

The proposed development addresses a key housing need for a diverse range of housing options and provision of adaptable dwellings within contemporary apartment design.

The development sits comfortably within the existing and in particular, addresses the future desired character of the street and wider area. It is able to address the objectives and provisions of the Botany LEP and DCP notwithstanding the deviation from the height standard.

The proposal takes full advantage of its privileged orientation and natural amenity as well as its proximity to key business and industrial precincts in Botany. The site is also situated near key transport corridors with a direct connection to the CBD.

The architectural response of the project adequately addresses the provisions outlined within SEPP65 and as such, provides an apartment project which will result in improved amenity to future inhabitants, whilst balancing and maintaining existing amenity to neighbours.

In accordance with the objectives and with the EPAA 1979, the proposal makes better social and economic use of land.

The proposal provides appropriate off-street parking alleviating pressures on the already strained local street parking needs. A detailed traffic report has been included as part of this Development Application which addresses this matter.

7.2 Matters of State or Regional Significance

The non-compliance with Clause 4.3 Height of Buildings standard does not raise matters of significance for State or Regional planning. The proposed development is consistent with the objectives, provisions and controls of SEPP65 in providing a quality residential flat building. It will likewise also provide for an important and diverse mix of flats to this area of Botany.

7.3 Public Benefit of Maintaining the Current Development Standard

There is no public benefit in maintaining the strict compliance with the development standard in this particular instance. On the contrary, the resulting building form, which would arise from the adherence to the building standard, would result in an unsuccessful transition in scale and bulk, which contrasts against the objectives of the development standard in question.

8.0 Conclusion

In summary, the strict application and compliance with the development standard which restricts the building height to fourteen (14) metres is unreasonable given the unique circumstances of this particular site in Botany. In recognising that the objectives of the development standard are met in spite of the departure from the height restriction, the proposal adequately and successfully achieves the desired outcomes of the original provision. In light of this, Council, being the consent authority, is therefore urged to support this Clause 4.6 Exemption to Building Height Standard for the proposed residential flat building at No. 1170-1172 Botany Road, Botany.

Bayside Design Review Panel

REPORT OF THE BAYSIDE DESIGN REVIEW PANEL

Meeting held on Thursday, 15 February 2018 at Bayside Council

Panel members: Mr Alan Cadogan – Deputy Chairperson, Mr Sam Crawford and Mr Dean Boone

ITEM 2

Date of Panel Assessment:	15 February 2018
Applicant:	JoeSandra P/L
Architect:	Cracknell and Lonergan Architects Pty Ltd
Property Address:	1170-1172 Botany Road, Botany
Description:	Integrated Development for the demolition of the existing structures, construction of a shoptop housing development (comprising of 20 residential units including six affordable housing units), 1 commercial tenancy and basement car parking with basement car parking and associated strata title subdivision into 20 lots
No. of Buildings:	1
No. of Storeys:	5
No. of Units:	20 - 6 x studio units, 3 x 1 bed units, 10 x 2 bed units, 1 x 3 bed units
Consent Authority Responsible:	Bayside Council
Application No.:	DA-2017/1189
Declaration of Conflict of Interest:	Nil

The Panel inspected the site, reviewed the submitted documentation and met with representatives of the applicant including J Protogeiros (M/Director CES Developments P/L), J Sleiman (M/Director Joesandra Pty Ltd), P Lonergan (M/Director Cracknell Lonergan Architects), I Lim (Senior Design Architect DKO), Hayden Green (Director Greenplan), N Traise (Architectural Grad DKO Architecture), J Scuderi (Head of Development, Landmark Group), N Byrne (Director DKO), L Nobel (Director Sturt Noble Landscape Architects) and Council's staff Ben Latta (Coordinator Development Assessment), Angela Lazaridis (Senior Planner).

Design Principle	Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The Panel considers that the design needs to give greater consideration to the immediately adjacent and surrounding heritage items. The current design does not respond to and enhance the qualities and identity of the area including the adjacent site on Botany Road, streetscape and neighbourhood.</p> <p>Consideration needs to be given to the setback of the adjacent heritage item and the immediate interface of the proposed development. Deviation from the two storey street wall requirements of the DCP is supported by the Panel to achieve a better interface. The Panel considers that the design for this site must achieve a transition between the heritage items and the streetwall control. In particular the northern part of the first two levels fronting Botany Road must be set back to the alignment of the front wall of the heritage item.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>See comments above in "context and neighbourhood character". In addition the Panel considers that while the scale of the proposed development is generally acceptable, the built form currently lacks cohesion and sophistication and presents almost like three unrelated buildings stitched together on the Botany Road frontage. The Panel recommends that the built form be revisited to address this issue.</p> <p>The Panel notes that the height of the ground floor ceiling will not achieve the 3.3 metres recommended by the ADG for the office space, but considers that this is acceptable in the circumstances given the small size of the tenancy and its access to natural light.</p> <p>The Panel considers that the height exceedence is not justified in the circumstances given the overall low level of design quality in relation to built form.</p>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The Panel considers the density of the proposed development to be generally acceptable.</p>
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of</p>	<p>The Panel notes that there are further opportunities for including sustainability initiatives in the design above and beyond those required by BASIX, such as solar energy generation, rainwater harvesting, etc.</p>

Design Principle	Comments
<p>residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The Panel considers that the landscape design is generally acceptable except in relation to the rooftop communal open space which should include more facilities for the buildings occupants including fixed planters with soft landscaping, seating and entertaining facilities such as a BBQ area.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The Panel considers the level of design quality to be poor in relation to amenity. Several apartments have poor outlooks and inadequate cross ventilation and solar access given the small size of the site and small building depth. The proximity of many balconies and windows to boundaries may result in further loss of amenity when fire separation measures are included in the design such as fire shutters/screens.</p>
<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p>	<p>The Panel notes that the drawings do not contain any security to the basement car parking, which is likely to require a roller shutter. This needs to be included in the design as it has the potential for a significant impact on the street frontage. There appears to be concealment opportunities near the garbage store and the foyer that are inconsistent with CPTED principles.</p>

Design Principle	Comments
<p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The Panel considers that the area of communal open space provided is unacceptably small and must be increased to meet the minimal requirements of the planning controls.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The Panel does not support the proposed materials and finishes for the building, particularly the sandstone cladding to level one and the painted render to blade walls at the ground level. At the meeting the applicant suggested off form concrete as an alternative to the sandstone. The Panel is not opposed to this but recommends that the applicant reconsider the overall building materiality to better respond to the heritage context.</p> <p>The Panel considers that the level of finishes to the driveway to the basement must be at a very high standard due to its proximity to the heritage item in order to achieve an acceptable interface. This level of finishes needs to be documented in the drawings.</p>

RECOMMENDATION

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

Bayside Local Planning Panel

18/12/2018

Item No	6.8
Application Type	Modification to Development Application
Application No	SF18/2589
Lodgement Date	07/06/2018
Property	DA-2014/235/2 - 109 Baxter Road, Mascot
Ward	Mascot
Owner	109 Baxter Road Pty Ltd
Applicant	109 Baxter Road Pty Ltd
Proposal	Modifications to approved commercial development.
No. of Submissions	Nil
Cost of Development	N/A
Report by	Michael McCabe, Director City Futures

Officer Recommendation





That the Section 4.55(1A) application for the Amendments to the approved commercial development is APPROVED subject to the following:

- a supporting the variations to the Height of Building and Floor Space Ratio development standards; ands
 - b modify Condition 1 relating to approved plans;
 - c modify Condition 6(a) relating to the modified building height; and
 - d modify Condition 11 to amend the development contributions.
-

Location Plan



Attachments

- 1 [Planning assessment report](#) 
- 2 [Architectural plans](#) 
- 3 [Statement of Environmental Effects](#) 
- 4 [Traffic and parking assessment report](#) 

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2014/235/2
Date of Receipt:	7 June 2018
Property:	109 Baxter Road, Mascot
Lot & DP/SP No:	Lot 10 in DP 1142739
Owner:	109 Baxter Road Pty Ltd
Applicant:	109 Baxter Road Pty Ltd
Proposal:	Modification of approved commercial building
Recommendation:	Approve the modifications, subject to conditions
Value:	Nil
No. of submissions:	Nil
Author:	Andrew Ison, Senior Development Assessment Planner
Date of Report:	18 December 2018

Key Issues

- The application is referred to the Bayside Planning Panel as the proposed amendments will involve an increase to the Floor Space Ratio that is greater than 10% of what is the prescribed development standard under the Botany Bay LEP 2013.
- The proposed number of car parking spaces is below the number required against the Botany Bay DCP 2013, however this has been assessed against the traffic and parking assessment report that has been provided by the applicant.

Recommendation

1. That the Section 4.55(1A) application for the Amendments to the approved hotel development, relating to modifications of the façade, increase in the height, internal modifications and relocation of the shared drop off zone on Baxter Road is **APPROVED** subject to the following:
 - (a) Supporting the variations to the Height of Building and Floor Space Ratio development standards; and
 - (b) Modify Condition 1 relating to approved plans;
 - (c) Modify Condition 6(a) relating to the modified building height; and

- (d) Modify Condition 11 to amend the development contributions.

Background

History

On 9 December 2015, DA-2014/235 was approved by the now former City of Botany Bay for the demolition of the existing site structures and the construction of a part six (6), part seven (7) storey commercial development including two (2) levels of car parking and associated landscaping.

Proposal

This modification application seeks consent for amendments to the approved commercial development. The amendments are as follows:

Lower Ground Floor

- Reconfiguration of the car parking arrangement and layout resulting in the lower ground floor having a total of 7 car parking spaces. 5 of these are located within an automated stacker system, with three levels;
- Addition of 2 motorcycle spaces;
- Reconfiguration of the waste storage area;
- Rearrangement of the pedestrian pathway within the car parking area including an introduction of a pedestrian egress and clearly labelled pathways;
- Relocation/removal of toilet and shower facilities to the upper ground level;
- Relocation of bike storage area from the upper ground level, providing storage for 10 bikes;
- Introduction of a storage room.
- Introduction of meter/switchroom cupboard; and
- Relocation of 2 x 1,800L Supertank from the first floor.

Upper Ground Floor

- Removal of on ramp, hardstand area and 5 parking spaces and replaced with 120m² of commercial space. The commercial suite is also provided with toilets, storage area and an end of trip facility which includes shower facility and lockers;
- A void area along the northern elevation to facilitate the upper level of the car stacker;
- The addition of a car share space along the eastern side forward of the building;
- Removal of waste chute system;
- Relocation of bicycle storage area to the lower ground floor; and
- Removal of lobby area.

First Floor

- All 3 commercial suites provided with a kitchenette;
- The floor area associated with the commercial suite situated to the northern portion of the building plate within the first floor (Commercial Suite 3) is increased from 50m² to 70m²;
- Removal of a green roof and replaced by wrap around commercial terrace per commercial suite;
- Reconfiguration of the bathroom facilities;
- Relocation of 2 x Supatanks to the lower levels and plant room to the roof;
- Removal of waste chute system;

- Reconfiguration of waste service rooms;
- Removal of metering cupboard; and
- Reconfiguration of lobby area

Second, Third and Fourth Floor

- Removal of a communal kitchen, with all 3 commercial suites provided with a kitchenette per level;
- The floor area associated with the commercial suite situated to the northern portion of the building plate per level is increased from 59m² to 70m², an overall increase of 33m² of commercial floor space over the three levels;
- Reconfiguration of the bathroom facilities;
- Removal of waste chute system;
- Reconfiguration of waste service rooms;
- Removal of metering cupboard; and
- Reconfiguration of lobby area

Fifth Floor

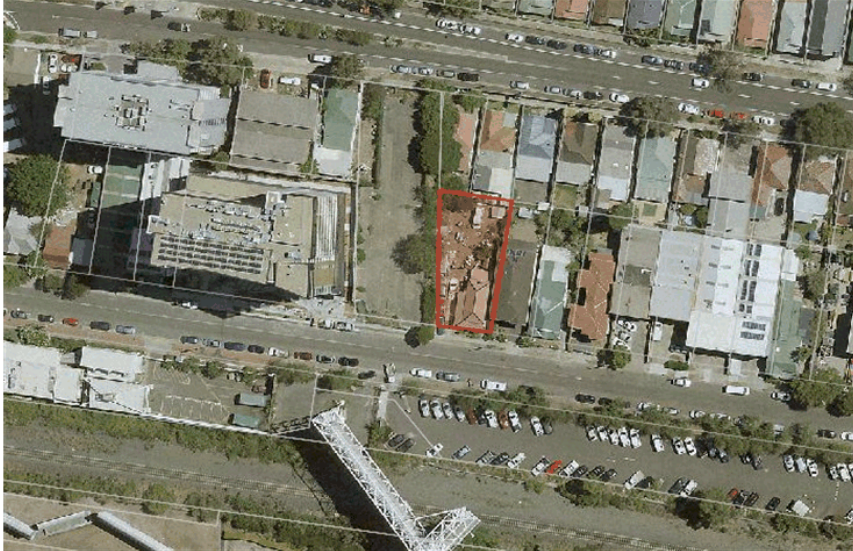
- Increase in the floor area associated with the commercial unit from 27.5m² to 142m² with a kitchenette and private terrace also provided;
- Reduction in the overall size of the rooftop terrace;
- Introduction of bathroom facility;
- Removal of waste chute system; and
- Reconfiguration and also an increase in the size of the lobby area.

Roof

- Minor increase in the roof surface to cover additional floor area associated with the bathroom facility and also to the lobby area, which has been increased in overall floor area.

Site Description

The subject site is commonly known as 109 Baxter Road, Mascot (Lot 10 in DP 1142739). It is located on the northern side between O'Riordan Street to the west and Botany Road to the east. The site is irregular in shape, an area of 528.7m², and at the time of the writing of this report contains the existing dwelling house and associated structures. The surrounding area is characterised primarily by commercial buildings and uses to the west and residential dwellings to the east. The subject site is located to the south east of the Mascot town centre, to the north of Sydney Airport and to the north of Joyce Drive.



Statutory Considerations

Environmental Planning and Assessment Act, 1979

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

S.4.55(2) – Other modifications

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

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

The modifications result in an increase to the approved gross floor area, however, there is no change in the number of storeys or to the footprint of the building, with the additional floor area coming from increased gross floor area on the ground floor and also the fifth floor. Whilst there is a minor increase to the height of the building, it does not change the bulk and scale of the building when viewed from either the street or a neighbouring property.

With all of the above considered, it can be concluded that the consent authority is satisfied that the proposed modifications will result in substantially the same development.

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or*

in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent

No concurrence was required.

- (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*

The application was placed on public exhibition from 15 June to 29 June 2018.

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

No submissions were received.

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

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

The following Environmental Planning Instruments are relevant to this application:

Botany Bay Local Environmental Plan 2013 (LEP)

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Land-use Zone	Yes	The site is located within the B5 Business Development zone.
Is the proposed use/works permitted with development consent?	Yes	The proposed development will be modifying the approved use of the site as a 'commercial' development, which is permissible with consent in the B5 zone.
Does the proposed use/works meet the objectives of the zones?	Yes	The proposed development is consistent with the following objectives of the B5 Business Development zone, namely to continue enabling a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of centres.
What is the height of the building?	---	The maximum building height allowed on the subject site is 22m. The proposed modifications increase the height to 22.52m.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Does the height of the building exceed the maximum building height?	No	See the assessment below.
What is the proposed FSR?	---	A maximum FSR of 1.5:1 applies.
Does the FSR of the building comply the maximum FSR?	No	The proposed modifications increase the FSR to 2.04:1. See assessment below.
The following provisions in Part 6 of BBLEP 2013 apply:		
6.3 – Stormwater management	Yes	No further comments required when reviewed by our Development Engineer.
6.8 – Airspace operations	Yes	The proposed modifications further increase the height beyond the 29.3m AHD that was approved in the General Terms of Approval issued by the Sydney Airport Corporation Limited and prescribed in Condition 6 of the DA consent. This has been referred to the Sydney Airport Corporation Limited (SACL) for review and have provided a response stating no objections to the increased height.
6.9 – Development in areas subject to aircraft noise		The subject site is affected by the 25-30 ANEF contour. An acoustic assessment was considered as part of the DA, with recommendations imposed as conditions of consent. Given that the building is for non-residential use, it is considered that the existing conditions are suitable with no further amendments required.

Height of Building

The proposed amendments increases the height of the building beyond the 22 metres as prescribed in the LEP by 700mm. This is a result of the lift over run as well as roof portion along the northern section of the building.

Given that it is a Section 4.55(2) application, a Clause 4.6 variation is not required to be provided by the applicant. Notwithstanding this, the applicant has still provided the following by way of a justification:

- *The area of non-compliance is limited to a small portion of the building footprint that will not increase the extent of overshadowing to adjoining properties.*
- *The extent of variation is of a very minor scale and contained at the mid-point of the building and therefore it is not perceived at street level.*
- *The lift over-run is necessary to meet relevant standards in order for the lift to run to the top of the building.*
- *The variation does not alter the character of the building or presentation of the building or alter or change any impact relating to privacy or view loss.*

Based on the above, Council agrees with all points above put forward by the applicant. Furthermore, Council has received referral comments from the Sydney Airport Corporation Limited stating no objections to the additional height.

On this basis, it is recommended that the minor increase to the height of the building is worthy of support.

Floor Space Ratio

The proposed amendments increases the FSR of the building beyond the 1.5:1 as prescribed in the LEP, with a total FSR of 2.04:1 proposed. This is a result of an increase to the gross floor area on both the ground floor and fifth floor.

Given that it is a Section 4.55(2) application, a Clause 4.6 variation is not required to be provided by the applicant. Notwithstanding this, the applicant has still provided the following by way of a justification:

- *The increase in the floor area comes from the conversion of approved car parking areas on the ground floor and a reduction in the roof top terrace on the fifth floor, with no increase to the building footprint and bulk and scale of the development;*
- *The provision of commercial floor space supports employment generation in a key strategic location;*
- *The proposal continues to provide adequate parking and associated end of trip facilities and the associated Green Travel Plan;*
- *The proposal continues to align with the specified zone objectives; and*
- *Finally the proposal continues to align with the objectives of the FSR controls.*

Based on the above, Council agrees with all points above put forward by the applicant. The building footprint is maintained and the presentation and design of the building relative to Baxter Road is maintained as per the approved DA.

On this basis, it is recommended that the minor increase to the height of the building is worthy of support.

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

The following Development Control Plan is relevant to this application:

Botany Bay Development Control Plan 2013

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

Part	Control	Proposed	Complies
Part 3A – Parking and Access	Office space – 1 space per 40m ² of GFA	The modified development proposes a total GFA of 1,078m ² which requires the provision of 27 car spaces when calculated at the rate of 1 space per 40m ² . The development proposes 18 car spaces.	No – see below
Part 3L – Landscaping	Landscaping must comply with Part 10 - Technical Guidelines for Landscaping on Development Sites.	Council's Landscape Architect has reviewed the proposed modification and has stated no objections subject to the completion of the prescribed development consent conditions.	Yes
Part 6 – Employment Zones			
6.1.4 Design Quality Principles	P2 – The improvement to the built form/urban form and public domain of the industrial business areas in the City	The proposed modifications continue to provide a variety of textures and finishes which creates visual interest in the building form. The development has also been designed to consider the amenity of adjoining non-business land uses.	Yes
	P4 – The efficient design, operation and function of industrial/business land uses	The modification continues to provide for all parking to be contained wholly within the building, all services for the development are also provided within the building structure including loading and unloading facilities.	Yes
	P5 – The need for a compatible and workable relationship between industrial/business and non-industrial/business uses	The development achieves adequate setbacks to non-business related land uses, and will not adversely impact upon these land uses by way of noise and air quality impacts. The application has been accompanied by a Traffic	Yes

		Report which concludes that the development will not adversely impact upon the functioning of the surrounding road network	
6.2 - Precinct Controls			
	<p>C5 – Development must not adversely impact the Sydenham-Botany Goods Rail Line.</p> <p>All development in, or immediately adjacent to the rail corridor or a busy road is to be designed in accordance with the NSW Department of Planning – Development Near Rail Corridors and Busy Roads – Interim Guidelines December 2008</p>	The proposed modifications are not considered to impact the Sydenham-Botany Goods Rail Line.	Yes
	C7 – Development shall be designed and constructed in accordance with AS2021 (Aircraft Noise Intrusion)	The approved acoustic report and its recommendations can be applied to the proposed modification, as prescribed under condition 42.	Yes
6.3 General Provisions			
6.3.2 Building and Site Layout	C8 – New buildings within close proximity to residential areas are to be designed to minimise overshadowing, overlooking, lighting, dust or fumes.	The extent of the overshadowing on to neighbouring properties does not change when compared to that of the approved plans.	Yes
6.3.4 Building Design and Appearance	C3 – Compliance with CASA requirements	SACL has provided concurrence for the proposed modified maximum building height.	Yes
	C4 – The maximum height of development must be compatible with the height of other buildings in the immediate vicinity unless proper planning reasons are presented for the discrepancy.	The maximum height of the development whilst not compatible with the immediate vicinity is compatible with nearby development being the Quest Apartments (Robey Street), the Stamford Hotel (Ó'Riordan Street) and other development located along O'Riordan Street. The proposed development is one	Yes

		<p>of the first applications in this area of Baxter Road to take advantage of the zone, FSR and building height changes under BBDCP 2013. The proposed development is in accordance with the Council's desired future character of the area.</p>	
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Car parking

The Mascot Town Centre Precinct Transport Management and Accessibility Plan (Mascot TMAP) applies to this site, and has been applied to a number of applications in the Mascot area. The car parking rates and traffic analysis within the TMAP have a rate of 1 space per 80 square metres. On this basis, a total of 14 spaces are required. With 18 spaces proposed, there is a surplus of 4 spaces.

Furthermore, the site is located in close proximity to public transport (including buses and the Mascot train station), and there is also provision for alternative transport options for bicycle spaces. The site is in close proximity to the regional cycleway network.

The reduction in car parking provision on the site will achieve a positive outcome as it will serve to minimise traffic impacts associated with the proposed modifications which is of critical importance in this location, and will serve to encourage higher public transport patronage as well as walking and cycling. As such, this is considered to meet Clause 1.2 of the Botany LEP, being the aims of the plan in that approach taken for car parking encourages sustainable economic growth and development by reducing the reliance on the motor vehicle and utilising an existing built form.

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

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

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

As outlined in the assessment above, 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 proposal does not alter the conclusions that were resolved and approved within the development consent and subsequent modifications. It does not impact on the zone of influence with the railway and Sydney Airport.

The proposed development is permissible in the zone and satisfies the objectives of the zone. There are no significant planning issues 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 Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period. No submissions were received.

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

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

Section 7.11 Development Contributions

The proposed modifications result in an increase in the gross floor area, and hence a revised contributions amount is required. Condition 11 in the attached Schedule of Conditions has been amended to reflect this.

Conclusion

Development Application No. 2014/235/02 for the modification of approved commercial building at 109 Baxter Road, Mascot has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 109 Baxter Road, Mascot

DA No: 2014/235/02

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

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

Drawing No.	Author	Dated/Received by Council
Architectural Plan No.'s DA 002A; DA 001B; DA 003A DA 101G; DA 102F; DA 103C; DA 104B; DA 105B; DA 106A DA 201C; DA 202C; DA 203E; DA 301C; DA 302D; DA 303F; DA 401A; DA402A; DA 403B	Bureau SRH	Received by Council 29 June 2015 13 November 2018 (DA-2014/235/2)

DP-001A S96002 Site Analysis Plan Rev 3 S96003 Site Plan Rev 3 S96101 Lower Basement Plan Rev 3 S96102 Ground Floor Plan Rev 3 S96103 First Floor Plan Rev 3 S96104 Typical Floor Plan Rev 3 S96105 Fifth Floor Plan Rev 3 S96106 Roof Floor Plan Rev 3 S96201 South / Street Elevation Rev 3 S96202 West Elevation Rev 3 S96203 North Elevation East Elevation Rev 3 S96301 Section A-A Rev 3 S96302 Section B-B Rev 3 (DA-2014/235/2)		
SK00; SK001; SK002	Carmichael Studios	Received by Council 29 June 2015
Sheet 1 of 3/A; 2 of 3/A & 3 of 3/A	ING Consulting Engineers Pty Ltd	Received by Council 30 September 2014
Survey Plan No. 4829-DET	Usher & Company	Received by Council 30 September 2014

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

Document Name	Author	Date Received by Council
Statement of Environmental Effects as Amended	Think Planners	Received by Council 29 June 2015

Document Name	Author	Date Received by Council
BCA 2014 Indicative Compliance Report	Building Certificates Australia Pty Ltd	Received by Council 30 September 2014
Geotechnical Investigation	GDK	Received by Council 30 September 2014
Statement of Compliance Access for People with a Disability	Accessible Building Solutions	Received by Council 30 September 2014
Traffic and Parking Assessment Report	VARGA Traffic Planning Pty Ltd	Received by Council 30 September 2014
ESD Report	RENYI Building Sciences	Received by Council 30 September 2014
Materials Schedule	Bureau SRH	Received by Council 30 September 2014
Acid Sulfate Soil Investigation	Pacific Environmental	Received by Council 30 September 2014
Addendum – Statement of Compliance Access for People with a Disability	Accessible Buildings Solution	Received by Council 29 June 2015
Addendum – BCA 2014 Indicative Compliance Report	Building Certificates Australia Pty Ltd	Received by Council 29 June 2015
DA Noise Impact Assessment – Amended	Acoustic Logic	Received by Council 29 June 2015
Assessment for the Potential for Wind Shear	Windtech	Dated 13 October 2015
Contamination Assessment	Pacific Environmental	Received by Council 27 October 2015

No construction works shall be undertaken prior to the issue of the Construction Certificate.

2. This Consent relates to land in Lot 10 in DP 1142739, and as such, building works must not encroach on to adjoining lands or other public places, other than public domain work required of this consent, but not on land required for the widening of Botany Lane other than road works.
3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

4. The consent given does not imply that works can commence until such time that:-
- a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - i) the consent authority; or,
 - ii) an accredited certifier; and,
 - b) the person having the benefit of the development consent:-
 - i) has appointed a principal certifying authority; and,
 - ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) the person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

5. The following conditions form the General Terms of Approval dated 1 December 2014 by the NSW Office of Water and must be complied with:
- a) General
 - i) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
 - ii) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below ground levels that may be in contact with groundwater watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for reasonable foreseeable high water table elevations to prevent potential future inundation.
 - iii) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
 - b) Prior to excavation
 - i) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.

- ii) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the parameters (e.g. permeability predicted by slug testing, pump testing or other means) and calculation method shall be included in the report submitted to the NSW Office of Water in support of the dewatering licence.
 - iii) A copy of a valid development consent for the project shall be provided to the NSW Office of Water.
 - iv) Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
 - v) The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
 - vi) Contaminated groundwater (i.e. above appropriate NEPM 2013 investigation thresholds) shall not be reinjected into any aquifer without the specific authorisation of the NSW Environment and Protection Authority (any such discharge would be regulated through a licence issued under the Protection of the Environment Operations Act 1997 (POEO Act). The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.
- c) During excavation
- i) Engineering measures designed to transfer groundwater around the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
 - ii) Piping or other structures used in the management of pumped groundwater shall not create a flooding hazard. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
 - iii) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
 - iv) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be

- managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- v) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
 - vi) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.
 - vii) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety precautions.
- d) Following excavation
- i) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.
6. The proposed development is to comply with the General Terms of Approval dated 29 October 2015 issued by Sydney Airport Corporation Limited (SACL). The conditions are as follows:
- a) Height Restrictions
- i) The location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulation, which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
 - ii) The application sought approval for the PROPERTY DEVELOPMENT to a height of ~~29.3~~ 30 metres Australian Datum Height (AHD). **(DA-2014/235/2)**
 - iii) In my capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under instrument Number: CASA 229/11, in this instance, I have no objections to the erection of this development to a maximum height of 29.3 metres AHD. Should you wish to exceed this height a new application must be submitted.
 - iv) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulation Statutory Rules 1988 No. 161.
 - v) 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.
 - vi) Sydney Airport advises that approval to operate construction equipment's (i.e. cranes) should be obtained prior to any commitment to construct.
 - vii) Information required by Sydney Airport prior to any approval is set out in Attachment A.
 - viii) Prescribed airspace includes the airspace above any part of either an Obstacle Limitation Surface (OLS) of Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)).

- ix) The height of the prescribed airspace at this location is 48 metres above AHD.
- x) Planning for Aircraft Noise and Public Safety Zones

Currently planning provisions (s. 117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Air services in December 2012 (Sydney Airport 2033 ANEF).

Whilst there are currently no national aviation standard relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.

- 7. The proposed development is to comply with the recommendations provided by NSW Police Botany Bay Local Area Command, dated 1 December 2014. The conditions are outlined as follows, and relevant details shall be included in the plans and documentation submitted with the Construction Certificate:

- a) Passive Surveillance

- i) As the proposed development may be exposed to Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, anti-social behaviour, assault and robbery, a closed circuit television system (CCTV) which complies with the Australian Standard – Closed Circuit Television System (CCTV) AS: 4806:2006 needs to be implemented to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation. Facial recognition ability is crucial in identifying potential offenders
- ii) This system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas which are difficult to supervise.
 - 1 Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas.
 - 2 One or more cameras should be positioned at the entry and exit points to monitor these areas
- iii) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.
- iv) A monitored intruder alarm system which complies with the Australian Standard — Systems Installed within Clients Premises, AS:2201 <http://www.standards.org.au> should be installed within the premises to enhance the physical security and assist in the detection of unauthorised entry to the premises. This standard specifies the minimum requirements for intruder alarm equipment and installed systems. It shall apply to intruder alarm systems in private premises, commercial premises and special installations. The system should be checked and tested on a regular (at least

- monthly) basis to ensure that it is operating effectively. Staff should be trained in the correct use of the system.
- v) Detection devices should be strategically located throughout the premises to detect any unauthorised access. The light emitting diodes (LEDs red lights) within the detectors should be deactivated, to avoid offenders being able to test the range of the system.
 - vi) As a number of business premises have had telephone lines cut to prevent alarms being reported to the security monitoring company, a supplementary system such as Global Satellite Mobile (GSM) or Radio Frequency (RF) systems should be used to transmit alarm signal by either mobile telephone or radio frequency.
 - vii) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
 - viii) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
 - ix) Any proposed bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime.
- b) Lighting
- i) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
 - ii) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
 - iii) It is extremely important to have sufficient lighting in the car park of the development. It provides safety to staff and visitors and acts as a deterrent to thieves.
 - iv) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.

- c) Territorial Reinforcement
- i) The street number must be prominently displayed at the front of the property to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
 - ii) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - 1 Warning, trespasser will be prosecuted
 - 2 Warning, these premises are under electronic surveillance
 - iii) Directional signage should be posted at decision making points (e.g. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by intruders.
 - iv) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
 - v) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
 - vi) Signage needs to be provided to assist occupants to identify fire suppression equipment, e.g. extinguishers, fire hoses etc.
 - vii) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
 - viii) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
- d) Space Management
- i) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.clov.au> or Emergency Management Australia <http://www.emasiov.au>.
 - ii) Maintenance polices need to be developed and implemented for the proposed development to deal with rubbish collection and disposal, damage and repairs to property, e.g. Lighting and structures as quickly as possible.
- e) Access Control

- i) Doors should be fitted with locks that comply with the Australian Standard - Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included.
- ii) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from inside that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.
- iii) The windows and window-frames to these premises should be of solid construction. These windows should be fitted with locks with comply with the Australian Standard — Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specifies the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical windows, such a wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard. (e.g. locking bars, electronic locking devices, detection devices, alarms).
- iv) The windows to the business need to be secured to restrict access and increase surveillance opportunities to and from the business. Shops and businesses should avoid obstructed windows and doors as these environments are considered attractive by many armed robbers and thieves. Glass within windows can be reinforced by either having a shatter resistant film adhered internally to the existing glass, or by replacing the existing glass with laminated glass.
- v) Any finished manufactured products need to be stored in a secure area, away from the view of the public.
- vi) Fencing and gates should be of solid construction to withstand being rammed by a motor vehicle or consider the use of bollards and other physical objects to prevent access around the site.
- vii) Consider tyre spikes in areas that only should allow access one way (i.e. to stop the entrance being used as an exit).
- viii) Staff to be issued with personal security lockers.

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

8. The following fees are payable prior to the issue of the Construction Certificate:

a) Builders Security Deposit	\$41,520.00
b) Development Control	\$2,750.00
c) Section 94 Contribution	\$255,895.45
d) Tree Preservation Bond	\$1000.00
e) Baxter Road Cul-de-sac	\$30,000.00

9. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$41,520.00 (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.

10. Prior to the issue of any Construction Certificate, the applicant shall pay \$30,000 towards the construction of a cul-de-sac at the eastern end of Baxter Road.

11. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 7.11 Contributions Plans listed below a contribution of ~~\$255,895.45~~ **\$298,158.92** is required to be paid to Council prior to the issue of the Construction Certificate.

a) Community facilities	\$27,636.71
b) Administration	\$1,023.59
c) Transport Management	\$14,074.25
d) Open Space and Recreation	\$213,160.90
TOTAL S94 CONTRIBUTION \$255,895.45 \$298,158.92 (DA-2014/235/2)	

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.

12. Prior to the issue of the Construction Certificate the applicant is to provide Ausgrid with the completed load details for the development and a Connection Application form. If Ausgrid deems that a substation is required for the development, the substation and its location is to be indicated on the plans submitted with the Construction Certificate.

13. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. Any damage to utilities/services will be repaired at the applicant's expense.

14. The proposed traffic movements and parking arrangements within and adjoining the development shall conform with Australian Standard AS2890-1, Australian Road Rules; and the NSW Road Transport (Safety and Traffic Management) Regulation (and any other relevant legislation) unless otherwise stipulated by another condition of this Consent. Details

to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.

15. Prior to the issue of the Construction Certificate, a detailed Traffic Management Plan for the pedestrian and Traffic management of the site during demolition and 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 an 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 of the Police;
 - c) If required, implement a public information campaign to inform any road changes well in advance of each change.

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.
16. Prior to the issue of the Construction Certificate, amended plans and details shall be received that include the following changes to the proposed design:
 - a) The large window on the eastern elevation, servicing the area between the walkway and the lift shall be suitably screened for privacy to prevent any overlooking impacts upon the existing dwelling at No. 107 Baxter Road, Mascot;
 - b) The glass balustrade on the 6th Floor servicing the mezzanine level shall be suitably screened for privacy to prevent any overlooking impacts upon the existing dwelling at No. 107 Baxter Road, Mascot;
 - c) The northern elevation glass panelling (full external panel appearance) can remain as long as internally within the development these glass panels are treated to a minimum height of 1.5m above the finished floor level of each floor to prevent any user of the building from being in a standing/upright position and looking directly out the window over the residential properties located to the north of the site. This means that up to a minimum height of 1.5m above finished floor level this external wall shall be non-transparent to internal users. This will be a permanent fixture to the external wall and may not be removed at any time.
17. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.
 - a) Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued.
18.
 - a) Prior to the issue of a Construction Certificate, the applicant shall enter into a Planning Agreement to be prepared by Council's Solicitor's at the applicant's expense

- to provide for the existing above-ground cables in the streets adjoining the site to be replaced at the applicant's expense by underground cables to the standards of Ausgrid and other Standards/Carriers.
- b) The necessary undergrounding works shall be completed prior to the issuing of an Occupation Certificate.
 - c) The applicant shall be responsible for all existing street lights located within the footpath reserve along the entire Baxter Road site frontage of the development to be replaced with new street lights in accordance with the requirements of Australian/New Zealand Standard AS/NZS 1158-1997 'Public Lighting Code' and the requirements of the Roads and Maritime Services details to be submitted with the Construction Certificate.
19. Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
- 20.
- a) Prior to the issue of the Construction Certificate of any site clearing or demolition work, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a suitably qualified and submitted to Council.
 - b) A dilapidation report on public infrastructure (including Council and public utility infrastructure) adjoining the development site shall be prepared by a suitably qualified person and submitted to Council.
 - c) The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course the construction. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer's expense.
 - d) In addition, the following issues shall also be complied with: -
 - i) A copy of the dilapidation report together with the accompanying photographs shall also be given to all immediately adjoining properties owners and public utility authorities, and a copy lodged with Principal Certifying Authority and the Council. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
 - ii) It is a condition of consent that should construction works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored.

(Note: Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.)
- 21.
- a) Any lighting on the site shall be 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; and,

- b) All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting.
22. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:-
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or 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.
 - j) The location and operation of any on site crane.
 - k) The location of any Work Zone (if required) approved by Council's Engineering Section, including a copy of that approval.
 - l) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, 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. Access across public parks and open space reserves is prohibited.
 - m) Obtain Permits required under this consent.
23. Prior to the issue of Construction Certificate,
- a) A Workplace Travel Plan is required to be submitted to Council in accordance with Clause 6.2.4 of BBDCP 2013 to encourage higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car pooling strategies.

The plan shall generally include but not limited to the following:

- i) Prepare Transport Access Guides (TAGs) for staff and occupants about information on how to reach the site via public transport, walking or cycling;
- ii) Encourage staff to cycle and/or walk to the workplace;
- iii) Encourage staff to use public transport to travel to workplace by providing financial incentive;
- iv) Adopt car sharing and /or car pool scheme;
- v) Provide priority parking for staff with car pool;
- vi) Establish measurable targets on the number of staff travel to work by public transport, cycling and walking.

This Workplace Travel Plan must include a pedestrian connectivity assessment as well as a traffic assignment diagram between the subject site and the domestic airport.

- b) Bicycle storage racks/spaces shall be provided in accordance with Part 3A of BBDCP 2013. This on-site bicycle storage area shall conform to AS 2890.3: Details to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
24. 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.
 25. 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.
 26. 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.
 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 (e.g. Energy Australia, Sydney Water and 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.
 - 1 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. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in 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 prior to the release of the Construction Certificate.

29. Prior to the issue of a Construction Certificate, detailed construction plans of the stormwater management and disposal system for the development, and street drainage which may require augmentation of the public drainage system, shall be prepared by a suitably qualified civil engineer experienced in drainage design and submitted to Council for approval.

30. An Erosion and Sediment Soil and Water Management Plan (ESCP) 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 ESCP shall be kept on-site at all times and made available to Council Officers on request.

31. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate.

This plan shall incorporate and reference the construction environmental management plan and address site limitations.

32. 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 Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate.

33. 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.

34. A Stage 1 Preliminary Site Investigation 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.

Following completion of the Stage 1 Preliminary Assessment, if required a Stage 2 Detailed Site Investigation and a Stage 3 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 and approved by Botany Bay City Council, in accordance with Section 80(A)2 of the Environmental Planning and Assessment Act 1979 prior to the issue of any Construction Certificate.

- 35. To ensure that the Stage 1 Preliminary, the Stage 2 Detailed Site Assessment and any required Remedial Action Plan (RAP) proposed for the site have been completed in accordance with the EPA Guidelines and will result in the land being suitable, or being made suitable, for the proposed use, a Section B Site Audit Statement (SAS) completed by an accredited site auditor under the Contaminated Land Management Act 1997. This shall be submitted to Council clearly demonstrating that the Stage 1 Preliminary, the Stage 2 Detailed Site Assessment and any required Remedial Action Plan (RAP) proposed for the site have been completed in accordance with the EPA Guidelines and will result in the land being suitable, or being made suitable, for the proposed use. This shall be provided prior to the issue of any construction certificate.
- 36. Any lighting on the site shall be 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 to the Construction Certificate.
- 37. The applicant is to submit payment for a Tree Preservation Bond of \$1000 to ensure protection of one (1) Council street tree (*Callistemon citrinus*) in the nature strip in front of the adjoining property to the west of the site from damage during construction. The duration of the Bond shall be limited to a period of 24 months after issue of the Occupation Certificate. At the completion of the 24 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by a qualified Arborist and a report to Council. If a tree was found to be in decline, damaged (including roots), dead or pruned without Council permission or, if tree protection measures were not satisfied at any time during construction, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.
- 38. All electrical substations are to be housed within the building structure. These items reduce the visual amenity of the development, public spaces and the public domain. Above-ground utilities including fire boosters must be appropriately screened in an enclosure. Details of the proposed screen shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Issue of Construction Certificate.
- 39. Any wall or fence or solid object on either side of the driveway/vehicular crossings where it meets the Council's road reserve at the boundary must comply with sight distances stipulated

in Australian Standard AS 2890.1. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

40. 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 are to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
41. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the adjacent Council drainage pipeline. The camera and its operation shall comply with the following:
- The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner,
 - 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,
 - Distance from the manholes shall be accurately measured, and
 - 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 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.

42. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction* and the requirements of the DA Noise Impact Assessment prepared by Acoustic Logic received by Council 29 June 2015. Details and building plans endorsed with the required acoustical measures prepared by a practicing professional acoustical consultant are to be provided on the Construction Certificate plans. The building shall be constructed in accordance with these details.
43. The Landscape Concept Plan by Carmichael Studios (Drawing number SK00 to SK02, Revision I) shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Issue of Construction Certificate. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with Council's Landscape DCP and include the following amendments:
- Substitute *Isolepis nodosa* within deep the front setback for a more decorative species to improve the streetscape amenity, such as *Liriope muscari* 'Variegata'.
 - Deep soil along the eastern boundary is to be maximized and incorporate medium sized canopy trees to ameliorate the development and provide a taller screen to residential properties to the east. Minimum 9 trees shall be incorporated within this 25m

- length of garden bed. Suggested species include: *Elaeocarpus eumundi*, *Cupaniopsis anacardioides*, *Waterhousia floribunda*.
- c) Incorporate additional medium to large shrubs within the garden bed on the western side of the driveway to provide a taller screen and ameliorate the development. Suggested species include *Acmena smithii* x *minor*.
 - d) Incorporate an additional 2 x small trees or palms into reinforced planters on the Level 01 Terrace.
 - e) *Elaeocarpus reticulatus* as listed in the plant schedule to be minimum 75L pot size.
 - f) Elevated planter box sectional details and drainage details. All planter box depths and dimensions shall be in accordance with Council's DCP and capable of supporting medium sized trees.
 - g) Indicate areas of paving, amenity/pedestrian lighting, furniture and fences. Include a schedule of materials.
 - h) Incorporate seating to selected areas of the raised timber deck zones within the Level 01 Terrace to improve amenity.
 - i) A Public Domain Landscape Plan is required for Baxter Road. The plan shall be submitted to and approved by the City of Botany Bay Council Landscape Architect prior to Issue of Construction Certificate. The landscape plan shall include the following amendments:
 - j) Treatment of the nature strip and footpath to CoBB specification. Location of any above ground electrical pillars needs to be considered and shown on plan.
44. An experienced Landscape Contractor shall be engaged to undertake all landscaping (site and public domain) work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements. The contractor shall be engaged weekly for a minimum period of 52 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.
- 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.
- The public footpath in Baxter Road shall be constructed in accordance with the approved Public Domain Plan and Council specifications. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications. Hold points and Council inspections are required after formwork setback and to prior pouring the concrete blinding slab, at the commencement of paving works and at final completion as a minimum. Any pavers shall be ordered allowing for adequate lead time for manufacture (10-12 weeks).
45. Any sub-surface OSD tank or infiltration trench is required to be partially or wholly located underneath the driveway or paved areas to maximize the area available for deep soil, effective and site responsive tree planting and landscaping on the property. If this cannot be achieved the OSD shall cover no more than 50% of the landscape area, be appropriately located to allow effective tree planting and be constructed so that the top of the structure is

1.2m below final surface levels. Rainwater tanks on Level 01 Terrace shall be relocated away from the landscape area to within the building structure.

46. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements:
- a) Ensure soil depths and dimensions in accordance with Council's DCP allowing a minimum soil depth of 1 metre to support trees. The base of the planter must be 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 COMMENCEMENT OF ANY DEVELOPMENT OR WORK

47. In order to ensure that one (1) Council street tree (*Callistemon salignus*) in the nature strip fronting the adjoining property to the west of the site, and one (1) (*Phoenix canariensis*) within the adjacent property to the west are retained and protected during construction, and their health and structural stability ensured, the following is required:
- a) A Consultant Arborist AQF Level 5 shall be engaged from site establishment to the post-construction period to erect tree protection zones and signage, inspect and advise on all works during the entire construction period, monitor tree health and to authorize and undertake tree canopy and root pruning where necessary only and to the minimum only so that the health or structural stability of the trees is not impacted.
 - b) Trees to be retained are to be tagged with clearly visible marking tape at a height of approx. 2 metres from ground and numbered with the corresponding number in the Tree Report.
 - c) Prior to commencing demolition/any works the tree/s is/are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction. The fence shall remain in place until construction is complete.

- d) If there is insufficient space to erect fencing in a particular area, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
 - e) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
 - f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
 - g) The TPZ's are "No-Go" zones. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer or Consultant Arborist.
 - h) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
 - i) Excavation within the TPZ and within a nominated radial dimension from the tree trunk as determined by the consultant Arborist in accordance with AS 4970 : 2009 – Protection of Trees on Development Sites shall be carried out manually using hand tools or light machinery to minimise root damage or disturbance.
 - j) No tree roots greater than 30mm in diameter shall be pruned without further assessment by Council's Tree Officer and the consulting Arborist and only following the submission of further Arborists reports to Council so as not to unduly impact or stress the tree.
 - k) Ensure no damage to the canopy, trunk or root system (including the surrounding soil) of any tree to be retained. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under application from the consultant Arborist. Approved pruning shall be undertaken by a qualified Arborist in accordance with AS 4373.
 - l) For retained trees on the private property adjoining, the developer is required to consult with Council and advise prior to any tree works taking place.
 - m) Care shall be taken with construction work in the primary root zone of all existing neighbouring trees to be retained, including the Council Street tree on the southern corner of Church Avenue and Kent Road. These trees must be retained and construction works are to accommodate tree roots, branches and canopy without damage or impact. Trees are not to be pruned back to the boundary fence line under any circumstances. The canopy may otherwise overhang the property.
 - n) The Applicant will be required to undertake any tree maintenance or remedial pruning works required by Council or the Consultant Arborist at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.
48. Prior to any excavation works an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS at the site.

Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory. All recommendations of the report shall be implemented prior to the commencement of excavation and building works.

49. 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.
50. 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 the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.
51. A Hazardous Materials Audit (HMA) shall be carried out and a report provided to council to ensure that any hazardous materials that may have been used within the structural components of buildings and infrastructure are adequately addressed to protect site personnel and the public from the risk of exposure. This shall be undertaken by an appropriately qualified consultant and shall be submitted to the Principal Certifying Authority.
Should any hazardous materials be identified a Work Management Plan shall be submitted to Council in accordance with AS2601 – Demolition of Buildings. The report shall contain details regarding the type of hazardous material and the proposed methods of containment and disposal.
52. Existing structures and or services on this and adjoining properties are not endangered during any demolition work associated with the above project. The application is to provide details of any shoring, piling or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilize any adjacent structures.
53. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance
54. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal, and keep such

policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

55. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.
56. 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.
57. 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 lands /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 for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services.
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands
 - h) 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.
 - i) Permit to establish "Works Zone" on public roads adjacent to the development site, including use of footpath area. Application(s) shall be submitted minimum one (1) month prior to the planned commencement of works on the development site. The application will be referred to the Council's Traffic Engineer for approval, which may impose special conditions that shall be strictly adhered to by the applicant(s).

Copies of the approved permits shall be submitted to the Principal Certifying Authority attesting this condition has been appropriately satisfied.

Note: No works or occupancy shall be carried out in road reserve until permits have been granted from Council's engineers. 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.

58. 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.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

59. Inspections must be conducted by Council's Engineer at the following occasions:
- a) Formwork inspection of driveway layback 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) Inspection of Council's stormwater pit prior to concrete pour / backfill,
 - e) Inspection of stormwater pipe / culvert prior to backfill,
 - f) Inspection of road pavement following prior to laying of new asphalt,
 - g) Final inspection of driveway layback,
 - h) Final inspection of Council's kerb and gutter,
 - i) Final inspection of Council's footpath,
 - j) Final inspection of Council's stormwater inlet pits, and
 - k) Final inspection of new road pavement.
- 60.
- 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 (e.g. concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) 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.
 - e) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

- f) During the construction works, the Council nature strip shall be maintained in a clean and tidy state at all times.
 - g) 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 /or other plant and equipment.
- 61.
- a) Demolition work shall be carried out in accordance with Australian Standards AS 2601-1991 Demolition of Structures and the requirements of the NSW WorkCover Authority.
 - b) The demolisher shall comply with Australian Standard 2601 - 1993 "Demolition of Structures".
 - c) 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.
 - d) The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
 - e) No demolition materials shall be burnt or buried on the site.
 - f) Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
62. The Principal Contractor must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The *Soil and Water Management Plan* if required under this consent;
 - b) "*Do it Right On Site, Soil and Water Management for the Construction Industry*" published by the Southern Sydney Regional Organisation of Councils, 2001; and
 - c) "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition" ('The Blue Book').
 - i) Where there is any conflict The Blue Book takes precedence.
 - ii) **Note:** The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.
 - iii) **Note:** The "Do it Right On Site," can be down loaded free of charge from Council's website at <http://www.botanybay.nsw.gov.au/council/services/planning/factsheets.htm> further information on sediment control can be obtained from www.ssroc.nsw.gov.au.
 - iv) **Note:** A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.
 - v) **Note:** Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

- vi) **Warning:** Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
63. 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*.
64. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.
65. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
66. During Construction and any associated deliveries activities, 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.
67. During Construction and any associated deliveries activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.
68. During Construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times: -
- a) Approved Erosion and Sediment Control Plan;
 - b) Approved Construction Traffic Management Plan;
 - c) Approved Construction Management Plan; and
 - d) Approved Waste Management Plan.
69. Noise from demolition, excavation and construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.

- a) **Level Restrictions**
- Demolition, excavation or construction period of 4 weeks and under:
the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).
- Demolition, excavation or construction period greater than 4 weeks and not exceeding 26 weeks:
the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- b) **Time Restrictions**
- Construction/excavation/demolition work shall be limited to the following hours:
Monday to Friday : 07:00 am to 06:00 pm
Saturday: 07:00 am to 02:00 pm
No Construction/excavation/demolition to take place on Sundays or Public Holidays.
- c) **Silencing**
- All possible steps should be taken to silence construction / demolition / excavation site equipment.
70. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) Erection 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 clause must be completed before any other work is commenced.
71. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;

- d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
- 72.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and
 - b) All excavations shall be properly guarded and protected to prevent them from being dangerous to life or property; and,
 - c) If the soil conditions require it:-
 - i) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and;
 - ii) adequate provision must be made for drainage.
 - d) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the applicant's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
73. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the construction works.
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.
- 76.

- a) All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment and Climate Change (DECC) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.
 - b) 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:
 - i) Office of Environment and Heritage (OEH) approved guidelines; and
 - ii) *Protection of the Environment Operations Act 1997*; and
 - iii) *Protection of the Environment Operations (Waste) Regulation 2005*.
 - c) All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.
77. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation; and,
 - d) DECC Waste Classification Guidelines 2008.
78. 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.
79. 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.

80. 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.

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

81. Prior to the issue of the Occupation Certificate;
- a) The development shall be constructed in accordance with the Acoustic Impact Assessment prepared by Acoustic Logic, received by Council 29 June 2015; and,

- b) The developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the acoustic report referenced under (a) of this condition has 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).
82. 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, in relation to the parapets, towers, lift enclosures, drainage, boundary and road reserve levels, have been strictly adhered to; and
- b) A Floor Space Ratio and a maximum height (top of parapet in accordance with *Botany Bay Local Environmental Plan 2013*) as approved under this Development Consent No. 14/235 have been strictly adhered to and any departures are to be rectified in order to issue the Occupation Certificate.
- c) The development as built, stands within 109 Baxter Road, Mascot.
83. 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 88E of the *Conveyancing Act 1919* and lodged with the NSW Land and Property Information:
84. Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.
- The terms of the 88E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.
85. Any damage not shown in the dilapidation report submitted to Council before site works have commenced, will be assumed to have been caused by the site works undertaken (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to the issue of Final Occupation Certificate.
86. Prior to the issue of the Occupation Certificate:
- a) The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All downpipes shall be located within the property boundaries; and,
- b) 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 accepted practice.

87. Prior to the issue of Final Occupation Certificate, maintenance schedule of the stormwater drainage system (including on-site infiltration system and pump-out system) shall be prepared by a qualified engineer and submitted to Principal Certifying Authority. A copy of maintenance schedule shall also be submitted to Council for record purpose.
88. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
89. 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 (or reconstruct) a vehicular crossing (either using Council or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section. If any applicant wants to retain an existing vehicular crossing an application still has to be submitted with the matter highlighted.
90. Prior to the issue of Final Occupation Certificate, the following documentation shall be submitted to Council and Principal Certifying Authority attesting this condition has been appropriately satisfied:-
- Written confirmation / completion certificate obtained from Council's engineers;
 - Inspection reports (formwork and final) for the works on public domain and road reserve area obtained from Council's engineer; and
 - 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.
91. Prior to the issue of the Final Occupation Certificate, the operator shall enter into a commercial contract for the collection of trade waste and recyclables arising from the premises. A copy of all contracts and receipts shall be kept on the premises and made available to Council Officers on request.
92. Prior to the issue of the Final Occupation Certificate, the applicant shall carry out the following works:
- On Baxter Road, adjacent to development, demolish all redundant vehicular road crossings (driveway) and construct new concrete footpath and new kerb and gutter in accordance with Council's Infrastructure Specifications,
 - On Baxter Road, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the property in accordance with Council Infrastructure Specifications,
 - On Baxter Road, adjacent to development, demolish existing concrete footpath and construct new concrete footpath in accordance with Council's Infrastructure Specifications.

93. 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. A copy of the approved public domain civil works plans showing Work-as-Executed details (together with an electronic copy) prepared by a registered surveyor are to be provided to the Principal Certifying Authority.
94. Prior to the issue of Final Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels shown upon the approved plans, with relation to drainage, boundary and road reserve levels, have been strictly adhered to.
95. Prior to the issue of the Occupation Certificate,
- a) the development shall make provision for twenty (20) car parking spaces including one (1) accessible space in accordance with Part 3C of BBDCP 2013 and as shown on the approved plans.
 - b) The accessible car parking space shall be clearly marked in accordance with Australian Standards AS 2890.6 and Council's requirements.
 - c) All staff and visitor and loading/unloading spaces must be signposted and marked. The approved car parking spaces shall be maintained to the satisfaction of Council at all times.
 - d) Any single tandem or stacked car parking space (i.e one tandem or stacked arrangement = two car parking spaces) shall be allocated to only one (1) commercial tenancy, so that there is no conflict of users of these spaces, unless a written agreement can be arranged between the occupants of these tenancies. This written arrangement must be included in the lease agreement for any tenancy.
96. Any remediation or management measures outlined in the contaminated land reports provided as part of the conditions of this consent, to ensure that the risk to occupants of the commercial premises is acceptable, shall be summarised in a report. This report shall provide a notice of completion of any required remediation works and whether there are any ongoing site management requirements.
- This report shall be provided to Council prior to the issue of any occupation certificate.
- 97.
- a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
 - b) Condition Nos. 81-96 -are pre-conditions prior to the issue of the Occupation Certificate.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

98. At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.
99. Ongoing maintenance of the road verge, footpath and nature strip in Baxter Road 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.
100. A separate Development Application is required to be submitted to Council for the first use of the building/each tenancy.
101. A separate Development Application is required to be submitted to Council for any business identification signage for the site in accordance with Council's Guidelines and *State Environmental Planning Policy No. 64 – Advertising and Signage*.
- 102.
- a) **No approval for subdivision has been granted with this Development Consent.**
The Strata subdivision or otherwise of the development shall be the subject of a further Development Application to Council; and,
 - b) Any subsequent Strata Subdivision must be accompanied by a formal copy of the By-Laws which shall be in accordance with the plans and documentation approved under this Consent and should also address the following matters:
 - i) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property; and
 - ii) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved; and
 - iii) Responsibilities for ensuring owners and/or tenants have adequate and hygienic 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 in accordance the conditions of this consent; and
 - iv) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon;
 - v) Responsibilities that ensure that a private waste collection contract is engaged to collect the waste from the property.
 - vi) Responsibilities to pay for the private waste collection fees as well as Council's garbage service fees as property has not been designed in accordance with Council's controls to remove waste from the property.
 - vii) 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; and

- viii) Responsibilities to ensure that graffiti is removed as soon as practicable. In this regard a graffiti management plan is to be incorporated into the maintenance plan for the development; and
- ix) Notation to ensure that any storage cages in car parking areas are to be provided with a perforated roof/ceiling that is located a minimum of 500 mm from any sprinkler heads. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained.
- x) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the Environmental Planning and Assessment Regulation 2000;
- xi) The strata plan must show that the car parking spaces are allocated in accordance with this consent. All car spaces (except visitor spaces and the car wash bay) shall be created as part lots, and allocated to a particular lot in the strata plan.

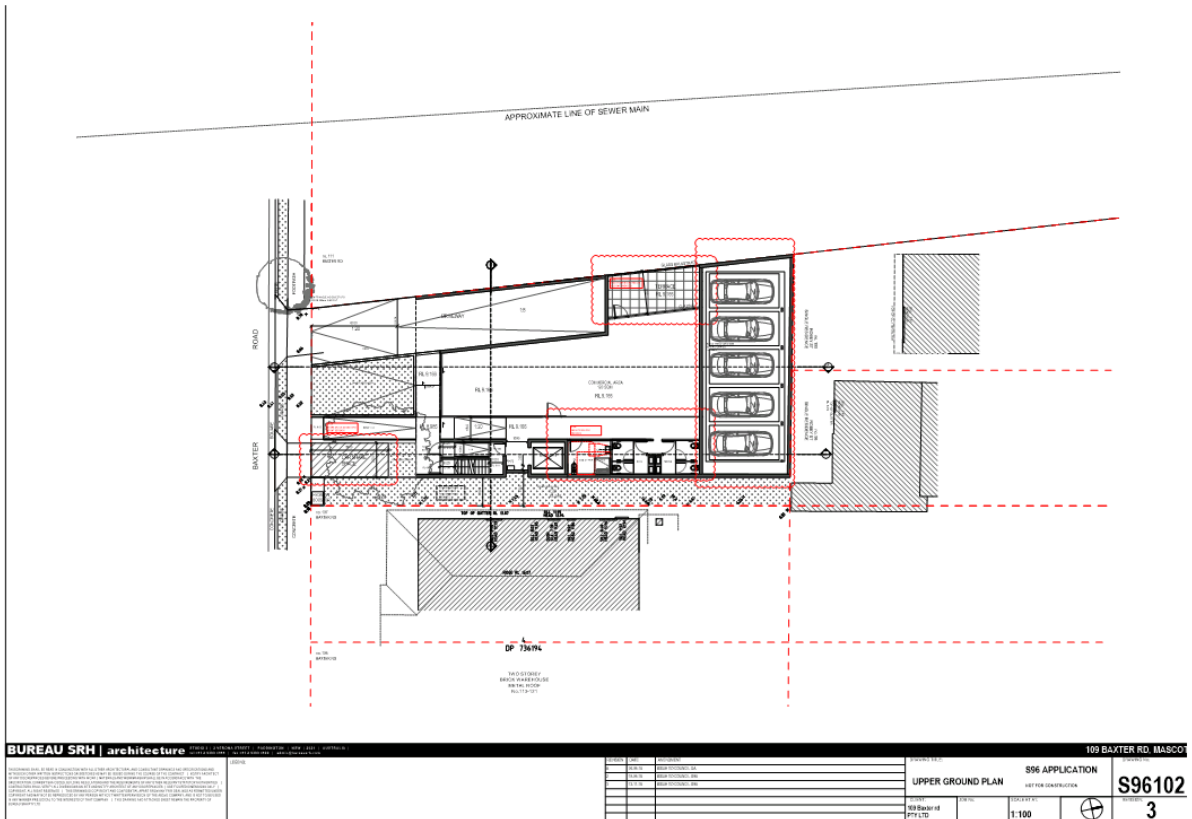
103. The proposal shall comply with the City of Botany Bay's General Noise Criteria is as follows:

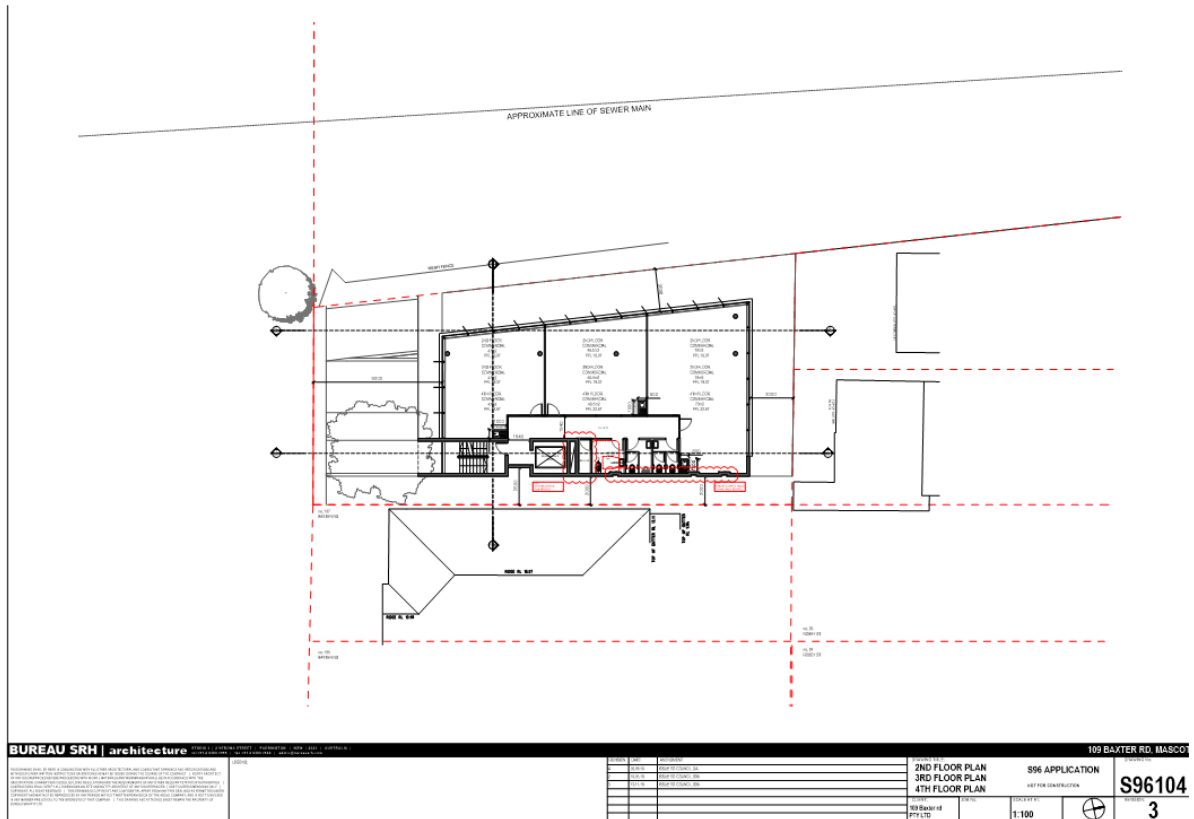
- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration). The operation of all plant 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.
- b) 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.
- c) 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.
 - i) 'Offensive noise' as defined in the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Noise Control) Regulation 2000, (See advisory notes).

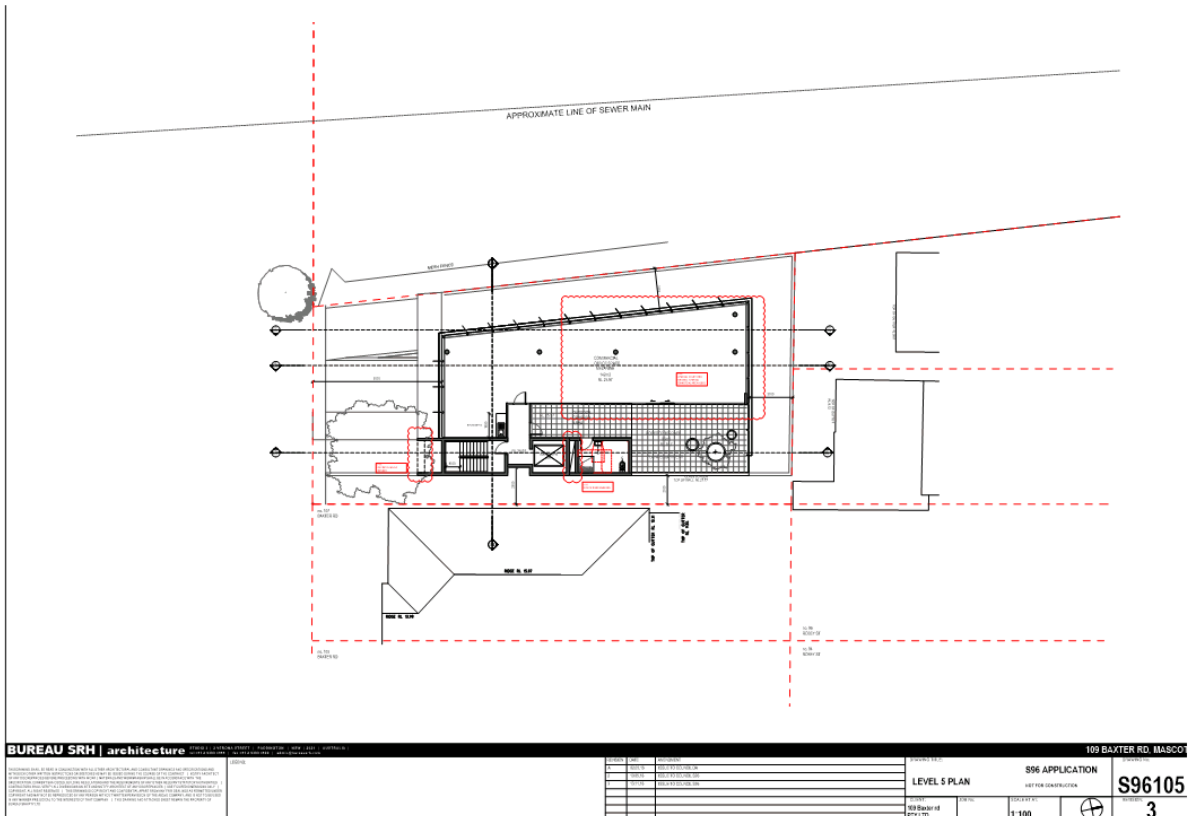
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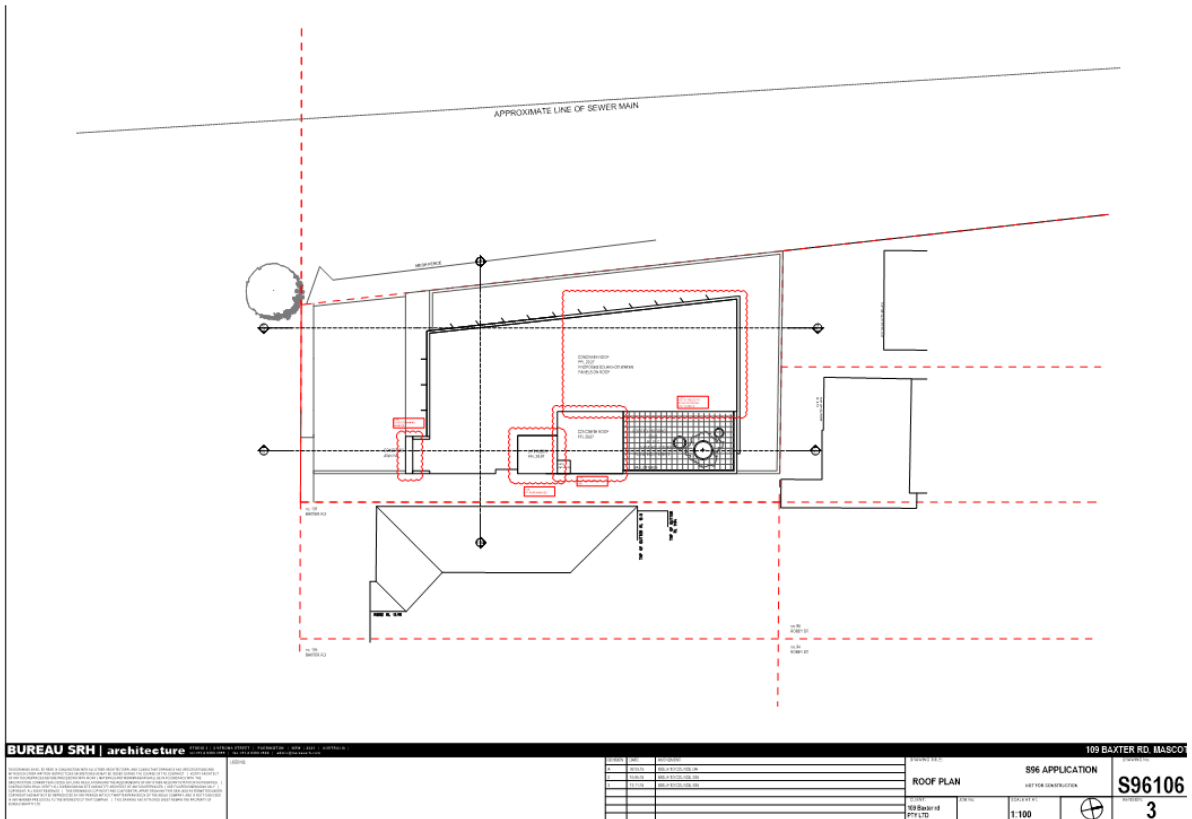
- a) All waste and recycling containers shall be stored in the designated waste storage areas within each townhouse and associated outdoor area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The occupier shall be responsible for cleaning the waste storage area, equipment, and waste collection containers.
- b) No waste or waste containers shall be places on the public way (including: footpaths, roadways and reserved) at any time.

105. 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 in accordance with the maintenance schedule submitted to Council 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.
106. All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods. Vehicle turning areas shall be kept clear at all times and no vehicle is permitted to park in these areas.
107. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14/235 dated as 30 September 2014 and that any alteration, variation, or extension to the use, for which approval has been given, would require further Approval from Council.



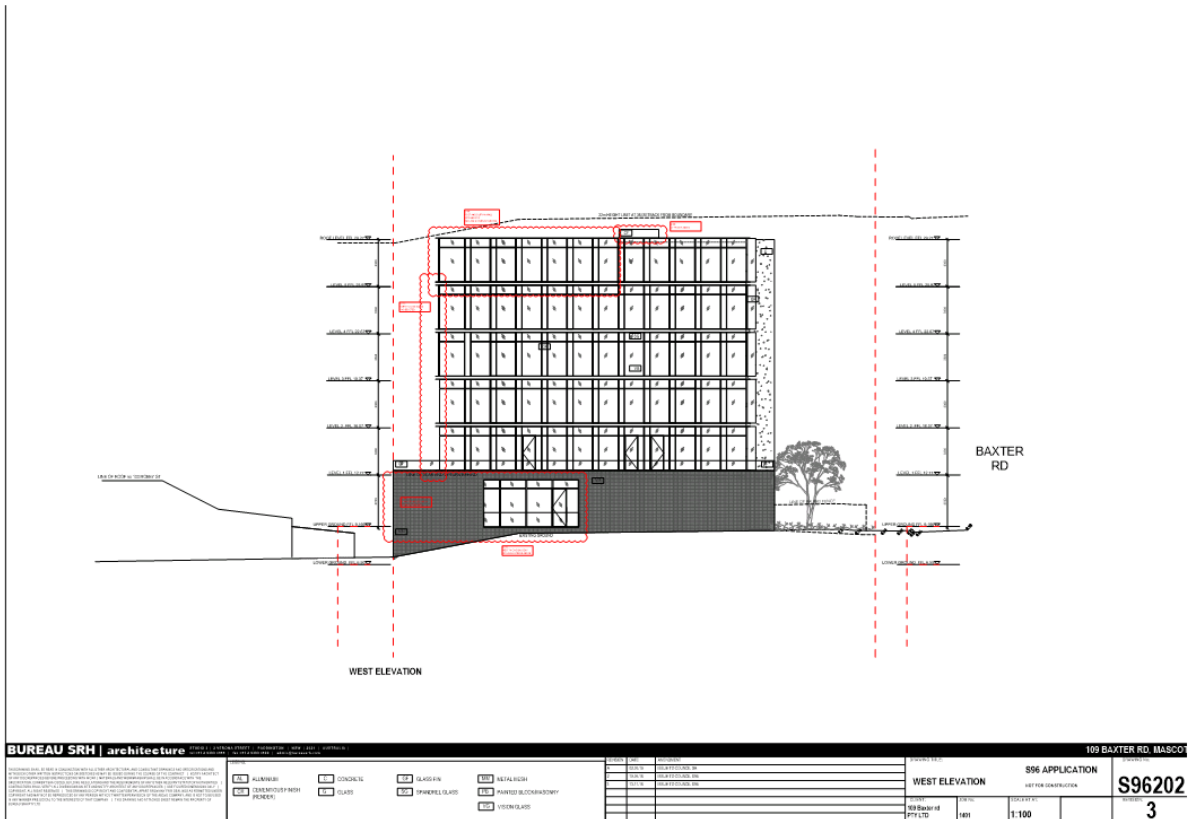


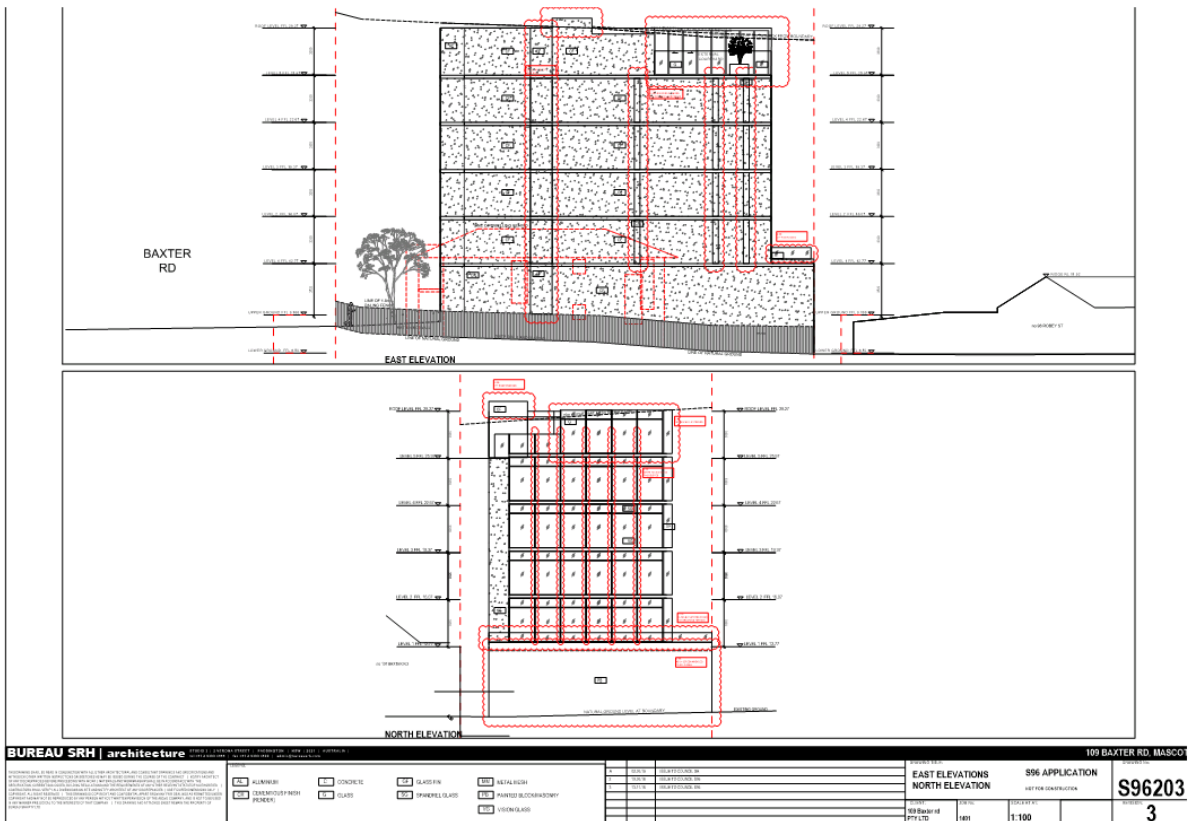


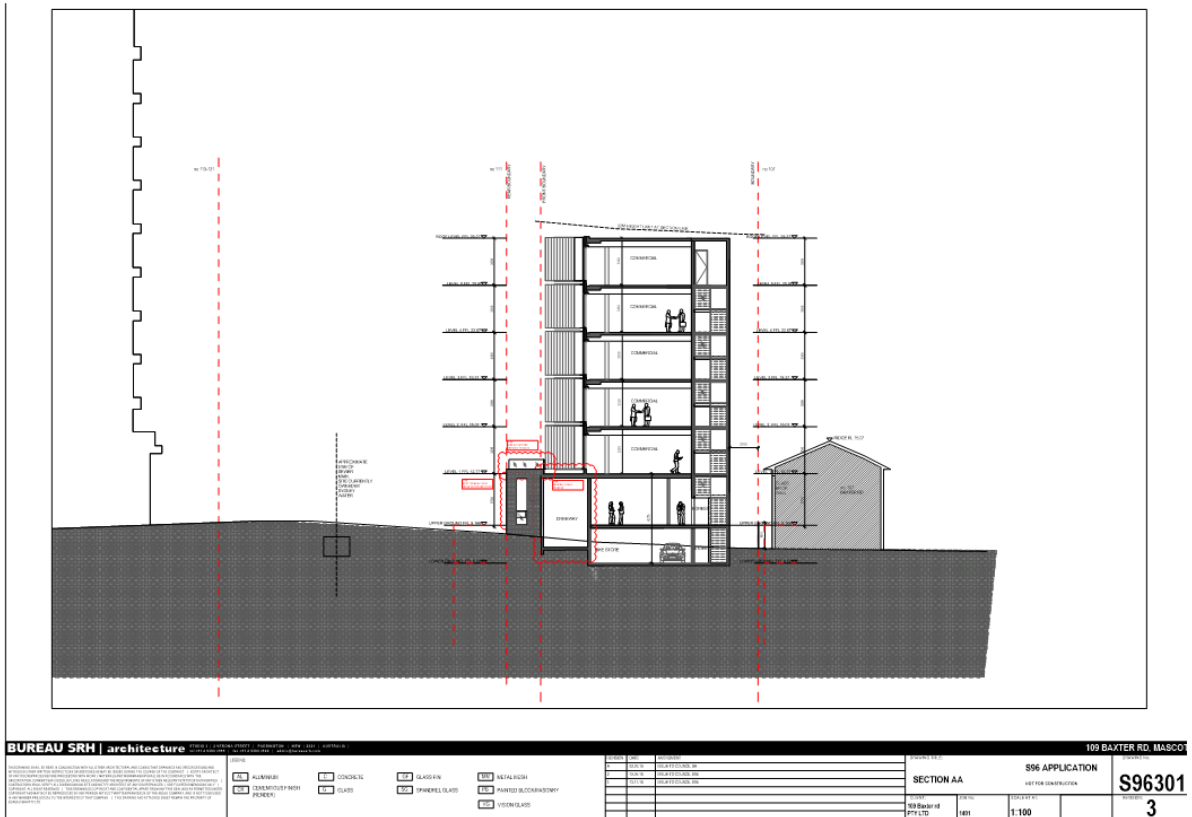


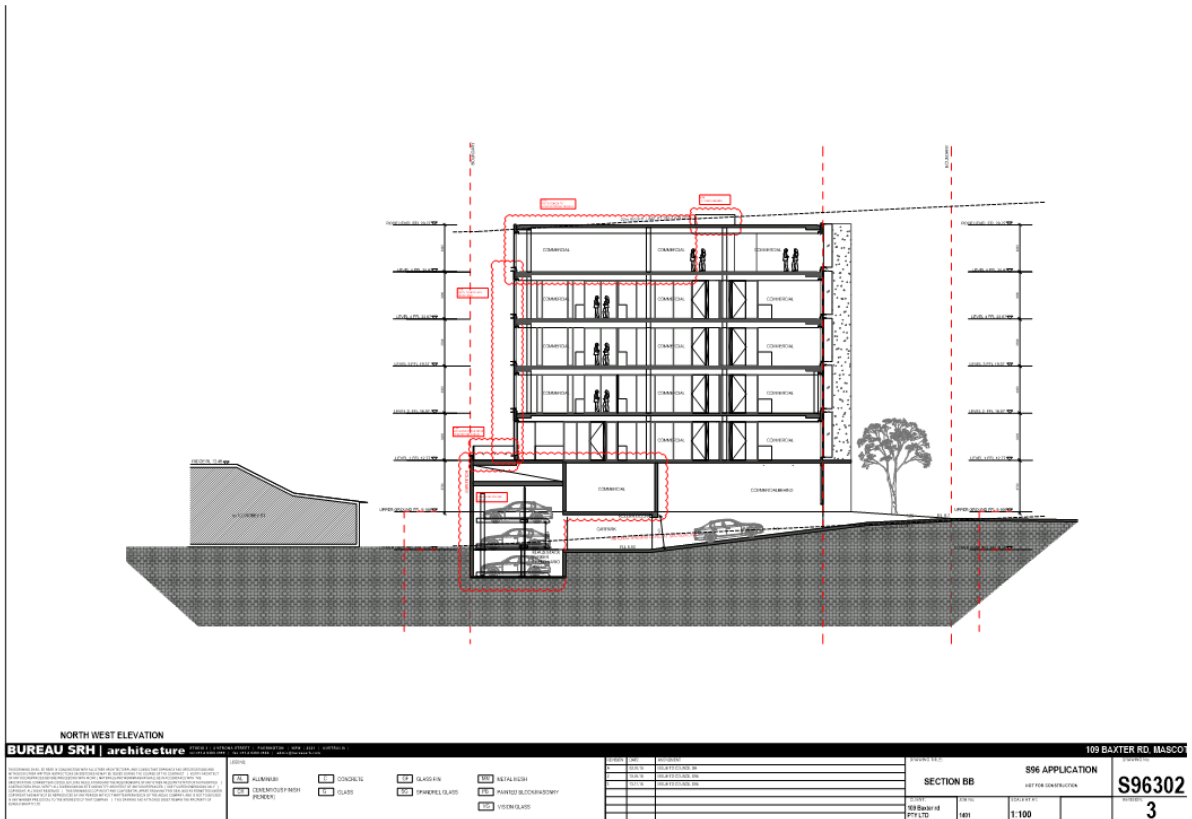
SOUTH (STREET) ELEVATION

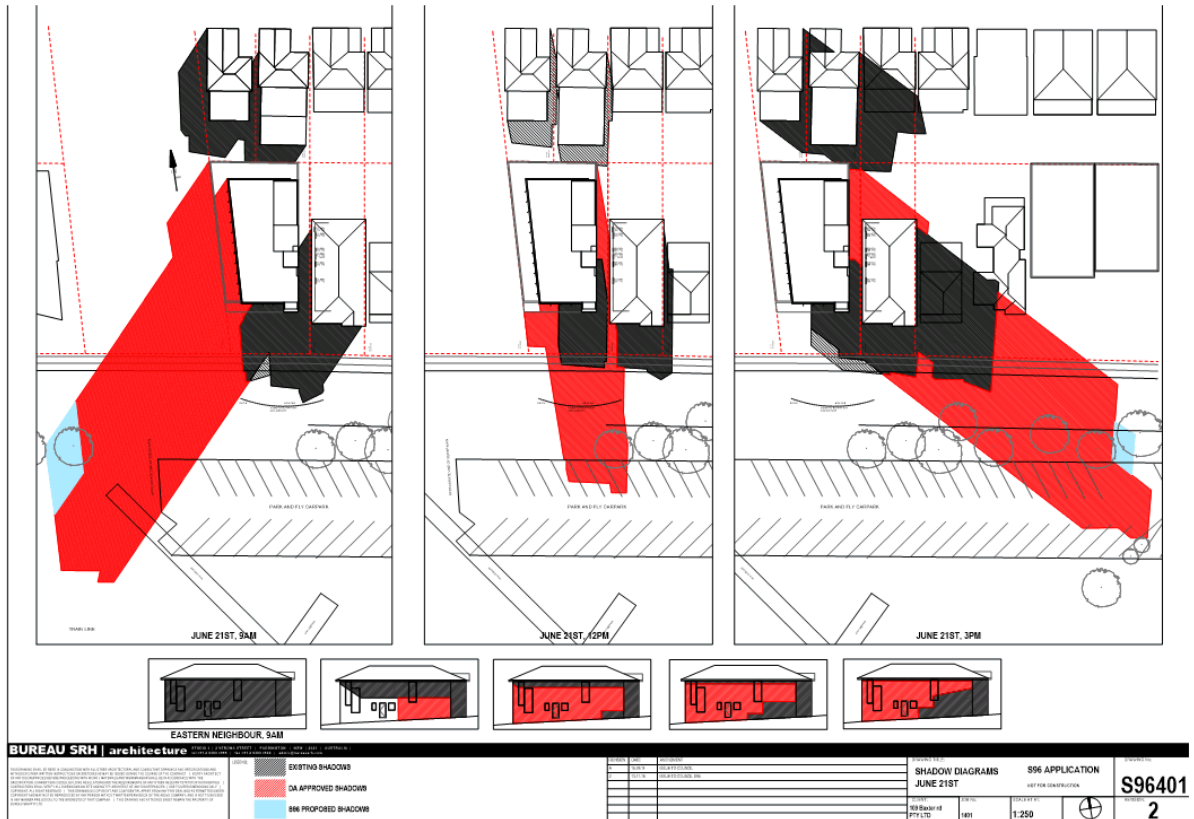
BUREAU SRH architecture		109 DALRYMPLE RD. MASCO	
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MATERIALS: ALUMINIUM STAINLESS STEEL BRASS GLASS CONCRETE CLAY GIPSUM PAINTED BLOCKWORK	FINISHES: POLISHED MATT SATIN GLOSS ENAMEL PULVERIZED POLISHED MATT SATIN GLOSS ENAMEL PULVERIZED	COLOURS: RAL FSC PANTONE CMYK RGB HEX L*a*b*	PROJECT: SOUTH (STREET) ELEVATION SHEET NO: 3

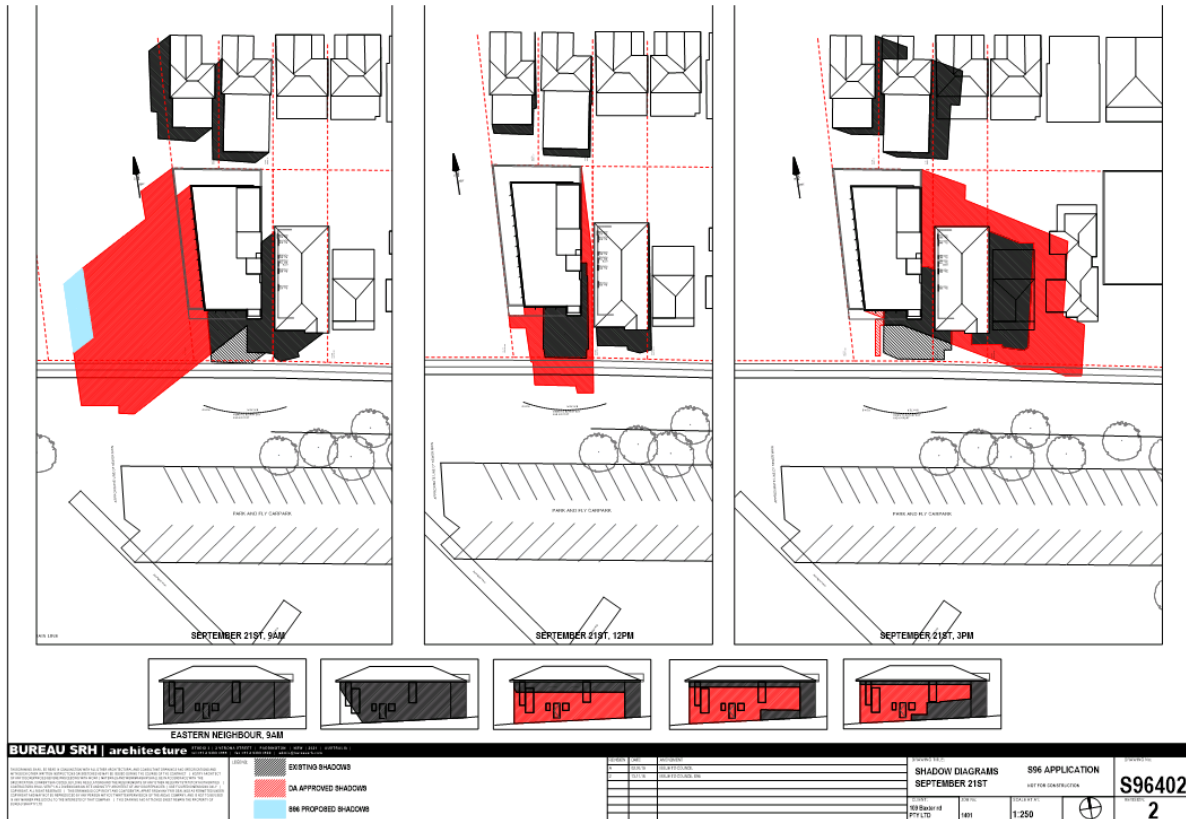




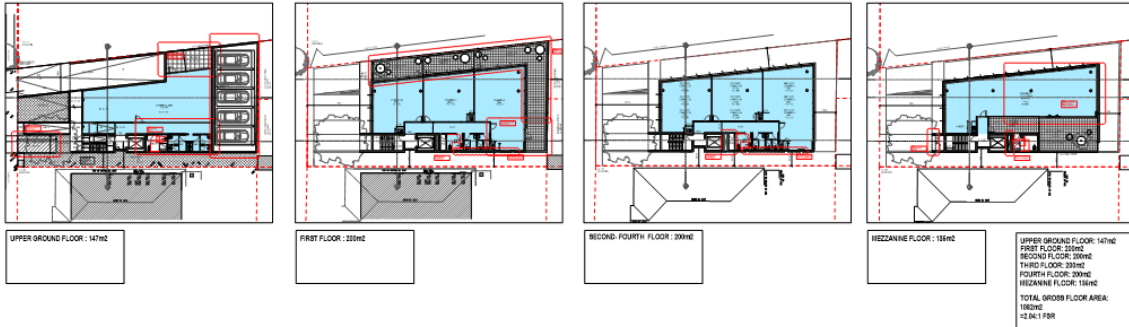




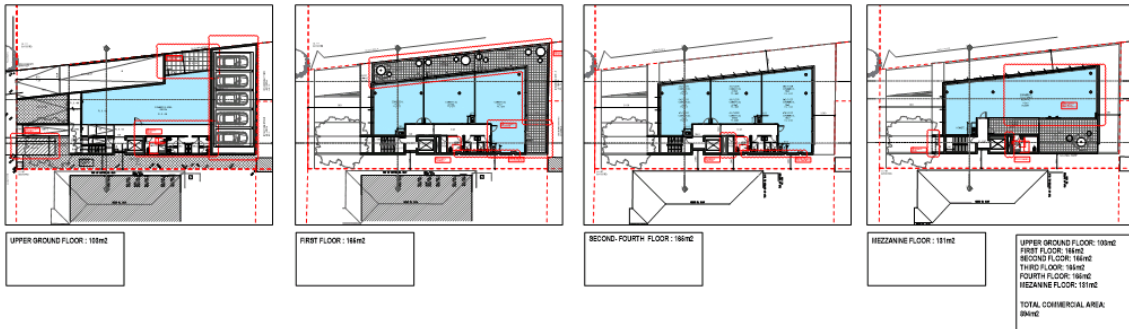




GROSS FLOOR AREA CALCULATION



COMMERCIAL FLOOR AREA CALCULATION



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NO.	DESCRIPTION	AREA (m ²)
1	UPPER GROUND FLOOR	147
2	FIRST FLOOR	220
3	SECOND, FOURTH FLOOR	209
4	MEZZANINE FLOOR	186
TOTAL	GROSS FLOOR AREA	1062

NO.	DESCRIPTION	AREA (m ²)
1	UPPER GROUND FLOOR	105
2	FIRST FLOOR	164
3	SECOND, FOURTH FLOOR	166
4	MEZZANINE FLOOR	111
TOTAL	COMMERCIAL AREA	546

PROJECT:	S96 APPLICATION
DATE:	18/12/2018
SCALE:	1:200
PROJECT NO.:	1801

S96501
 3

Statement of Environmental Effects – S.4.55(2)

MODIFICATION TO APPROVED PLANS ASSOCIATED WITH A COMMERCIAL PREMISES
AT 109 BAXTER ROAD, MASCOT



Prepared by: Think Planners
Document Date: 21 May 2018
Consent Authority: Bayside Council



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

QUALITY ASSURANCE

PROJECT: Statement of Environmental Effects – Section 4.55(2) to an approved commercial development.

ADDRESS: Lot 10 in DP 1142739: 109 Baxter Road, MASCOT

COUNCIL: Bayside Council

AUTHOR: Think Planners Pty Ltd

Date	Purpose of Issue	Rev	Reviewed	Authorised
May 2018	Draft Issue for Client Review	Draft	SK	JW
May 2018	DA Lodgement Issue	Final	SK	JW

Integrated Development (under S91 of the EP&A Act). Does the development require approvals under any of the following legislation?	
Fisheries Management Act 1994	No
Heritage Act 1977	No
Mine Subsidence Act 1992	No
Mining Act 1992	No
National Parks and Wildlife Act 1974	No
Petroleum (Onshore) Act 1991	No
Protection of the Environment Operations Act 1997	No
Roads Act 1993	No
Rural Fires Act 1997	No
Water Management Act 2000	No
Concurrence	
SEPP 1- Development Standards	No
SEPP 64- Advertising and Signage	No
SEPP 71 – Coastal Protection	No
SEPP (Infrastructure) 2007	No
SEPP (Major Development) 2005	No
SREP (Sydney Harbour Catchment) 2005	No

May 2018

2



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

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S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

Introduction and Summary

This Statement of Environmental Effects has been prepared in support of a Section 4.55 (2) modification for amendments to approved plans associated with DA/14/235.

DA/14/235 granted consent for the demolition of an existing site structures, site remediation, and the construction of a 6 storey commercial development with two levels of car parking and associated landscaping.

The modification aims to increase the overall commercial floor space whilst also improving the overall amenity of commercial suites and to the building itself with the addition of kitchenette to the majority of the commercial suites and improvements to facilities including end of trip facilities, noting no changes to the height of the building with the exception of a lift overrun, nor any changes to the approved building footprint.

Considering that proposed works are predominantly to be contained within the approved building, the building façade will remain predominantly unaffected by the proposed modifications, with the exception of the incorporation of terraces to the first floor which will help articulation, visual interest and contribute towards breaking up the buildings façade and thus will have a positive impact in terms of the building aesthetics.

Finally, with the removal of the parking area within the upper ground floor will result in the centrally located vehicle cross-over, driveway, graded pedestrian pathway and fire escape egress pathway that runs along the site's eastern boundary to be replaced with landscaping that will contribute towards reducing hard surfaces whilst providing more greenery on the site that will positively contribute towards softening the built form and integrate the proposal within the context of the site and its surrounds.

The proposal does increase the gross floor area of the development- owing to the conversion of some parking areas to commercial floor space- however this does not change the approved footprint or have any bearing on the bulk and scale of the development- nor does it preclude the provision of sufficient on-site parking.

For full detail on the changes see the plans that have amendments listed in red, with the following key changes being:

- Removal of carparking area within the upper ground floor to accommodate additional commercial floor area. An overall loss of 6 car parking spaces.
- An overall increase in commercial floor space from 657m² to 859m², an increase of 202m² of commercial floor space with a subsequent increase in gross floor area to 1082.7m²- increasing the FSR to 2.04:1,



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

Other proposed modifications are listed below:

- *Reconfiguration of the lower ground floor including the loss of 1 car parking space, the redesign of the pedestrian walkway and relocation of bicycle parking space to the lower ground floor from the upper ground floor.*
- *Removal of the parking area within the upper ground floor to accommodate additional commercial floor area (158m²) and subsequent removal of centrally located vehicle cross-over and driveway with the relocation of toilet and end of trip facilities including showers from the lower ground floor to the upper ground floor.*
- *Removal of green roof and replacement with a wrap around commercial terrace within the first floor.*
- *Provision of a kitchenette per commercial suite.*
- *An increase the floor area of the northern commercial suite per level (1st – 4th Floor)*
- *An increase in the floor area associated with the commercial suite within the 5th Floor and is also provided with 21.5m² of private terrace.*
- *Reduction in the size of the overall rooftop terrace from 135m² to 93m².*

The site is zoned B5 Business Development under the Botany Bay Local Environmental Plan 2013 and the proposal continues to be permitted with consent.

The development proposal is appropriately defined as substantially the same development as the original consent and will have limited additional amenity impacts, noting the proposal will contribute towards increasing overall commercial floor space whilst enhancing the appearance of the approved building by an overall increase in the provision of landscape area (via the removal of hard surfaces).

Finally, with the majority of the works to be contained within the approved building and with limited changes to the height and building footprint, the development will continue to present as a 6 storey commercial building to Baxter Road as per DA/14/235.

After a review of the amended plans and consideration of the relevant planning controls it is recommended that Council grant consent to the modification application with appropriate amendment to consent conditions- namely condition 1 of consent to reflect the amended plans.



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

1. Brief History

DA/14/235 granted consent for the demolition of an existing site structures, site remediation, and the construction of a 6 storey commercial development with two levels of car parking and associated landscaping.

2. Site and Locality Description

Site Analysis

Located at the northern fringe of Sydney Airport, the development site is situated on the northern side of Baxter Road, approximately 150m east of the intersection of O’Riordan Street and Baxter Road, Mascot.

The site is an irregular shaped land parcel with a 13.6m frontage to Baxter Road and a total site area of 528.5m². The subject site is bounded by industrial land use zoned SP2 Sewage to the west and residential dwellings to the north and west. Two road networks and an at-grade carking strip separate the site from Sydney Airport to the south.

A single storey brick/weatherboard cottage and outbuildings at the rear current reside within the subject site. The building is in a poor condition and is significantly under-utilising the sites full development potential given its location near a major airport and its zoning (B5) which permits buildings with a height of 22m. The aerial extract and photographs of the locality provide context to the development site.



Figure 1: Aerial Map of Subject Site (Source: Nearmap)



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

The subject site is located within a mix use area situated within close proximity to Sydney Airport. The wider locality comprises of a variety of land uses including commercial, industrial and low density residential land uses.

The development will play an integral role in the redevelopment of the subject area by setting the tone and scale for future commercial/warehouse developments along Baxter Road.

The development seeks to utilise the land in accordance with the zoning with the modification to further increase commercial floor space that is situated within close proximity to Sydney Airport, public transportation and key arterial road networks such as O’Riordan Street, General Homes Drive, Southern Cross Drive and Botany Road.

This is illustrated below by the broader aerial photograph of the wider locality.



Figure 2: Broader Aerial Map of Subject Site (Source: Nearmap)

The approved commercial building will provide a strong interface to Baxter Road, noting that with the majority of the works to be contained within the approved building and with no changes to the height nor the building footprint, the development will continue to present as a 6 storey commercial building to Baxter Road as per DA/14/235.

The development is to set the tone and scale for future development within the locality and will support the viability of business around a major airport noting an increase of commercial floor space to that approve via previous DA will make available additional employment opportunities within the locality at the completion of the proposal.



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

3. Description of Amended Proposal

The modification aims to increase the overall commercial floor space whilst also improving the overall amenity of commercial suites and to the building itself with the addition of kitchenette to the majority of the commercial suites and improvements to facilities including end of trip facilities, noting no changes to the height of the building with the exception of a lift overrun, nor any changes to the approved building footprint.

Considering that proposed works are predominantly to be contained within the approved building, the building façade will remain predominantly unaffected by the proposed modifications, with the exception of the incorporation of terraces to the first floor which will help articulation, visual interest and contribute towards breaking up the buildings façade and thus will have a positive impact in terms of the building aesthetics.

Finally, with the removal of the parking area within the upper ground floor will result in the centrally located vehicle cross-over, driveway, graded pedestrian pathway and fire escape egress pathway that runs along the site's eastern boundary to be replaced with landscaping that will contribute towards reducing hard surfaces whilst providing more greenery on the site that will positively contribute towards softening the built form and integrate the proposal within the context of the site and its surrounds.

The proposal does increase the gross floor area of the development- owing to the conversion of some parking areas to commercial floor space- however this does not change the approved footprint or have any bearing on the bulk and scale of the development- nor does it preclude the provision of sufficient on-site parking.

For full detail on the changes see the plans that have amendments listed in red, with the following key changes being:

- Removal of carparking area within the upper ground floor to accommodate additional commercial floor area. An overall loss of 6 car parking spaces.
- An overall increase in commercial floor space a subsequent increase in gross floor area to 1082.7m²- increasing the FSR to 2.04:1.

Other proposed modifications are listed below:

Lower Ground Level

- Redesign of the lower ground floor resulting in the following:
 - *Reconfiguration of the car parking arrangement and layout resulting in the lower ground floor having a total of 11 car parking spaces. The reconfiguration also results in the removal of the previous approved tandem parking arrangement and also the provision of an accessible carparking space located near the lift.*
 - *Addition of 2 motorcycle spaces.*



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- Reconfiguration of the waste storage area.
 - Rearrangement of the pedestrian pathway within the carparking area including an introduction of a pedestrian egress and clearly labelled pathways.
 - Relocation/removal of toilet and shower facilities to the upper basement level.
 - Relocation of bike storage area from the upper basement level. The development now provides a total of 11 bicycle parking spaces within the bike storage area.
 - Introduction of a large storage room.
 - Introduction of meter/switchroom cupboard.
- Relocation of 2 x 1,800L Supertank to the lower ground floor, located externally along the East Elevation.

Upper Ground Level

- Redesign of the upper ground floor resulting in the following:
 - Remove of carparking area including the removal of a centrally located vehicle cross-over and driveway which will result in an increase in overall landscape area and the loss of 6 car parking spaces in-order to accommodate a large commercial suite with a total floor area of 178m² and ancillary terrace area. The commercial suite is also provided with toilets, storage area and an end of trip facility which includes shower facility and lockers.
 - Removal of graded ramp and fire egress along the site's eastern boundary and replaced with landscaping.
 - Introduction of a car share space along the site's frontage with dimension of 5.4m x 2.4m
 - Removal of waste chute system.
 - Relocation of bicycle storage area to the lower ground floor.
 - Reconfiguration of lobby area

First Floor

- Redesign of the first floor resulting in the following:
 - All 3 commercial suites provided with a kitchenette.
 - The floor area associated with the commercial suite situated to the northern portion of the building plate within the first floor (Commercial Suite 3) is increased from 50m² to 70m².
 - Removal of a green roof and replaced by wrap around commercial terrace per commercial suite.
 - Reconfiguration of the bathroom facilities.
 - Relocation of 2 x Supatanks to the lower levels and plant room to the roof.
 - Removal of waste chute system.
 - Reconfiguration of waste service rooms.
 - Removal of metering cupboard.
 - Reconfiguration of lobby area



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Second – Fourth Floor

- Redesign of the first floor resulting in the following:
 - o *Removal of a communal kitchen, with all 3 commercial suites provided with a kitchenette per level.*
 - o *The floor area associated with the commercial suite situated to the northern portion of the building plate per level is increased from 59m² to 70m², an overall increase of 33m² of commercial floor space over the three levels.*
 - o *Reconfiguration of the bathroom facilities.*
 - o *Removal of waste chute system.*
 - o *Reconfiguration of waste service rooms.*
 - o *Removal of metering cupboard.*
 - o *Reconfiguration of lobby area*

Fifth Floor

- Redesign of the first floor resulting in the following:
 - o *Increase in the floor area associated with the commercial unit from 27.5m² to 61m² with a kitchenette and private terrace also provided*
 - o *Reduction in the overall size of the rooftop terrace from 135m² to 93m².*
 - o *Introduction of bathroom facility.*
 - o *Removal of waste chute system.*
 - o *Reconfiguration and also an increase in the size of the lobby area.*

Roof

- Minor increase in the roof surface to cover additional floor area associated with the bathroom facility and also to the lobby area, which has been increased in overall floor area.

Operation Details

- The use and operation of each commercial suite will be subject to future DAs.

Building Height

- No change to the height of the approved commercial building.

Setback

- No change to the setback arrangements approved under DA/14/235

Landscaping & Deep Soil Zone

- An overall increase to the landscape and deep soil zone resulting from the removal of carparking within the upper ground floor (includes the removal of a vehicle crossover, driveway, graded pedestrian pathway and fire escape egress).



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

Deep Soil Zone

- No change to existing deep soil zone arrangement approved under DA/14/235.

Parking

- Removal of car parking area within the upper basement level and reconfiguration of car parking layout within the lower basement level. Furthermore, the removal of the car parking area results in the removal of centrally located vehicular crossover and driveway and the incorporation of additional landscape area.

The modification aims to increase commercial floor space whilst also improving the amenity of the approved commercial suits. The changes will have no impact on the existing building in terms of height, building footprint, setback and building presentation to Baxter Road.

A discussion against the extent of on site parking is provided further in this statement and a traffic and parking assessment report has been prepared by Varga Traffic Planning on this issue.



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

4. Assessment of Planning Issues & Controls

S.4.55 Environmental Planning and Assessment Act 1979

Pursuant to S.4.55 of the Act, Council may consider an application to amend a development consent provided that it is of minor environmental impact and is substantially the same development.

The application is substantially the same as the approved development, with the development concept continuing to incorporate a child care facility. The amendments is limited to an increasing child care places by 30 places, and therefore there are only minor changes to the approved development.

Pursuant to S.96 (2) of the Act, Council may consider an application to amend a development consent provided that, inter alia:

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

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (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 the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The application is substantially the same as the approved development, with the development concept remaining physically the same in terms of building form and overall footprint.



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

The modification proposes to increase overall commercial floor space whilst increasing amenity for the majority of the commercial suites and therefore the proposed modification is reasonable and appropriately considered 'substantially the same development' when having regard to case law set down by the Land and Environment Court.

Land and Environment Court Judgments

The question as to whether a modified proposal is 'substantially the same' as that originally approved has been an ongoing issue dealt with in the Land and Environment Court. It is also important to note that the Court has consistently described the Dection 4.55-modification provision of the Act as "beneficial and facultative". It is designed to assist the modification process rather than to act as an impediment to it; "It is to be construed and applied in a way that is favorable to those who seek to benefit from the provision" (see *North Sydney Council v Michael Standley & Associates Pty Limited* [1998]).

As demonstrated below the change to an approval can be substantial without the amended proposal failing the 'substantially the same' test. By way of example, and relevant to the current proposal, the following cases were considered in the Court and found to be substantially the same development, with this extract contained in a Gadens Publication dated 17 June 2012:

Bassett and Jones Architects Pty Limited v Waverley Council (No 2) [2005]: *The modification application sought an additional storey to the approved front building of a mixed commercial and residential development, which would alter the building from three- storeys to four-storeys; and the provision of a zero side setback for a part of the external side walls at all three levels. This resulted in an increase in floor space of 112 square metres, being a 20 per cent increase in floor space, and a 28 per cent increase in height (both of which exceeded the applicable council controls).*

The Court found that the test was satisfied albeit only on "a very fine balance". The Court noted however that the modified design might give rise to privacy impacts that may warrant refusal of the application when the merits of the change are assessed. The application was later refused on its merits, but not before passing the "substantially the same" threshold test.

Davi Developments Pty Ltd v Leichardt Council [2007]: *A modification application sought to change consent for a seven storey residential flat building with two levels of basement parking. There was to be a reduction of one floor, but an increase in the main parapet height by 900mm, and the substantial reconfiguration of the unit mix such that the numbers reduced from 42 to 30, with a rearrangement of the car park plan such that it was "entirely different".*

The Court nevertheless considered that the fundamental characteristics and essence of the building would remain essentially the same.



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Bathla Investments Pty Limited v Blacktown City Council [2008]: The original approval was for eight townhouses presenting as four, single-storey buildings. Some of the townhouses were attached.

The modification application sought to change some of the townhouses to two storeys, and also sought to separate the dwellings and made changes to the garage designs and parking layout. The Court noted that there were “numerous differences” between the schemes, however, the townhouse development presented as materially and essentially the same development.

Marana Developments Pty Limited v Botany City Council [2011]: The original approval was for the construction of five residential flat buildings (with basement car parking) comprising a total of 76 units. The modification application sought ‘significant changes to the external appearance and layout of the buildings’ **including an increase in unit numbers from 76 up to 102, and an additional level of basement car parking.**

This also involved a changed unit mix. Despite significant internal changes, the minimal change to the external floor plates and layout was of great significance and the test was satisfied.

Boyd v Bega Valley Council [2007]: It was proposed to add a second storey to a single storey dual occupancy development. Although the application was unsuccessful on merit grounds reasons (visual impact from the waterway caused by poor architectural design), the Court was satisfied that the increase from a single storey to a two storey dwelling satisfied “substantially the same” test.

As can be seen above, particularly in ***Marana Developments Pty Limited v Botany City Council [2011]***, the provision of additional gross floor area does not take away from the fact that it is substantially the same development and can pass the required test under Section 4.55 of the act.

The modification is predominantly concentrated within an approved commercial building, noting no increase to the existing building footprint and only a marginal increase in height and therefore the proposal maintains the same essence as that approved. Therefore the development still continues to be substantially the same as the approved development approved via DA/14/235.



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

5. Key Environmental Planning Instruments

Given the proposal is for amendments to the approved plans, only those planning instruments and controls relevant to the proposal are addressed in detail below.

State Environmental Planning Policy No. 55 – Contaminated Land

Potential contamination has been addressed as per previous DA. Further investigation and reporting under SEPP 55 is not considered necessary.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) was introduced in August 2017. This SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

The modification will result in an increase to the overall landscaping area that will contribute towards reducing hard surfaces whilst providing more greenery on the site that will positively contribute towards softening the built form and integrate the proposal within the context of the site and its surrounds.

Botany Bay Local Environmental Plan 2013

As shown on the zoning map extract below the development site is zoned B5 Business Development under the provisions of the Botany Bay Local Environmental Plan 2013.

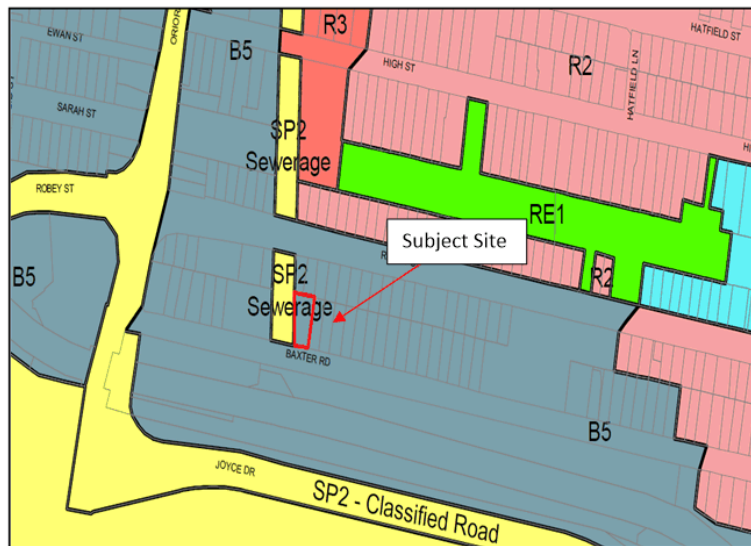


Figure 3: Zoning Map Extract (Source: Botany Bay LEP 2013)



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

'Commercial Premises' continue to be permissible with consent within the subject site.

The table below provides detail on the development standards relevant to the current proposal.

Botany Bay Local Environmental Plan 2013 – Compliance Table			
Clause	Controls	Comment	Complies
Zoning	B5 – Business Development	A commercial premises continues to be a permissible land use within the B5 – Business Development zone.	YES
Part 2 Permitted or Prohibited Development			
2.3	Zone Objectives and Land Use Table	The Section 4.55(2) proposal is consistent with the zone objectives of the B5 – Business Development in that the proposal will expand additional commercial floor space which will also contribute towards increasing additional employment opportunities.	YES
2.7	Demolition Requires Consent	No demolition works is proposed as part of this modification.	YES
Part 4 Principal Development Standards			
4.3	Height of Buildings	A maximum building height of 22m is identified for the site under Botany Bay Local Environmental Plan 2013 Maximum Building Height Map Sheet HOB_001. The modification will have no impact on the height of the commercial building approved under DA/14/235 with the exception of the lift riser as shown on the submitted section. See discussion at end of LEP table.	Minor Variation
4.4	Floor Space Ratio: 1.5:1	A maximum floor space ratio of 1.5:1 is identified for the site under Botany Bay Local Environmental Plan 2013 Floor Space Ratio Map Sheet FSR_001. It is noted that the development was approved with an FSR of 1.5:1 and the building footprint is largely maintained. However as a function of the removal of parking and associated circulation space and the provision of commercial space in this location this increases the GFA of the proposal up to 2.04:1 and varies the control.	Variation



S4.55(2): Commercial Premise: 109 Baxter Road, MASCOT

		See discussion at the end of LEP table.	
Part 5 Miscellaneous Provisions			
5.10	Heritage Conservation	Potential heritage impacts have been addressed via previous DAs. It is noted that the proposed modifications are predominantly contained within the approved building, noting no changes to the height or building footprint, as such the modification will have no impact on the heritage curtilage of any local heritage items within the locality.	YES
Part 6 Additional Local provisions			
6.1	Acid Sulfate Soils	Has been addressed via previous DA.	N/A
6.2	Earthworks	Has been addressed via previous DA, noting potential earthworks resulting from the proposed modification is similar to that approved under DA/14/235, in that the proposed excavation will have minimal adverse environmental or amenity impact.	YES
6.3	Stormwater Management	No change to the stormwater arrangement approved under previous DA.	N/A
6.4	Terrestrial Biodiversity	Has been addressed via previous DAs.	N/A
6.5	Riparian Land and Watercourses	Has been addressed via previous DAs.	N/A
6.6	Wetlands	Has been addressed via previous DAs.	N/A
6.7	Limited Development on Foreshore Area	Has been addressed via previous DAs.	N/A
6.8	Airspace Operations	Has been addressed via previous DAs, noting no change to the height of the building approved under DA/14/235.	N/A
6.9	Development in Areas Subject to Aircraft Noise	Has been addressed via previous DAs, noting the proposed commercial development continues to meet relevant indoor design sound levels under AS 2021 – 2000.	YES



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6.15	Active Street Frontages	The subject site is not located identified as providing an active street frontage. Not relevant. However, it is noted that the approved commercial building continues to adequately address its frontage to Baxter Road and also continue to provide direct access to the building from the street level.	N/A
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Building Height

As shown on the submitted plans the proposal marginally increases the building height to the lift over-run- which exceeds by approximately 700mm or 3.18% of the control.

A variation pursuant to Clause 4.6 would normally be required however the wording of Clause 4.6 relates to the ‘granting of consent’ (i.e. Consent must not be granted for development) rather than the ‘modification of consent’ and therefore technically Clause 4.6 does not apply.

The consideration of development standards pursuant to Section 96 amendments has been an ongoing issue dealt with in the Land and Environment Court. It is important to note that the Court has consistently described the section 96 modification provision of the Act as “beneficial and facilitative”.

It is designed to assist the modification process rather than to act as an impediment to it; “It is to be construed and applied in a way that is favourable to those who seek to benefit from the provision” (see North Sydney Council v Michael Standley & Associates Pty Limited 1998).

Consistent with this philosophy it is noted that a Council can approve a section 96 modification application even where it would contravene a development standard. In such cases, neither a SEPP1 nor Clause 4.6 variation is required.

In North Sydney Council v Michael Standley & Associates Pty Ltd the judgement identified that section 96 is a ‘free-standing provision’. This means that a section 96 “*modification application may be approved notwithstanding the development would be in breach of an applicable development standard were it the subject of an original development application.*”

It is clear that Section 96 authorises the development to be approved irrespective of any breach of development standards. The tests for a section 96 are different to that of a development application, as it includes that of “substantially the same”. Accordingly, a determination pursuant to Section 96 does not require a SEPP1 or Clause 4.6 variation to give Council power to approve.

Sutherland Shire Council argued it in Gann v Sutherland Shire Council that it is illogical for a developer to have the opportunity to gain consent for a compliant development by virtue of a Development Application and then be granted opportunity to ignore development standards via the section 96 modification processes.



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The Court noted:

“This does not mean that development standards count for nothing. Section 96(3) still requires the consent authority to take into consideration the matters referred to in s 79C, which in turn include the provision of any environmental planning instrument. That is, any development standard in an environmental planning instrument must be taken into consideration by the consent authority, but the absolute prohibition against the carrying out of development otherwise than in accordance with the instrument in s 76A(1) does not apply.”

Having regard to the above discussion, we note that section 96 authorises the approval of modifications to be given by the consent authority where there is a breach of a development standard. Neither Clause 4.6 nor SEPP1 are applicable to a Section 96 modification, as these are only relevant during the development application and assessment stage. However a consent authority is still to have regard to the control and the merit, or otherwise, of supporting a variation to a control.

Given there is no change to the approved building height, except for a small increase to the lift over-run that exceeds the building height, we believe that there is no legal impediment to Council accepting, assessing and determining a S.96 to permit the minor modification of maximum building height provision.

The actual variation to maximum building height control is considered acceptable based on the following:

- The area of non-compliance is limited to a small portion of the building footprint that will not increase the extent of overshadowing to adjoining properties.
- The extent of variation is of a very minor scale and contained at the mid-point of the building and therefore it is not perceived at street level.
- The lift over-run is necessary to meet relevant standards in order for the lift to run to the top of the building.
- The variation does not alter the character of the building or presentation of the building or alter or change any impact relating to privacy or viewloss.

Therefore the request to vary the maximum height control is considered appropriate in the context of the site and the minor variation does not detract from consistency with the underlying intent of the controls set out in Clause 4.3 of the BLEP 2015.



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Floor Space Ratio

The proposal does increase the gross floor area of the development- owing to the conversion of some parking areas to commercial floor space- however this does not change the approved footprint or have any bearing on the bulk and scale of the development.

The FSR has increased from 1.5:1 to 2.04:1 owing to the changes proposed. This does increase the GFA and FSR by 36% and is non-compliant.

As set out above a detailed Clause 4.6 variation is not legally required for the modification application. However the following reasons indicate that the departure to the FSR control is acceptable for the revised development.

- The variation is a function of the conversion of excess parking and circulation space at the lower level of the building- with no increase to the building footprint and bulk and scale of the development;
- The provision of commercial floor space supports employment generation in a key strategic location;
- The proposal continues to provide adequate parking and associated end of trip facilities and the associated Green Travel Plan;
- The proposal continues to align with the specified zone objectives
- Finally the proposal continues to align with the objectives of the FSR control:

(a) to establish standards for the maximum development density and intensity of land use,

(b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,

(c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,

(d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,

(e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,

(f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,

(g) to facilitate development that contributes to the economic growth of Botany Bay.

Therefore the proposal, despite the non-compliance with the FSR control, is worthy of support in this instance- reiterating that the building footprint is maintained and the presentation and design of the building relative to Baxter Road is maintained as per the approved DA- with an improvement in the landscaped area via the proposed amendments.



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Botany Bay Development Control Plan 2013

Overall, the modification will have minimal adverse environmental or amenity impacts considering its purely an administrative matter. The modification will increase additional commercial floor area that will support the viability of business around a major airport whilst also provides additional employment opportunities for local residents.

All relevant Council controls have been considered in the following compliance table.

Botany Bay Development Control Plan 2013 – Part 3 General Provisions Compliance Table			
Clause	Controls	Comment	Complies
3A. Car Parking			
3A.2	Parking Provisions of Specific Uses <i>Minimum Parking Spaces:</i> <i>Business/office premises: 1 space /40m² GFA</i>	<p>General</p> <p>C1 All required car parking continues to be provided on site.</p> <p>C2 DA/14/235 approved a 6 storey commercial building with a total of 657m² of commercial floor space. The modification is to increase overall commercial space by 202m² or a total of 859m².</p> <p>As such the commercial building is required to now provide a total of 21.48 (22) car parking spaces.</p> <p>The development proposes the provision of 11 car parking spaces within the lower ground floor with 9 of the parking spaces provided within a semi-automatic independent stacking system, where the cars on the lower level are lowered into a pit beneath the floor and also a single car share space located on the upper ground floor; a total of 12 car parking spaces on-site. As such the proposal is not consistent with Council's car parking controls. Refer to discussion against the parking rates at the end of this table for further detail.</p> <p>Car Parking</p> <p>C4 Proposed reconfiguration to the approved car parking arrangement will remove tandem parking spaces.</p>	<p>YES</p> <p>Variation</p> <p>N/A</p>



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		<p>Bicycle Parking</p> <p>C7 DCP is required to provide bicycle parking spaces equivalent to 10% of the required car parking space (22 spaces) and therefore is required to provide 2.2 bicycle carparking spaces. The modification provides 11 bicycle parking spaces within the lower ground floor and as such the development continues to be consistent with Council's bicycle bike parking requirement.</p>	YES
3A.3.	General Requirements	<p>3A.3.1 Car Parking Design</p> <p>C1 Proposed modification is to undertake a reconfiguration of the parking layout within the lower ground floor, noting the parking facilities have been designed to be compliant with Council control and relevant Australian standards. See plan for detail.</p> <p>C2 Vehicles will continue to enter and leave the site in a forward direction.</p> <p>C5 Due to the small scale nature of the development no dedicated service vehicle area and turning areas provided within the lower ground floor. However the car share space within the upper ground floor can be utilised by courier vehicles.</p> <p>C6 All parking bays will be clearly designated, sign posted and line marked with signage and line marking to comply with the relevant Australian Standard.</p> <p>C7 No change to the approved stormwater management approved via DA.</p>	<p>YES</p> <p>YES</p> <p>N/A</p> <p>YES</p> <p>N/A</p>



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		<p>Location</p> <p>C10 No permanent off-street parking facility is provided within the front setback, with the modification to provide a car share space within the front setback to enable a 'go get' or similar style car share arrangement to promote alternative means of transportation. This is offset on the basis of the additional landscaping through the centre of the site and is suitable.</p> <p>C11 No change to the carparking access to the lower ground floor as approved via DA DA/14/235, noting the car parking access arrangement continues to provides adequate parking arrangements as well as ensuring the safe and efficient movement of vehicular and pedestrian traffic.</p> <p>C12 The modification is to remove the approved car parking area within the upper basement level with all parking with the exception of a car share space to be located within the lower ground floor and as such will not be visible from the public domain. Furthermore, the removal of the car parking within the upper ground floor will result in also the removal of the centrally located vehicular crossover and driveway and replaced via landscaping which will contribute towards reducing hard surfaces whilst providing more greenery on the site that will positively contribute towards softening the built form and integrate the proposal within the context of the site and its surrounds.</p> <p>All but a temporary parking bay is provided within the lower ground floor. It is noted that the provision of a temporary parking bay at the front of the site is considered acceptable because of the subsequent improvement to the central landscaping area and to promote alternative forms of transportation.</p>	<p>Variation</p> <p>YES</p> <p>YES</p>



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		<p>Access</p> <p>C13 Approved commercial building will continue to provide separate access points for vehicles and pedestrian, thus ensuring the safe and efficient movement of vehicular and pedestrian traffic.</p> <p>C13 DCP only permits one vehicle access point per property. The modification proposes to remove car parking from the upper ground floor and subsequently will also result in the removal of the centrally located vehicular crossover and driveway and effectively will ensure that the development will only provide one vehicle access point, achieving compliance with DCP requirements.</p> <p>C15 – C19 No change to the vehicular access arrangement to the lower ground floor.</p> <p>Basement Parking</p> <p>C21 – C24 Has been addressed via previous DA.</p> <p>Non-Residential</p> <p>C29 Has been addressed via previous DA.</p> <p>C30 As stated previously within this statement, the removal of car parking area within the upper ground floor and subsequent removal of centrally located vehicular crossover and driveway will permit the development to increase the overall landscaping area on site, especially along the front setback.</p> <p>C31 No change to the width of access driveway to the lower ground floor approved via DA/14/235.</p>	<p>YES</p> <p>YES</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>YES</p> <p>N/A</p>
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		<p><u>Pavement</u></p> <p>C32- C33 Pavement continue to be provided in accordance with Council requirements.</p> <p><u>Lighting</u></p> <p>C34 Lighting provided within the lower ground floor and all other relevant areas within the site continues to be provide in-accordance with relevant BCA and Australian standard requirements.</p> <p><u>Accessible Parking</u></p> <p>C35 – C38 The proposal provides 1 accessible car parking space within the lower ground floor, designed to comply with Council's and relevant Australian Standard car parking dimensions for car parking spaces for the disable. Complies.</p> <p><u>Waste Collection Points</u></p> <p>C40 Has been addressed via previous DA, noting due to the small scale nature of the site, previous DA did not requires the site to provide a waste collection point within the subject site.</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>N/A</p>
3A.3.2	Bicycle Park Design	<p>Bicycle storage space is to be relocated within the lower ground floor designed in accordance with relevant Australian Standards and also designed to minimise potential conflict with vehicle traffic.</p> <p>Furthermore, the bicycle storage area to be secured, located undercover with direct access to lobby area of the proposed commercial building.</p> <p>Development provides appropriate end of trip facilities.</p>	YES
3A.3.3	Traffic and Transport Plans and Reports	An updated Traffic Report has been attached to this modification application. See Traffic Report for detail.	YES



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3A.3.4	On-Site Loading and Unloading Facilities.	Due to the small scale of the proposal (<999m ² of GFA), no service bay is required. Not applicable.	N/A
3B. Heritage			
3B.7	Development in the Vicinity of Heritage Items or Heritage Conservation Areas	<p>Potential heritage impacts have been addressed via previous DAs.</p> <p>It is noted that the proposed modifications are predominantly contained within the approved building, noting no changes to the height or building footprint, as such the modification will have no impact on the heritage curtilage of any local heritage items within the locality.</p>	N/A
Part 3C. Access & Mobility			
		<p>Development continues to provide appropriate access to, from and within the site for those with disability.</p> <p>It is noted that one accessible car parking space is provided within the lower ground floor.</p>	YES
Part 3D Signage			
		Signage will be subject to future DAs. Not applicable.	N/A
3G. Stormwater Management			
		No change to the stormwater arrangement approved via DA/215/205.	N/A
3H Sustainable Design			
		Has been addressed via previous DA.	N/A
3I. Crime Prevention, Safety & Security			
		The development will continue to provide an active façade to Baxter Road, with upper ground floor commercial suites projected to activate the street level.	YES



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3J. Aircraft Noise & OLS			
		Has been addressed via previous DA, noting no changes to the height of the approved building and that the proposed commercial development continues to meet relevant indoor design sound levels under AS 2021 – 2000.	YES
3K. Contamination			
		Has been addressed via previous DA.	N/A
3L. Landscaping			
		Has been addressed via previous DA. It is noted that the proposal will increase landscape area and deep soil zone with the removal of carparking area and ancillary centrally located vehicular crossover and driveway at the upper basement level.	N/A
3N Waste Minimisation & Management			
		Minor reconfiguration of the waste store area within the lower ground floor, however the modification will have negligible impact on the waste management arrangement approved under DA/14/235.	YES
Part 6 Employment Zones			
6.2.4	Mascot Business Development Precinct.	<p>C1 Has been addressed via previous DA.</p> <p>C2 The proposed modification if to be undertaken predominantly within the building footprint of the approved commercial building, noting the modification will have negligible impact on the building presentation to the street level. It is noted that the addition of a wrap around terrace to the first level will provide visual interest and contribute towards breaking up the buildings façade and thus will have a positive impact on the streetscape along Baxter Road.</p> <p>Furthermore the modification will have no impact on the height of the 6 storey building approved via DA/14/235.</p>	<p>N/A</p> <p>YES</p>



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		<p>C3 No change to the height of the approved commercial building, noting issues regarding the penetration of the OLS has been addressed via previous DA.</p> <p>C4 The proposal is not affected by proposed future planned road widening for the precinct.</p> <p>C5 The subject site is not affected by the duplication works on the Sydenham-Botany Good Railway Line.</p> <p>C6 The proposal is not located within 25m of the Airport Line Tunnel. Not relevant.</p> <p>C8 Has been addressed via previous DA.</p> <p>C9 The subject site is not located near a railway corridor or a busy road. Not relevant.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
6.3 General Provisions			
6.3.1	Amalgamation and Subdivision	No amalgamation or subdivision is proposed as part of this modification. Not relevant.	N/A
6.3.2	Building and Site Layout	<p>C1 A Site Analysis and Precinct Analysis has been provided via previous DA.</p> <p>C2 N/A noting that the development proposes to undertake modification works to increase the overall commercial floor space within an approved commercial building. Considering that the majority of the modification is to be contained within the building with no change to the building façade, the approved building will continue to provide articulation and design elements of that approved under DA/14/235. Furthermore, the addition of a wrap around terrace to the first level will provide articulation, visual interest and contribute towards breaking up the buildings façade and thus will have a positive impact on the streetscape along Baxter Road.</p>	<p>N/A</p> <p>N/A</p>



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		<p>C4 Where appropriate, setbacks continue to be deep soil zones. See site plans for detail.</p>	YES
		<p>C7 One of the key objectives of the modification is to increase amenity to each individual commercial suite in the form of kitchenette. Furthermore the development also provides appropriate toilet and end of trip facilities.</p>	YES
		<p>C8 Has been addressed via previous DA, noting that the subject site is not located within close proximity to residential zoned areas and that the proposed modifications are contained within the approved commercial building with no changes to the height or building footprint.</p>	N/A
		<p>C9 Has been addressed via previous DA.</p>	N/A
		<p>C10 The proposal is to undertake modification to an approved commercial building rather than a new development. Not applicable.</p>	N/A
		<p>C12 The subject site does not front a residential area. Not applicable.</p>	N/A
		<p>C13 The modification will provide private terrace to the 3 x commercial suites within the first floor and to the commercial suite within Level 5 and also 93m² of outdoor staff recreation area provided in the form of a rooftop terrace, also within Level 5. The outdoor area will receive adequate solar access during mid-winter.</p>	YES
		<p>C15 No change to the building entry point approved via DA/14/235.</p>	N/A



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6.3.4 Building Design and Appearance		
	<p>Height</p> <p>C1 No change to the height of the building approved via previous DA other than lift over-run.</p> <p>C3 The proposed 6 storey commercial building intrudes onto prescribed airspace. This has been addressed via previous DA.</p> <p>C4 Has been addressed via previous DA.</p> <p>C6 Has been addressed via previous DA.</p> <p>Design</p> <p>C7 A schedule of finishes is unchanged.</p> <p>C8 Has been addressed via previous DA</p> <p>C9 Approved commercial building will continue to provides an active frontage to Baxter Street.</p> <p>C11 - C12 The approved commercial building continues to achieves good presentation to the street, noting no changes to the building façade approved via DA/14/235 as the majority of the proposed modification is contained within the approved building.</p> <p>C14 Has been addressed via previous DA noting with the majority of the proposed modifications to be contained within the approved commercial building, the height, mass and scale of the building will be maintained.</p> <p>C15 The development does not proposes a new building, rather to undertake modification to an approved commercial building in-order to increase commercial floor area and also the amenity to the approved commercial suites. Furthermore, considering that proposed works is predominantly to be contained</p>	<p>See LEP Discussion</p> <p>YES</p> <p>N/A</p> <p>N/A</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>



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		<p>within the approved part six – part seven storey building, the building façade will remain unaffected by the proposed modifications. Also, with the removal of the parking area within the upper ground floor will result in the centrally located vehicle cross-over and driveway and graded pedestrian pathway and fire escape egress pathway that runs along the site’s eastern boundary to be replaced with landscaping that will contribute towards reducing hard surfaces whilst providing more greenery on the site that will positively contribute towards softening the built form and integrate the proposal within the context of the site and its surrounds.</p> <p>C16 Has been addressed via previous DA. N/A</p> <p>C18 The subject site is not located within close proximity to residential zoned lands. N/A</p> <p>C22 Development proposes to undertake modification of an approved commercial building and not for a new development. Not applicable. N/A</p> <p>C23 Has been addressed via previous DA. N/A</p> <p>C25 No change to the access arrangement to the parking area within the lower ground floor. N/A</p> <p>C26 Appropriate storage areas and internal space is provided. YES</p> <p>Public Utilities</p> <p>C28 Has been addressed via previous DA. N/A</p> <p>Lighting</p> <p>C30 – C31 Has been addressed via previous DA. N/A</p> <p>Facilities</p> <p>C33 Has been addressed via previous DA. N/A</p>	
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		Service Areas	
		C34 Development continue to provide appropriate waste, recycling areas and storage areas.	YES
6.3.5 Setbacks			
		C1. Setbacks	
		Front Building Setback No change to the front setback arrangement approved via DA/14/235.	N/A
		Side Building Setback Consistent with the side setbacks established as per DA/14/235.	YES
		Rear Building Setback No change to the rear setback arrangement approved via DA/14/235.	N/A
		C4. Where appropriate setbacks are to be deep soil zone. It is noted that It is noted that the provision of a temporary parking bay at the front of the site is considered acceptable on the basis of the improved landscape bay in the central portion of the site and to provide for alternate forms of transport.	Variation
6.3.6 Parking and Vehicular Access			
		Addressed previously in this statement.	YES
6.3.7 Signage			
		Signage is not subject to this Clause 4.55 modification. Not applicable.	N/A
6.3.8 Site Facilities			
		Has been addressed via previous DA.	N/A
6.3.9 Landscape			
		Has been addressed via previous DA.	N/A



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		It is noted that the proposal will increase landscape area and deep soil zone with the removal of carparking area and ancillary centrally located vehicular crossover and driveway at the upper basement level.	
6.3.10 Fences			
		No change to the fencing arrangement approved via previous DA.	N/A
6.3.11 Industrial Development Adjoining a Residential Land Use			
		Site does not adjoin residential land uses. Not applicable.	N/A
6.3.12 Noise and Hours of Operation			
		Has been addressed via previous DA, however the hours of operation of the commercial suites are expected to emit noise that is consistent with existing noise generation of a commercial area. Furthermore, the potential hours of operation of said commercial suits will not impact upon adjoining properties given the future commercial character envisioned for the locality. Use of each individual commercial suits will be subject to future DAs.	YES
6.3.13 Waste			
		Minor reconfiguration of the waste store area within the lower ground floor, however the modification will have negligible impact on the waste management arrangement approved under DA/14/235.	YES
6.3.14 Environmental Protection			
		The modification to an approved commercial building is not going to result in adverse impacts on the environment.	YES



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6.3.15 Risk			
		No hazardous or potentially offensive development is proposed as part of this development application. Not applicable.	N/A
6.3.21 Business Premises & Office Premises in the B5 Business Development & B7 Business Park Zones			
		<u>General</u> C28 Addressed via previous DA.	N/A
		<u>Landscaping</u> C28 The development site is well serviced by water and sewer and the required	YES



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Parking Rate Discussion

DA/14/235 approved a 6 storey commercial building with a total of 657m² of commercial floor space. The modification is to increase overall commercial space by 202m² or a total of 859m².

The parking rates under the DCP for a 'business/office premises is 1 space / 40m² GFA.

As such the commercial building is required to now provide a total of 21.48 (22) car parking spaces.

The development proposes the provision of 12 parking spaces on the site. As such the proposal is not consistent with Council's car parking controls.

The site is located within the 'Mascot Business Development Precinct' as per the Botany Bay DCP 2013. The precinct is supported by the Mascot Town Centre Precinct Transport Management & Accessibility Plan – April 2012 (TMAP), prepared by SMEC.

Part 6 of the DCP states the following:

'development is to encourage a higher public transport (including walking and cycling) use and include strategies to encourage and promote car sharing and car pooling strategies. In this respect a Workplace Travel Plan is to be lodged with the development application. The Workplace Travel Plan shall establish measurable targets to achieve the mode share targets stated in the Mascot Town Centre Precinct TMAP – maximum car mode share: 65% by 2012 and 57% by 2031'.

The TMAP offers a range of alternative transport recommendations, including implementing Workplace Travel Plans, car share scheme and bicycle parking, as well as restricting off-street parking for office and commercial developments within the TMAP study area to a maximum of 1 space per 80m².

The modification will result in increasing overall commercial floor space by an additional 202m² and an overall reduction of parking spaces from 20 spaces to 12 (including a car share space).

The Traffic Report prepared by Varga Traffic Planning suggest that the parking rate of 1 space per 80m² of GFA (recommended by the TMAP), rather than the parking rate of 1 space per 40m² of GFA (as per the DCP) is more appropriate for the commercial premises and as such, despite the proposed additional commercial floor space, the development is expected to result in a net reduction in traffic generation potential of the site, noting the development is to provide a revised parking requirement of 10.7 (11) parking spaces on site.

The development provides a total of 12 car parking spaces on site in the form of 11 spaces and a carshare space.



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The projected change in traffic activity as a consequence of the S.4.55 modification is not expected to result in any unacceptable traffic implications in terms of road network capacity.

Refer to attached updated Traffic Report for detail, noting that the use of a car share programme provides for an alternate means of transport to and from the site and aligns with the intent of the Workplace Travel Plan and alternate modes of transport.



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6. Conclusion

Following a review of the relevant planning controls, it is concluded that the proposed modification application is an appropriate outcome on the site and remains consistent with the design intent of the original proposal.

Having regard to the benefits of the proposal and taking into account the absence of adverse environmental, social or economic impacts, the modification application is submitted to Council for assessment and granting of consent. Think Planners Pty Ltd recommends the approval of the modification application including the amendment of relevant conditions.



15 November 2018
Ref 18178

Bayside Council
P.O. Box 21
ROCKDALE NSW 2216

Attn: Mr Andrew Ison
Andrew.Ison@bayside.nsw.gov.au

Dear Andrew,

S.96 (10.2014.235.2)
PROPOSED COMMERCIAL DEVELOPMENT
109 BAXTER ROAD, MASCOT
TRAFFIC AND PARKING MATTERS

I refer to Council's email to Julian Dolk of *Bureau SRH*, dated 27 October 2018, requesting additional information in respect of the abovementioned s.96 development proposal. The following advice is provided in respect of the traffic and parking matters raised under the "Engineering" section of your email.

In order to accommodate the additional off-street car parking requested by Council, the architectural plans have been amended and are attached. In essence, the modifications primarily involve a different, albeit very similar, type of car stacking system to the model originally proposed. Detailed specifications of the car stacker are also attached. By reducing the commercial floor area on the upper ground floor level, an additional level of parking can be added to the stacker, thereby providing an additional 5 car parking spaces.

Spatially, there is little difference between the two schemes, with the exception of the aisle width which has been increased slightly. Overhead clearances, parking space dimensions, ramp gradients and width etc. essentially remain unchanged and generally compliant with *AS2890.1* & *AS2890.6*.

We have also undertaken a series of swept turning paths into and out of each parking space within the basement, using the large B85 design vehicle specified in *AS2890.1*. The swept turning paths were undertaken using the *Autodesk Vehicle Tracking 2018* software program which is based on the requirements specified in *AS2890.1*, and are reproduced on the following pages. The swept turning path diagrams demonstrate that the B85 design vehicle can access each parking space without difficulty and can enter and exit the basement car park in a forward direction at all times.

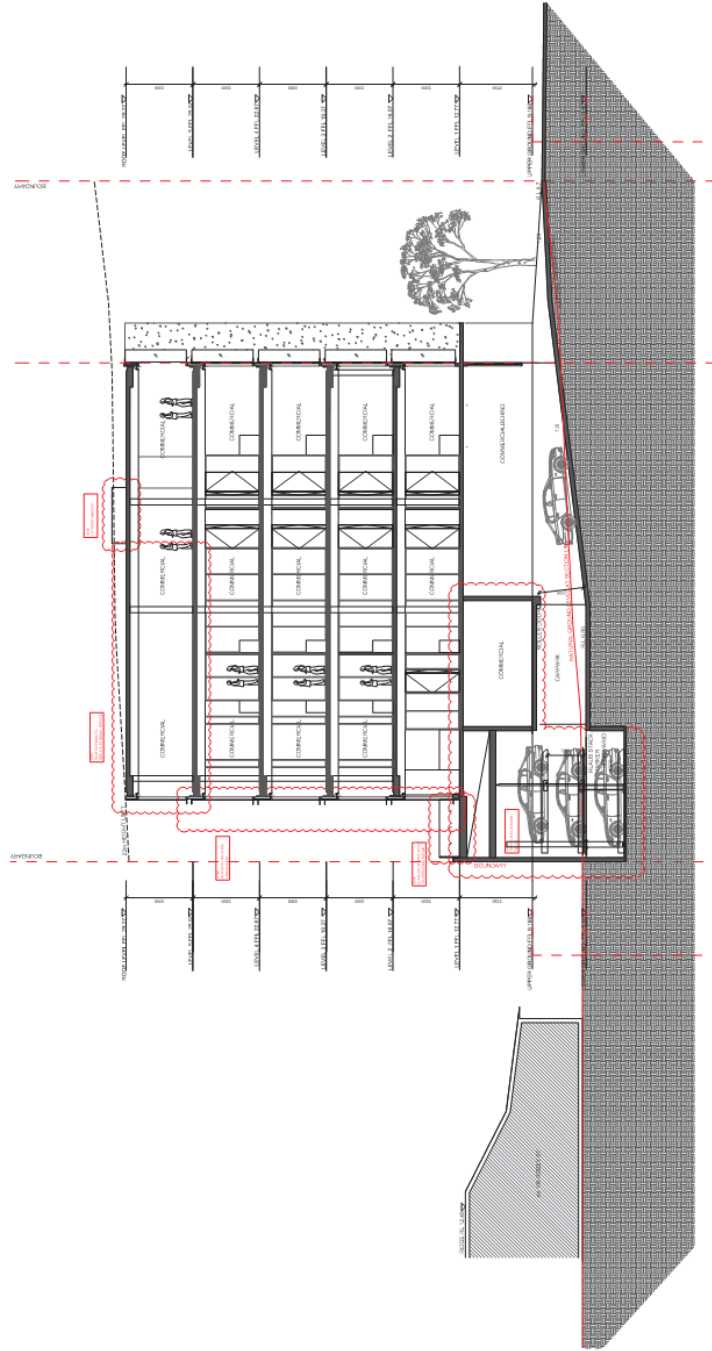
Please do not hesitate to contact me on telephone 9904 3224 should you have any enquiries.

Yours sincerely



Chris Palmer
Traffic Engineer B.Eng (Civil)
Varga Traffic Planning Pty Ltd

Suite 6, 20 Young Street, Neutral Bay NSW 2089 - PO Box 1868, Neutral Bay NSW 2089
Ph: 9904 3224, Email: varga@vtp.net.au



NORTH WEST ELEVATION

BUREAU SRH | architecture STUDIO 1 | 5 GARDNER STREET | PASADENA, CA 92371 | OFFICE: 626.792.1100
 109 BAXTER RD, MASCO PASADENA

DATE: 12/12/18
 DRAWN BY: J. HARRIS
 CHECKED BY: J. HARRIS
 SCALE: 1:100

SECTION BB

PROJECT: 1801
 DATE: 12/12/18
 SCALE: 1:100

S96 APPLICATION
 NOT FOR CONSTRUCTION

S96302
 REVISION: 3

LEGEND

<input type="checkbox"/> ALUMINUM	<input type="checkbox"/> GLASS	<input type="checkbox"/> COMPOSITE	<input type="checkbox"/> WOOD
<input type="checkbox"/> CERAMIC TILE	<input type="checkbox"/> GRANITE	<input type="checkbox"/> BRICK	<input type="checkbox"/> STAINLESS STEEL
<input type="checkbox"/> CONCRETE	<input type="checkbox"/> PAINTED BRICK	<input type="checkbox"/> METAL ROOFING	<input type="checkbox"/> ASPHALT ROOFING
<input type="checkbox"/> GYPSUM BOARD	<input type="checkbox"/> STAINLESS STEEL	<input type="checkbox"/> METAL ROOFING	<input type="checkbox"/> ASPHALT ROOFING

NOTES:
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. FINISHES AND MATERIALS TO BE DETERMINED BY THE ARCHITECT.
 3. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
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KLAUS Multiparking GmbH
 Hermann-Krum-Straße 2
 D-88319 Aitrach
 Fon +49 (0) 75 65 508-0
 Fax +49 (0) 75 65 508-88
 info@multiparking.com
 www.multiparking.com

PRODUCT DATA



trendvario 4300

2000 kg¹ / 2600 kg²

Loadable up to 2600 kg! Single parking spaces can also be upgraded to handle heavier loads at a later date!

Dimensions

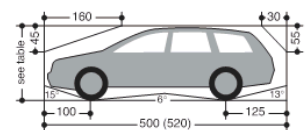
Tolerances for space requirements +3, 0. Dimensions in cm.

Suitable for

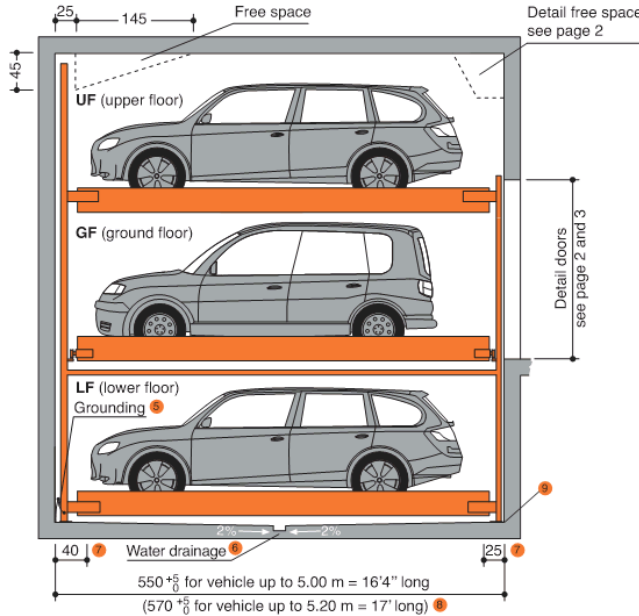
Standard passenger cars:
 Limousine, station wagon, SUV, van according to clearance and maximal surface load.

	Standard	Special
Width	190 cm	190 cm
Weight	max. 2000 kg	max. 2600 kg
Wheel load	max. 500 kg	max. 650 kg

Clearance profile



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4300-175	4300-200	4300-230	4300-240
Height	Height	Height	Height
175	200	230	240
Car height	Car height	Car height	Car height
UF GF LF	UF GF LF	UF GF LF	UF GF LF
325 150 150 150	350 150 175 175	380 150 205 205	390 150 215 215
345 150 170 150	375 175 175 175	405 175 205 205	405 165 215 215
365 150 190 150	380 150 205 175	420 190 205 205	415 175 215 215
365 170 170 150	405 175 205 175	435 205 205 205	435 195 215 215
380 150 205 150	435 205 205 175		445 205 215 215
405 190 190 150			455 215 215 215
435 205 205 150			

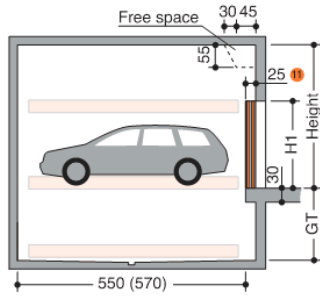
- 1 Standard type
- 2 Special system: maximum load for extra charge.
- 3 To follow the minimum finished dimensions, make sure to consider the tolerances according to VOB, part C (DIN 18330 and 18331) and the DIN 18202.
- 4 Car width for platform width 230 cm. If wider platforms are used it is also possible to park wider cars.
- 5 Potential equalization from foundation grounding connection to system (provided by the customer).
- 6 Slope with drainage channel and sump.
- 7 These floor areas need to be horizontal and on equal level across the full width of the pit
- 8 For convenient use of your parking space and due to the fact that the cars keep becoming longer we recommend a pit length of 570 cm.
- 9 At the transition section between pit floor and walls no hollow mouldings/coves are possible. If hollow mouldings/coves are required, the systems must be designed smaller or the pits accordingly wider.
- 10 If sprinklers are required make sure to provide the necessary free spaces during the planning stage.

TrendVario 4300 | Code number: 585.29.210-012 | Version: 01.2017

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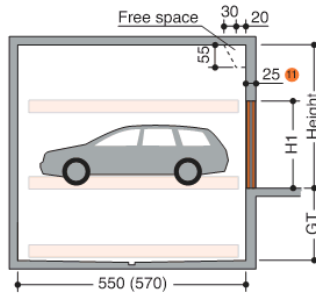
Garages with sliding doors (standard) | Widths dimensions

Sliding door behind columns



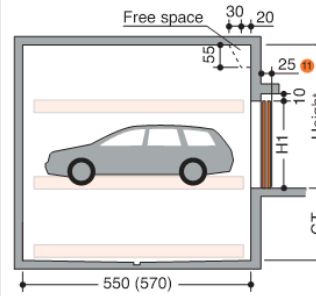
Type	GT	Height	H1
4300	175	325/345/365/405	210
4300	175	380/435	220
4300	200	350/375	210
4300	200	380/405/435	220
4300	230	380/405/420/435	220
4300	240	390/405/415/435/445/455	230

Sliding door between columns



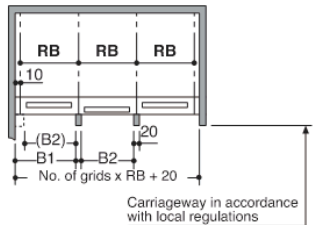
Type	GT	Height	H1
4300	175	325/345/365/405	220
4300	175	380/435	230
4300	200	350/375	220
4300	200	380/405/435	230
4300	230	380/405/420/435	230
4300	240	390/405/415/435/445/455	240

Sliding door in front of columns



Type	GT	Height	H1
4300	175	325/345/365/405	220
4300	175	380/435	230
4300	200	350/375	220
4300	200	380/405/435	230
4300	230	380/405/420/435	230
4300	240	390/405/415/435/445/455	240

Columns per each grid unit

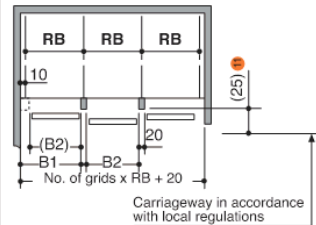


Usable platform width	RB	B1	B2
230	250	250	230
240	260	260	240
250	270	270	250
260	280	280	260
270	290	290	270

Columns per each grid unit

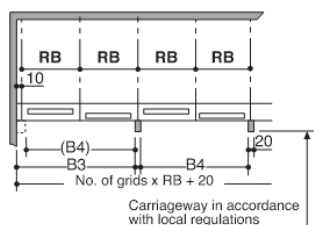
Not available!

Columns per each grid unit



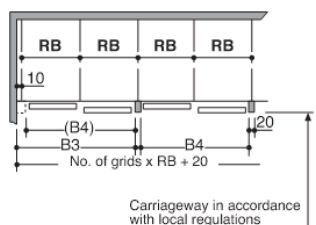
Usable platform width	RB	B1	B2
230	250	250	230
240	260	260	240
250	270	270	250
260	280	280	260
270	290	290	270

Columns every second grid unit



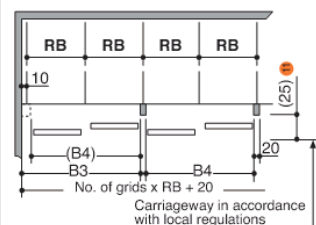
Usable platform width	RB	B3	B4
230	250	500	480
240	260	520	500
250	270	540	520
260	280	560	540
270	290	580	560

Columns every second grid unit



Usable platform width	RB	B3	B4
230	250	500	480
240	260	520	500
250	270	540	520
260	280	560	540
270	290	580	560

Columns every second grid unit



Usable platform width	RB	B3	B5
230	250	500	480
240	260	520	500
250	270	540	520
260	280	560	540
270	290	580	560

! According to the BGR 232, an inspection book is required for the commercial use of a gate with electric drive. Prior to commissioning, and then once a year, the gate has to be inspected by an expert and the findings entered in the inspection book. The inspection has to be carried out independent of any maintenance work.

For parking boxes on the edges and boxes with intermediate walls we recommend our maximum platform width of 270 cm. Please consider adjoining grids. Problems may occur if smaller platform widths are used (depending on car type, access and individual driving behaviour and capability).

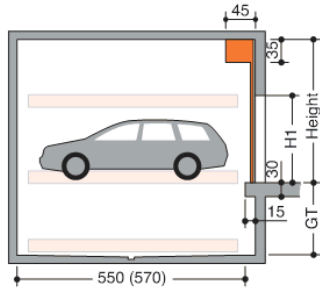
For larger limousines and SUV wider driveways are necessary (in particular on the boxes on the sides due to the missing manoeuvring radius).

- ⑩ RB = Grid unit width **must** strictly conform to dimensions quoted!
- ⑪ Only applies to manually operated doors. The electrically driven doors must have 35 cm.

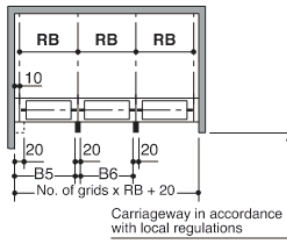
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Garages with roll doors | Widths dimensions

Roll door behind columns



Columns per each grid unit



Type	GT	Height	H1
4300	175	325/345/365/405	210
4300	175	380/435	220
4300	200	350/375	210
4300	200	380/405/435	220
4300	230	380/405/420/435	220
4300	240	390/405/415/435/445/455	230

Usable platform width	RB	B5	B6
230	250	250	230
240	260	260	240
250	270	270	250
260	280	280	260
270	290	290	270

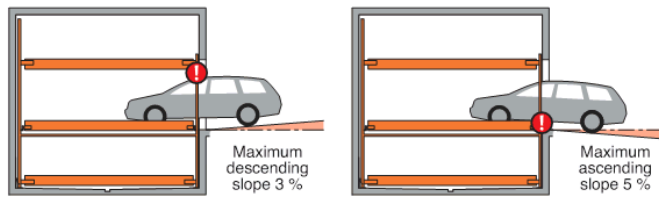
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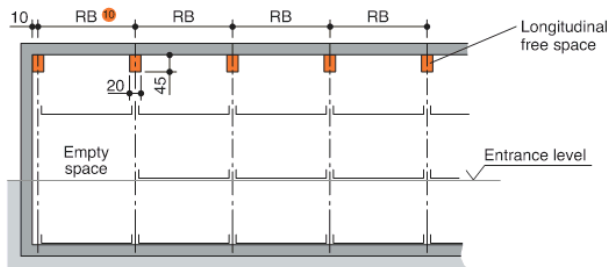
! RB = Grid unit width **must** strictly conform to dimensions quoted!

Approach



! The illustrated maximum approach angles must not be exceeded. Incorrect approach angles will cause serious manoeuvring & positioning problems on the parking system for which the local agency of KLAUS Multiparking accepts no responsibility.

Longitudinal free space

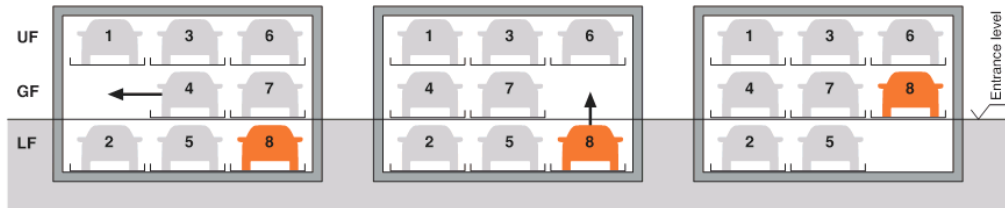


! RB = Grid unit width **must** strictly conform to dimensions quoted!

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Function with standard numbering and identification of parking levels

e.g. for parking space No. 8:
Check first that all doors are closed, then select No. 8 on operating panel.



For driving the vehicle off platform No. 8 the ground floor parking platforms are shifted to the left.

The empty space is now below the vehicle which shall be driven off the platform. The platform No. 8 will be lifted.

The vehicle on platform No. 8 can now be driven off the platform.

Load plan

4300-175					4300-200					4300-230					4300-240				
Type 4300-175					Type 4300-200					Type 4300-230					Type 4300-240				
Height	Car height				Height	Car height				Height	Car height				Height	Car height			
	GF	H3	H4			GF	H3	H4		GF	H3	H4		GF	H3	H4			
325	150	130	245		350	175	155	270		380	205	185	300	390	215	195	310		
345	170	150	265		375	175	155	270		405	205	185	300	405	215	195	310		
365	190	170	285		380	205	185	300		420	205	185	300	415	215	195	310		
365	170	150	265		405	205	185	300		435	215	195	310	435	215	195	310		
380	205	185	300		405	190	170	285		435	215	195	310	445	215	195	310		
405	190	170	285		435	205	185	300		435	205	185	300	455	215	195	310		
435	205	185	300																

Load plan – top view

Usable platform width	RB	RB1	RB2	Platform load	F1	F2	F3	F4	F5	F6	F7	F8	F9
230	250	260	135	2000 kg	±5	±2,5	±14,5	+70	±29	±0,2	±2,5	+25	+50
240	260	270	140	2600 kg	±5	±2,5	±14,5	+80	±29	±0,2	±2,5	+35	+70
250	270	280	145										
260	280	290	150										
270	290	300	155										

! The system is dowelled to floor and walls. The drilling depth in the floor is approx. 15 cm. The drilling depth in the walls is approx. 12 cm.
Floor and walls are to be made of concrete (grade of concrete min. C20/25)!
The dimensions for the points of support are rounded values. If the exact position is required, please contact KLAUS Multiparking.

- 10** RB = Grid unit width **must** strictly conform to dimensions quoted!
- 12** All forces in kN

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Technical data

Field of application

By default, the system can only be used for a fixed number of users.
If different users use the system (e.g. short-time parkers in office buildings or hotels) the Multiparking system needs to be adjusted. If required, would you please contact us.

Available documents

- wall recess plans
- maintenance offer/contract
- declaration of conformity
- test sheet on airborne and slid-borne sound

Environmental conditions

Environmental conditions for the area of multiparking systems: Temperature range -10 to +40° C. Relative humidity 50% at a maximum outside temperature of +40° C.
If lifting or lowering times are specified, they refer to an environmental temperature of +10° C and with the system set up directly next to the hydraulic unit. At lower temperatures or with longer hydraulic lines, these times increase.

Numbering

Standard numbering of the parking spaces:



Initial position: lower floor platform No. 2 at entrance level (covering of pit; safety regulation).

Different numbering is only possible at extra cost

Please take note of the following specifications:

- In general, the empty space must be arranged to the left.
- The numbers must be provided 8 – 10 weeks before the delivery date.

Sound insulation

According to DIN 4109 (Sound insulation in buildings), para. 4, annotation 4, KLAUS Multiparkers are part of the building services (garage systems).

Normal sound insulation:

DIN 4109, para. 4, Sound insulation against noises from building services.

Table 4 in para. 4.1 contains the permissible sound level values emitted from building services for personal living and working areas. According to line 2 the maximum sound level in personal living and working areas must not exceed 30 dB (A).

Noises created by users are not subject to the requirements (see table 4, DIN 4109).

The following measures are to be taken to comply with this value:

- Sound protection package according to offer/order (KLAUS Multiparking GmbH)
- Minimum sound insulation of building $R'_w = 57$ dB (to be provided by customer)

Increased sound insulation (special agreement):

Draft DIN 4109-10, Information on planning and execution, proposals for increased sound insulation.

Agreement: Maximum sound level in personal living and working areas 25 dB (A). Noises created by users are not subject to the requirements (see table 4, DIN 4109).

The following measures are to be taken to comply with this value:

- Sound protection package according to offer/order (KLAUS Multiparking GmbH)
- Minimum sound insulation of building $R'_w = 62$ dB (to be provided by customer)

Note: User noises are noises created by individual users in our Multiparking systems. These can be noises from accessing the platforms, slamming of vehicle doors, motor and brake noises.

Electrically driven doors

In accordance with BGR 232 commercially used power-driven doors must be subjected to annual inspections. We urgently recommend concluding a maintenance agreement that includes this service for the entire system.

Building application documents

According to LBO and GaVo (garage regulations) the Multiparking systems are subject to approval. We will provide the required building application documents.

Care

To avoid damages resulting from corrosion, make sure to follow our cleaning and care instructions and to provide good ventilation of your garage.

Corrosion protection

See separate sheet regarding corrosion protection.

CE Certification

The systems on offer comply with DIN EN 14010 and EC Machine Directive 2006/42/EC. Furthermore, this system underwent voluntary conformity testing by TÜV SÜD.

Certificate concerning the examination of conformity

Certificate no: KP 194
 Certification body: TÜV SÜD Industrie Service GmbH
 Zertifizierungsstelle für Produkte der Fördertechnik
 Westendstr. 158
 80086 München - Germany

Applicant / Certification holder: Klaus Multiparking GmbH
 Hermann-Klum-Str. 2
 88319 Aitrach - Germany

Date of application: 2012-03-08
 Manufacturer: Klaus Multiparking GmbH
 Hermann-Klum-Str. 2
 88319 Aitrach - Germany

Product: Equipment for power driven parking of motor vehicles
 Type: TrendVario 4100 2.000 kg and 2.600 kg
 TrendVario 4300 2.000 kg and 2.600 kg

Test laboratory: TÜV SÜD Industrie Service GmbH
 Prüfzentrum für Produkte der Fördertechnik
 Prof. Dr. G. Schmitt
 Gottlieb-Damier-Str. 7
 70794 Filderstadt - Germany

Date and number of the test report / mark of conformity: 2014-01-22
 TÜ 8W-12-230 DG

Test specifications: - 2006/42/EC, Annex I
 - DIN EN 14010

Validity: This Certificate is valid until 2019-02-13

Result: The equipment fulfills the requirements of the test specifications for the respective scope of application stated in the annex (page 1) of this certificate, keeping the mentioned conditions.

Date of issue: 2014-02-14

Certification body for lifts and cranes
 Chadl Nooredine
 TÜV SÜD Industrie Service GmbH

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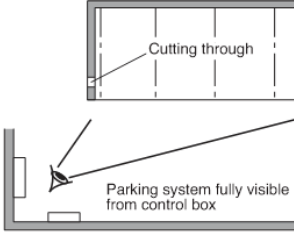
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Electrical data

Control box

The control box must be accessible at all times from outside!
Dimensions approx. 100 x 100 x 30 cm.
Cutting through of wall from control box to parking system (contact the local agency of KLAUS Multiparking for clarification).



Electrical supply to the control box / Foundation earth connector

Suitable electrical supply min. 5 x 2,5 mm² (3 PH+N+PE) to control box with mains fuse 3 x 16 A slow or over-current cut-out 3 x 16 A trigger characteristic K or C, DIN/VDE and local regulations must be taken into consideration.
Suitable electrical supply to the control box must be provided by the customer during installation. The functionality can be monitored on site by our fitters together with the electrician. If this cannot be done during installation for some reason for which the customer is responsible, the customer must commission an electrician at their own expense and risk.
In accordance with DIN EN 60204 (Safety of Machinery, Electrical Equipment), grounding of the steel structure is necessary, provided by the customer (distance between grounding max. 10 m).
Operating device
Easy-to-survey positioning (e.g. on column).
Protection against unauthorized use.
May also be recessed in wall if required.

To be performed by the customer

Safety fences

Any constraints that may be necessary according to DIN EN ISO 13857 in order to provide protection for the park pits for pathways directly in front, next to or behind the unit. This is also valid during construction.

Numbering of parking spaces

Consecutive numbering of parking spaces.

Building services

Any required lighting, ventilation, fire extinguishing and fire alarm systems as well as clarification and compliance with the relevant regulatory requirements.

Drainage

For the middle area of the pit we recommend a drainage channel, which you connect to a floor drain system or sump (50 x 50 x 20 cm). The drainage channel may be inclined to the side, however not the pit floor itself (longitudinal incline is available). In the interests of environmental protection we recommend painting the pit floor. Oil and petrol separators must be provided according to the statutory provisions when connecting to the public sewage system!

Wall cuttings

Any necessary wall cuttings.

Strip footings

If due to structural conditions strip footings must be effected, the customer shall provide an accessible platform reaching to the top of the said strip footings to enable and facilitate themounting work.

Electrical supply to the control box / Foundation earth connector

Suitable electrical supply to the control box must be provided by the customer during installation. The functionality can be monitored on site by our fitters together with the electrician. If this cannot be done during installation for some reason for which the customer is responsible, the customer must commission an electrician at their own expense and risk.
In accordance with DIN EN 60204 (Safety of Machinery, Electrical Equipment), grounding of the steel structure is necessary, provided by the customer (distance between grounding max. 10 m).

Door suspension

The lintel height H2 (see page 2) is absolutely necessary. With differing heights, additional fixings are required for extra charge.

Door shields

Door shields that may be necessary. If desired, they can be ordered from KLAUS Multiparking for an additional charge.

If the following are not included in the quotation, they will also have to be provided / paid for by the customer:

- Costs for final technical approval by an authorized body

Description

General description:

Multiparking system providing independent parking spaces for cars, one on top of the other and side by side.
Dimensions are in accordance with the underlying dimensions of parking pit, height and width.
The parking bays are accessed horizontally (installation deviation ± 1%).
Along the complete width of the parking automat an approach lane (driving lane in accordance with local regulations) must be available. Parking spaces are arranged on three different levels, one level on top of the other.
The platforms of both the lower floor (LF) and upper floor (UF) are moved vertically, the platforms of the ground floor (GF) horizontally. At approach level (GF) there is always one parking space less available. This vacant space is used for shifting the ground floor (GF) parking spaces sideways, thus enabling an upper floor (UF) parking space or lower floor (LF) parking space to be lowered or lifted to approach level. Consequently, a unit of five parking spaces (2 on the upper floor, 1 on the ground floor, 2 on the lower floor) is the smallest unit available for this parking system.
The TrendVario 4300 allows parking of passenger cars and station wagons.
For safety reasons the platforms can only be moved behind locked doors.
All necessary safety devices are installed. This consists mainly of a chain monitoring system, locking lever for the upper and lower platforms and locked doors. The doors can only be opened if the selected parking space has reached the park position and all openings are secured.

A steel framework mounted inside the pit, consisting of:

- Seriated supports
- Steel pillars with sliding platform supports
- Cross and longitudinal members
- running rails for the transversely movable ground floor (GF) platforms

Platforms consisting of:

- Side members
- Cross members
- Platform base sections
- 1 wheel stop (on the right per parking space)
- Screws, small parts, etc.

Lifting device for upper floor (UF) and lower floor (LF) platforms:

- Hydraulic cylinder with solenoid valve
- Chain wheels
- Chains
- Limit switches
- The platforms are suspended on four points and guided along the supports using plastic sliding bearings.

Drive unit of transversely movable platforms on the ground floor (GF):

- Gear motor with chain wheel
- Chains
- Running and guide rollers (low-noise)
- Power supply via cable chain

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Description

Hydraulic unit consisting of:

- Hydraulic power unit (low-noise, installed onto a console with a rubber-bonded-to-metal mounting)
- Hydraulic oil reservoir
- Oil filling
- Internal geared wheel pump
- Pump holder
- Clutch
- 3-phase-AC-motor (3.0 kW, 230/400 V, 50 Hz)
- Motor circuit breaker
- Test manometer
- Pressure relief valve
- Hydraulic hoses (which reduce noise transmission onto the hydraulic pipe)

Control system:

- Central control panel (operating device) used to select the desired parking space
- With series installation, the doors are opened manually
If desired, this can also be done using electric motors
- Electric wiring is made from the electric cabinet by the manufacturer

Roller doors:

- Size**
Dimensions modified based on width and height measurements.

- Shutter box**
- 2-piece, roll formed aluminium box 45° consisting of upper and lower part
- lacquered type

- Guide rails**
- extruded aluminium guide rails with brush insert
- lacquered type

- Gate type**
- aluminium gate type, roll formed
- end rod with electronic safety strip
- lacquered type

- Colour options**
Shutter box, guide rails and gate type are available with the following colour options:
- RAL 9010 (white)
- RAL 7038 (light grey)
- RAL 9006 (aluminium metallic)

- Door actuation**
Powered electrically by means of tube motor in the shaft.
For safety reasons the movement of the platforms is always made behind locked doors. Position sensing, i.e. "door open" and "door closed" is effected by electric signalers.

Sliding doors:

- Size**
Sliding door, dimensions: approx. 2500 mm x 2000 mm (width x height).
- Frame**
- Frame construction with vertical centre stay bar made from extruded aluminium profiles (anodized, layer thickness approx 20 µm).
- To open the doors a recessed grip is integrated in the aluminium profile.
- A rubber lip is used for the finishing of the closing edge to the building.

- Standard door panel**
Perforated steel plate
- Thickness 1mm, RV 5/8, galvanized, layer thickness: approx. 20 µm
- Ventilation cross-section of the panel approx. 40%
- Not suitable for outdoor garages

- Alternative door panel**
Perforated aluminium plate
- Thickness 2mm, RV 5/8 E6/EV1, anodized, layer thickness: approx. 20 µm
- Ventilation cross-section of the panel approx. 40%
Beaded steel plate
- Thickness 1mm, galvanized, layer thickness: approx. 20 µm.
- additional power coating, layer thickness: approx. 25 µm on the outside and approx. 12 µm on the inside
- Colour options for the outside (building view):
RAL 1015 (light ivory), RAL 3003 (ruby),
RAL 5014 (pigeon blue), RAL 6005 (moss green),
RAL 7016 (charcoal grey), RAL 7035 (light grey),
RAL 7040 (window grey), RAL 8014 (sepia),
RAL 9006 (white aluminium), RAL 9016 (traffic white)
- Inside of the gates in light grey

- Plain aluminium sheet
- Thickness 2mm, E6/EV1, anodized, layer thickness: approx. 20 µm
Wooden panelling
- Nordic spruce in grade A
- vertical tongue and groove boards
- preimpregnated colourless
Laminated safety glass
- Laminated safety glass made from single pane safety glass 8/4mm
Wire grating
- Mesh size 12 x 12 mm
- Mesh size 40 x 40 mm (for manual sliding gates only)

- Running rails**
- The running gear of each door consists of 2 twin-pair rolling gadgets, adjustable in height
- The running rails of the doors are fixed to brackets or the concrete lintel, or on a building-specific door suspension using ceiling fittings
- The guide consists of 2 plastic rollers mounted to a base plate, which is dowelled to the floor
- Running rails, ceiling fittings and guide roller base plate are hot-dip galvanized

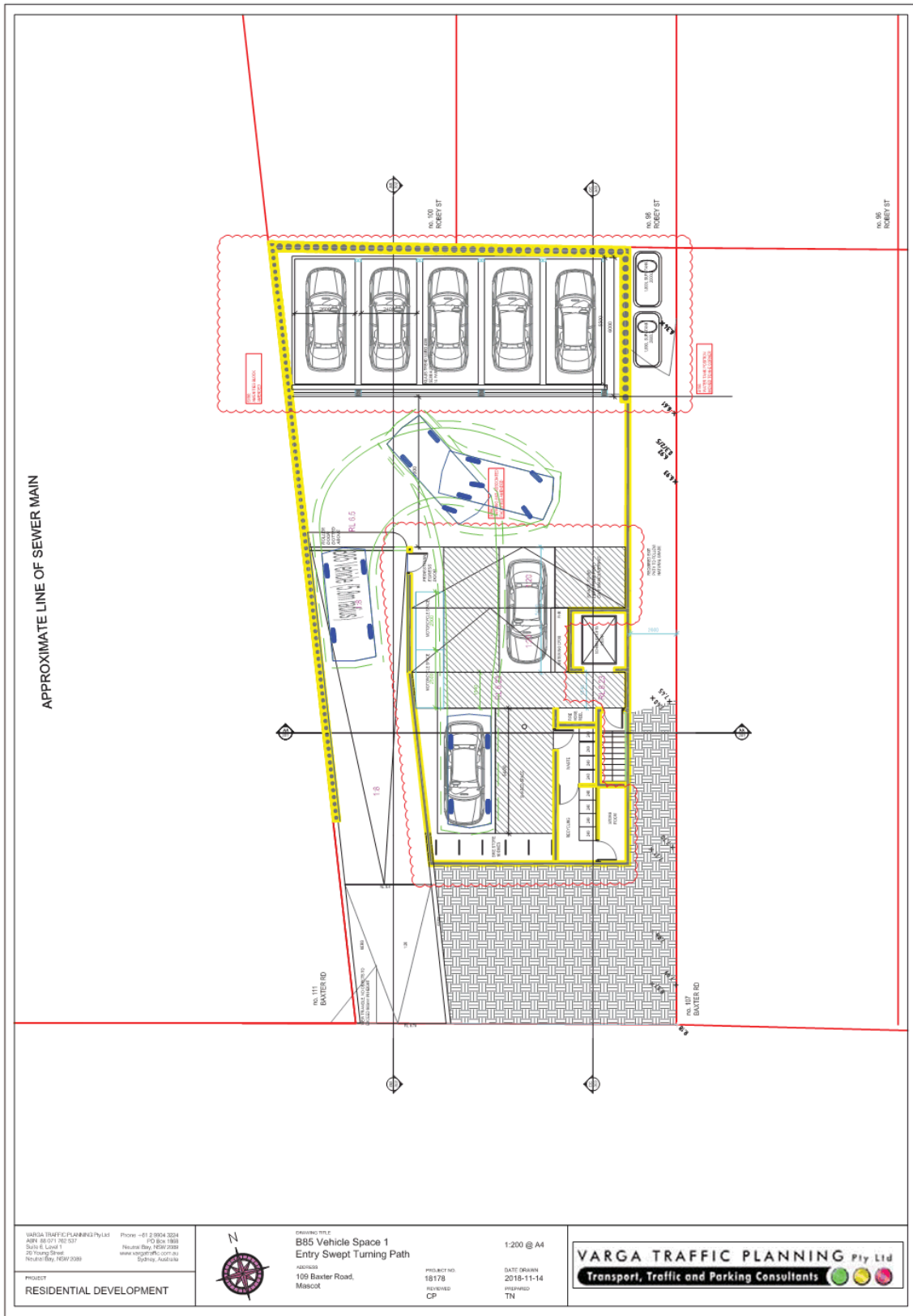
- Door actuation**
Standard:
- Manually, i.e. the door is opened and closed by hand
Alternatively:
- Electric drive via electric motor mounted to the rail system at the turning point of the sliding doors. The drive pinion engages into the chain mounted to the door.
For safety reasons the movement of the platforms is always made behind locked doors. Position sensing, i.e. "door open" and "door closed" is effected by electric signalers.

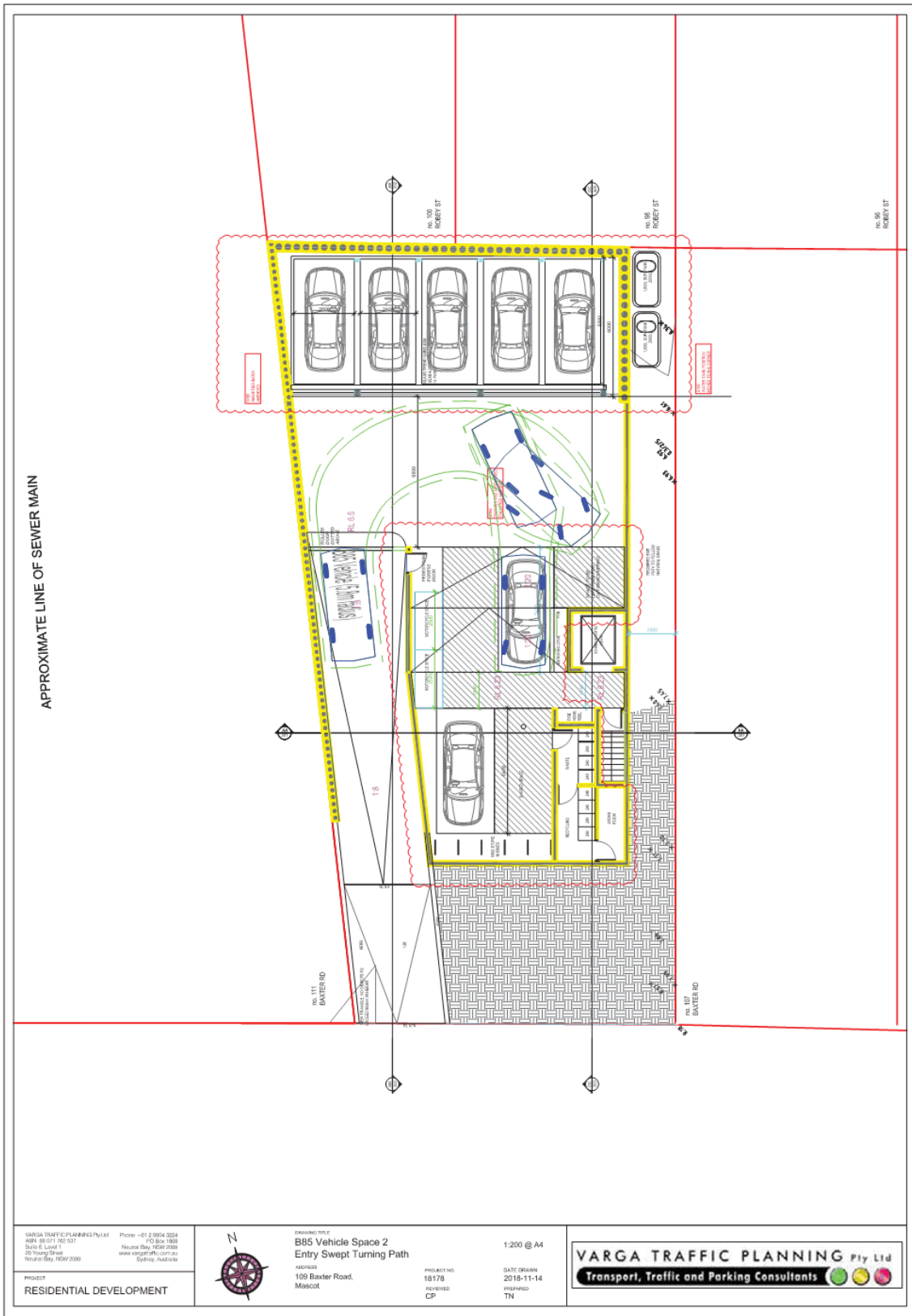
- Separation (if necessary):**
- Upon request

- Please note:**
Door panels (on the side, cover for running rails, etc.) and door suspensions are not included in the standard version but can be delivered against surcharge as special equipment.

We reserve the right to change this specification without further notice

KLAUS Multiparking reserves the right in the course of technical progress to use newer or other technologies, systems, processes, procedures or standards in the fulfillment of their obligations other than those originally offered provided the customer derives no disadvantage from their so doing.





VARGA TRAFFIC PLANNING Pty Ltd
 4/41-45/217 THE GAP Phone: +61 2 9304 3324
 Suite 6, Level 1, Neutral Bay, NSW 2030 Fax: 61 2 9304 1888
 20 Young Street, Sydney, Australia
 Neutral Bay, NSW 2030 www.varga.com.au

PROJECT
 RESIDENTIAL DEVELOPMENT



DRAWING TITLE
B85 Vehicle Space 2
Entry Swept Turning Path

NO. 100
 BASTER ST

NO. 98
 BASTER ST

NO. 97
 BASTER RD

NO. 111
 BASTER RD

1:200 @ A4

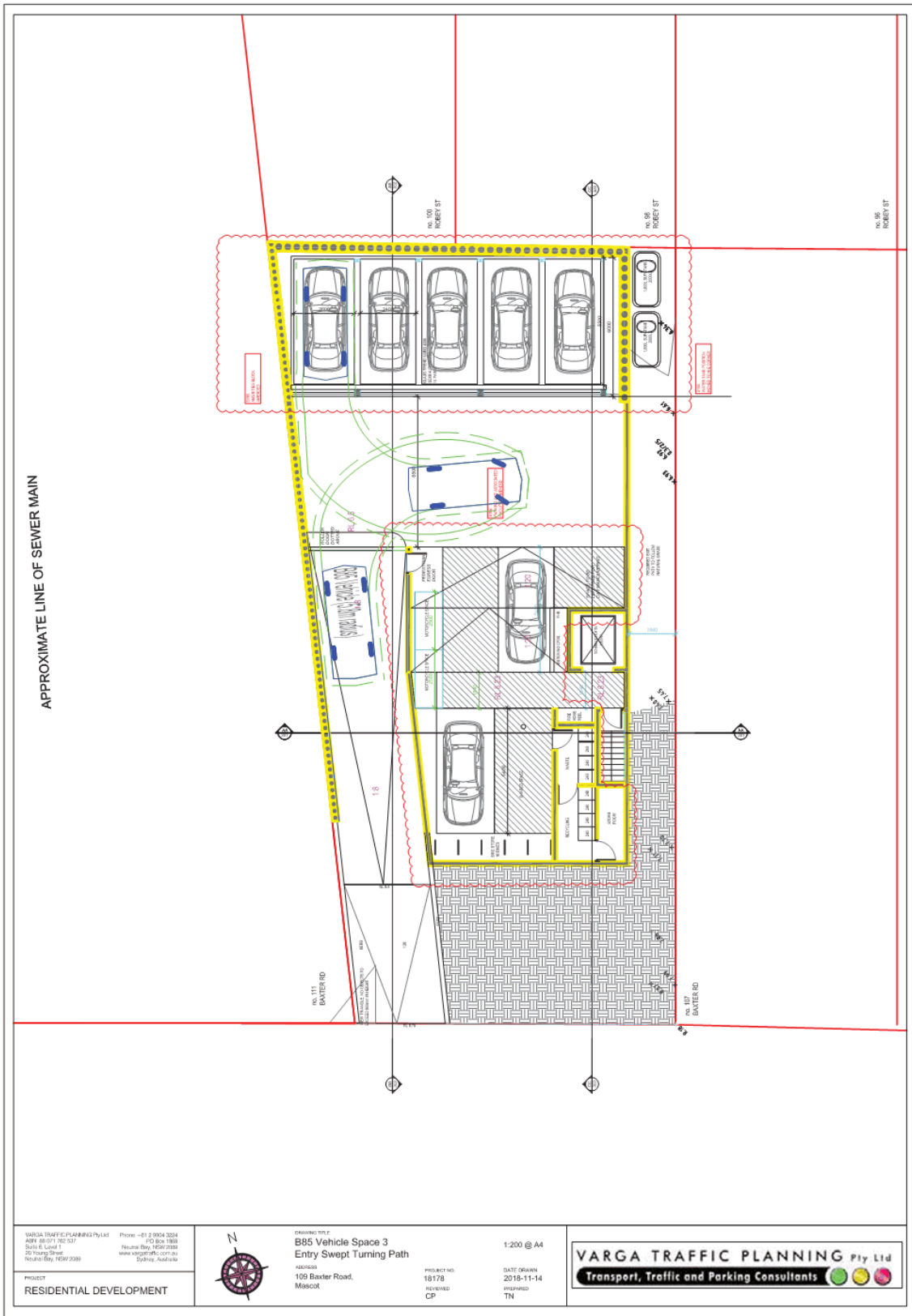
PROJECT NO.
 151778

REVISION
 CP

DATE DRAWN
 2018-11-14

PREPARED
 TN

VARGA TRAFFIC PLANNING Pty Ltd
 Transport, Traffic and Parking Consultants



VARGA TRAFFIC PLANNING Pty Ltd
 4/41-45/217 THE GAP Phone: +61 2 9304 3324
 Suite 6, Level 1, Neutral Bay, NSW 2030 Fax: 61 2 9304 1888
 20 Young Street, Neutral Bay, NSW 2030 www.varga.com.au
 Sydney, Australia

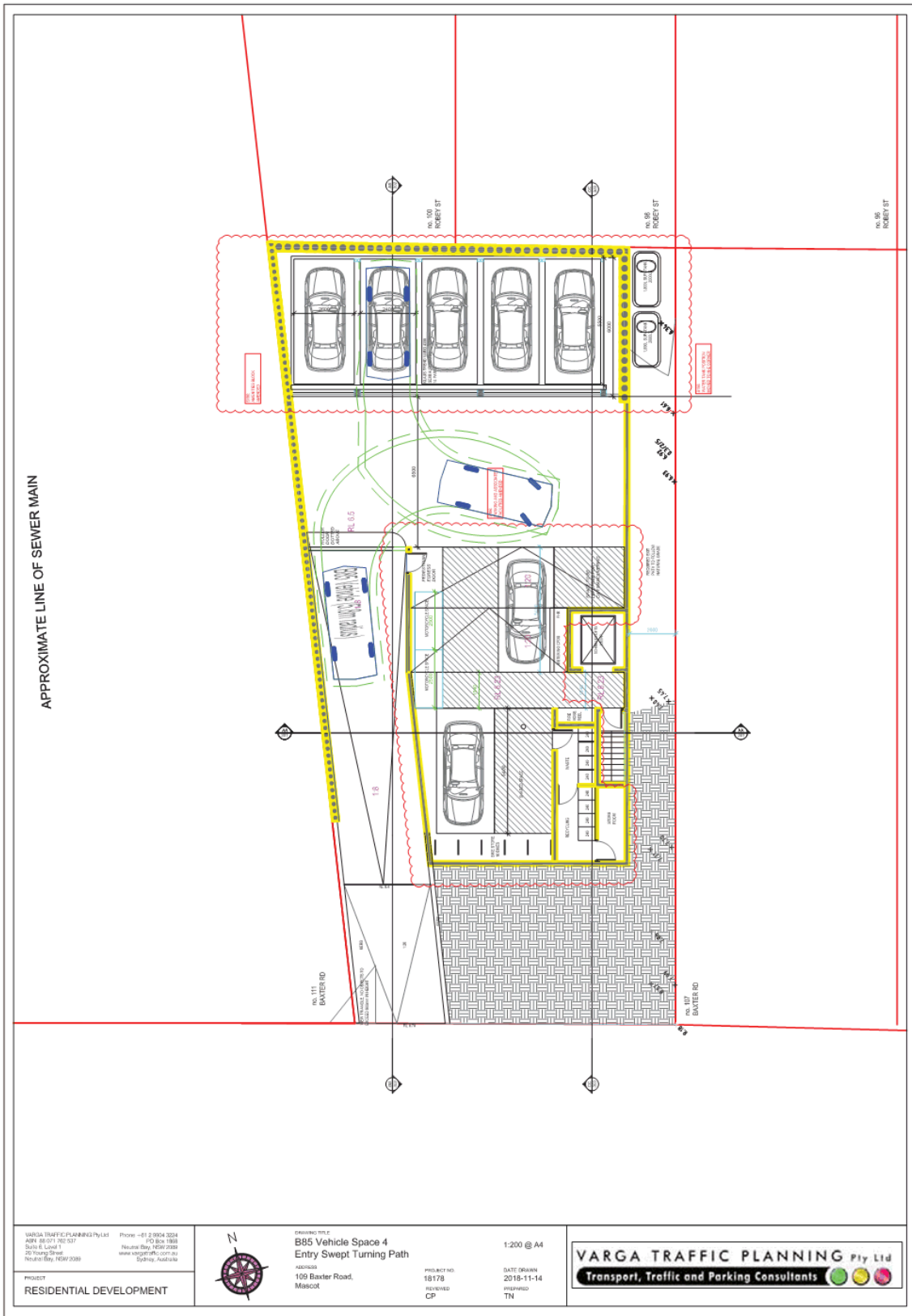


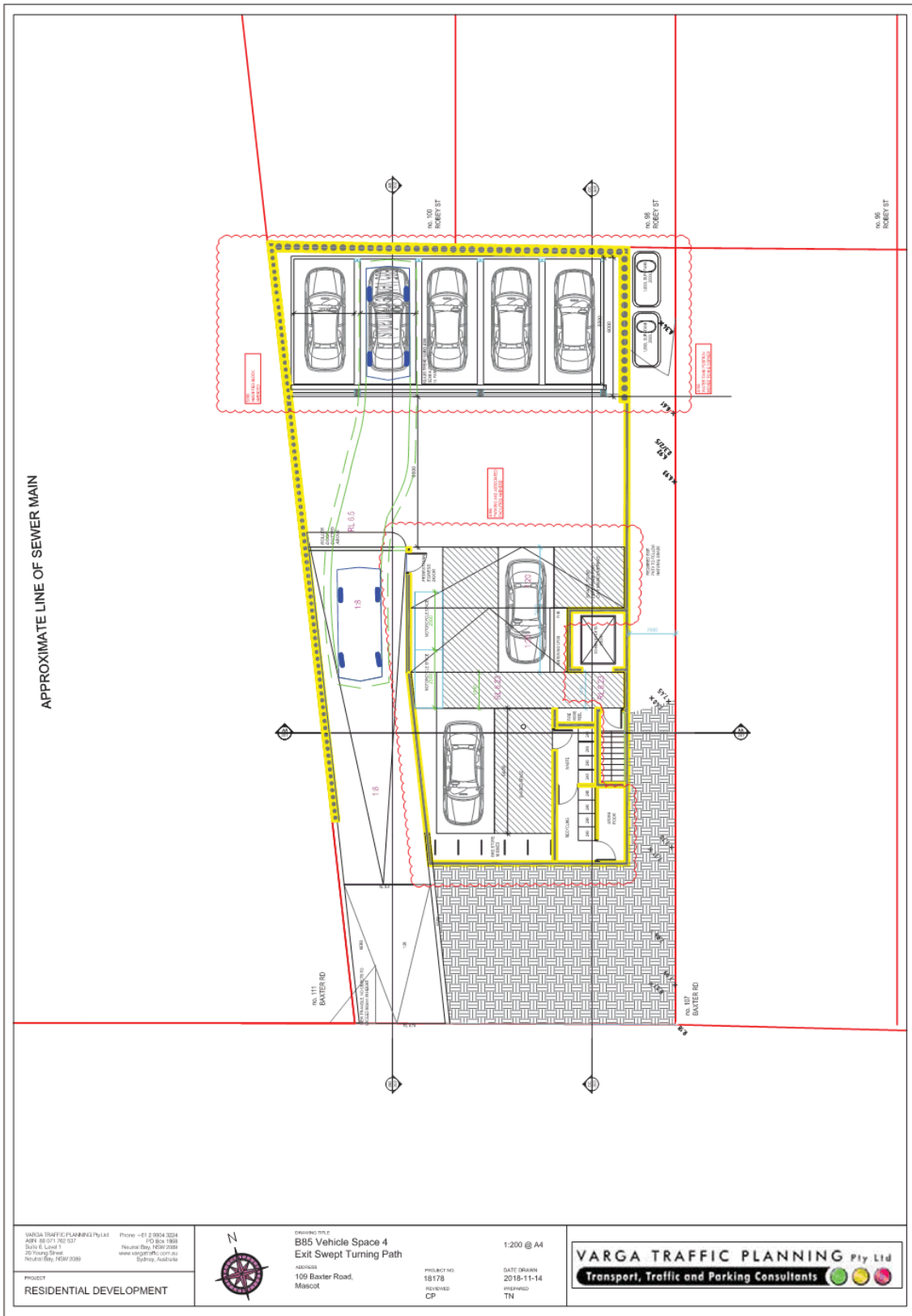
DRAWING TITLE
B85 Vehicle Space 3
Entry Swept Turning Path
 ADDRESS
 109 Baxter Road,
 Mascot

SCALE
 1:200 @ A4
 PROJECT NO.
 151778
 REVIEWED
 CP
 DATE DRAWN
 2018-11-14
 DESIGNED
 TN



PROJECT
 RESIDENTIAL DEVELOPMENT





VARGA TRAFFIC PLANNING Pty Ltd
 4/41-48/217 THE SPT
 Suite 6, Level 1
 20 Young Street
 Neutral Bay, NSW 2030

Phone: +61 2 9304 3324
 Fax: 61 2 9304 3324
 FID 206 1868
 Neutral Bay, NSW 2030
 www.varga.com.au
 Sydney, Australia



DRAWING TITLE
**B85 Vehicle Space 4
 Exit Swept Turning Path**

ADDRESS
 109 Baxter Road,
 Mascot

PROJECT NO.
 18178

REVISION
 CP

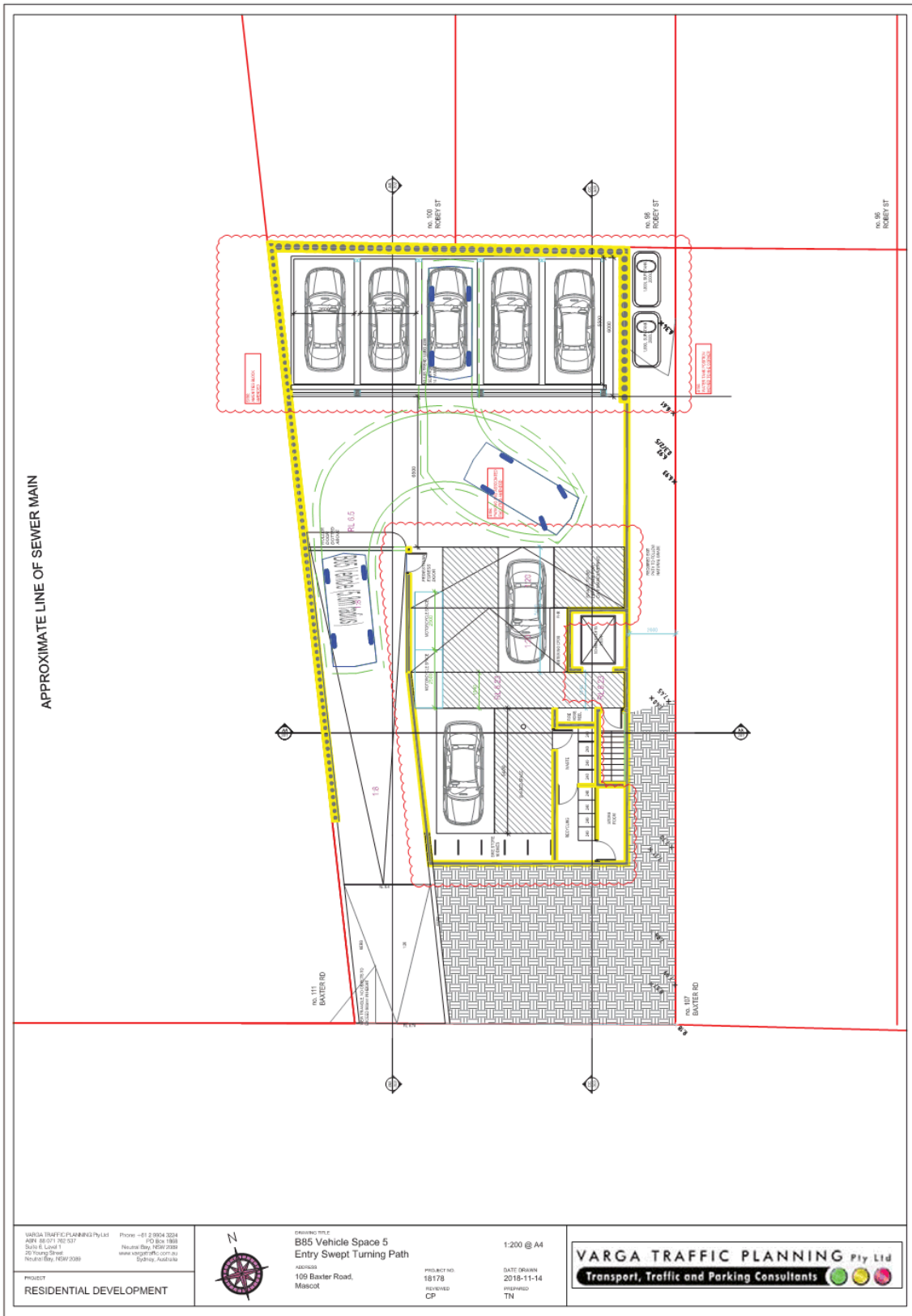
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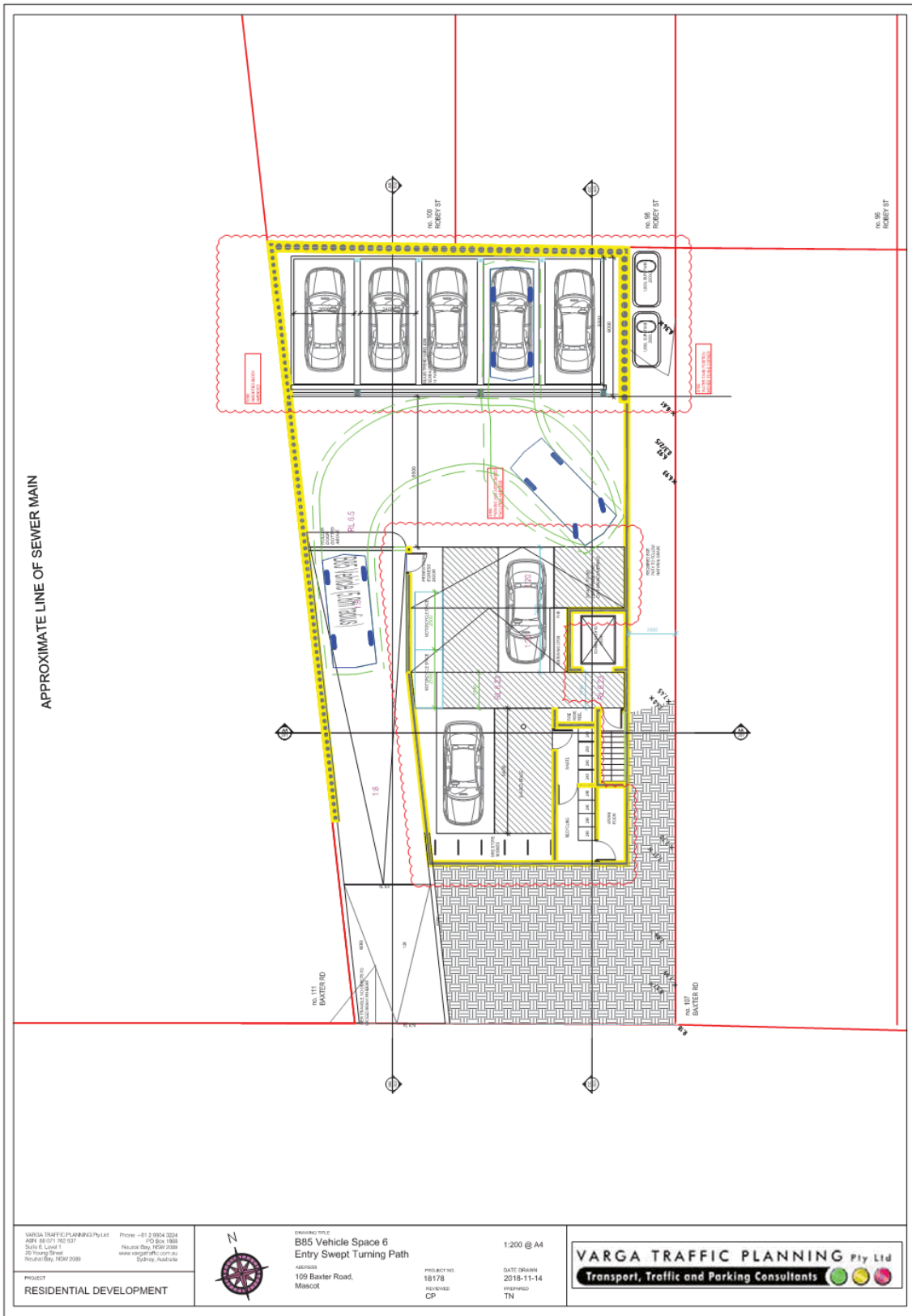
DATE DRAWN
 2018-11-14

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PROJECT
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VARGA TRAFFIC PLANNING Pty Ltd
 4/41-45/217 THE GAP Phone: +61 2 9304 3324
 Suite 6, Level 1, FID 206 1868 Neutral Bay, NSW 2093
 20 Young Street www.varga.com.au Sydney, Australia
 Neutral Bay, NSW 2059

PROJECT
RESIDENTIAL DEVELOPMENT



DRAWING TITLE
**B85 Vehicle Space 6
 Entry Swept Turning Path**

SCALE
 1:200 @ A4

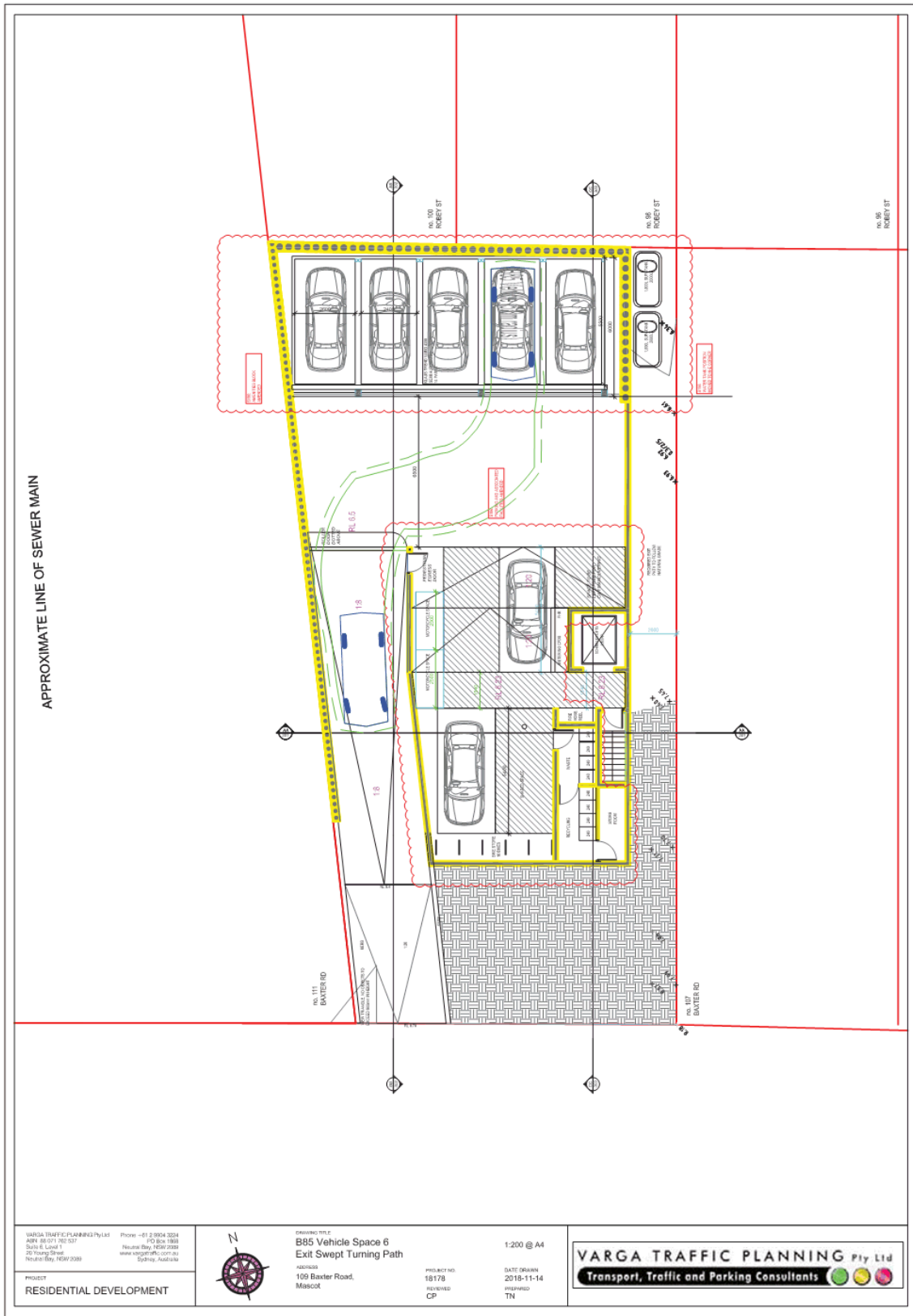
PROJECT NO.
 151778

DATE DRAWN
 2018-11-14

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 CP

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VARGA TRAFFIC PLANNING Pty Ltd
 Transport, Traffic and Parking Consultants



VARGA TRAFFIC PLANNING Pty Ltd
 4/41-48/217 THE SPT
 Suite 6, Level 1
 20 Young Street
 Neutral Bay, NSW 2030

Phone: +61 2 9304 3324
 Fax: 61 2 9304 3325
 Neutral Bay, NSW 2030
 www.vargatrafficplanning.com.au
 Sydney, Australia

PROJECT:
RESIDENTIAL DEVELOPMENT



DRAWING TITLE:
**B85 Vehicle Space 6
 Exit Swept Turning Path**

ADDRESS:
 109 Baxter Road,
 Mascot

PROJECT NO:
 151778

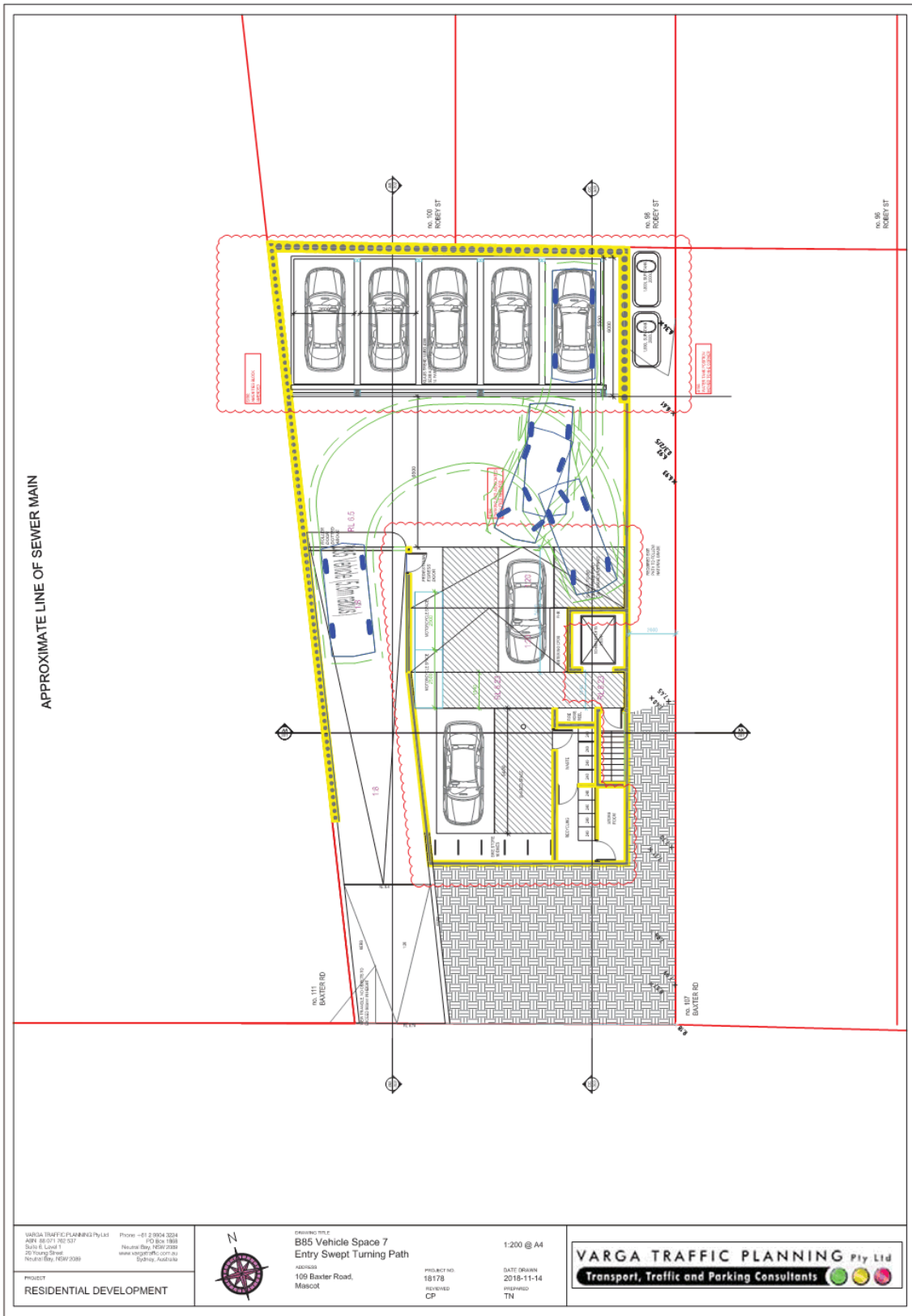
REVISION:
 CP

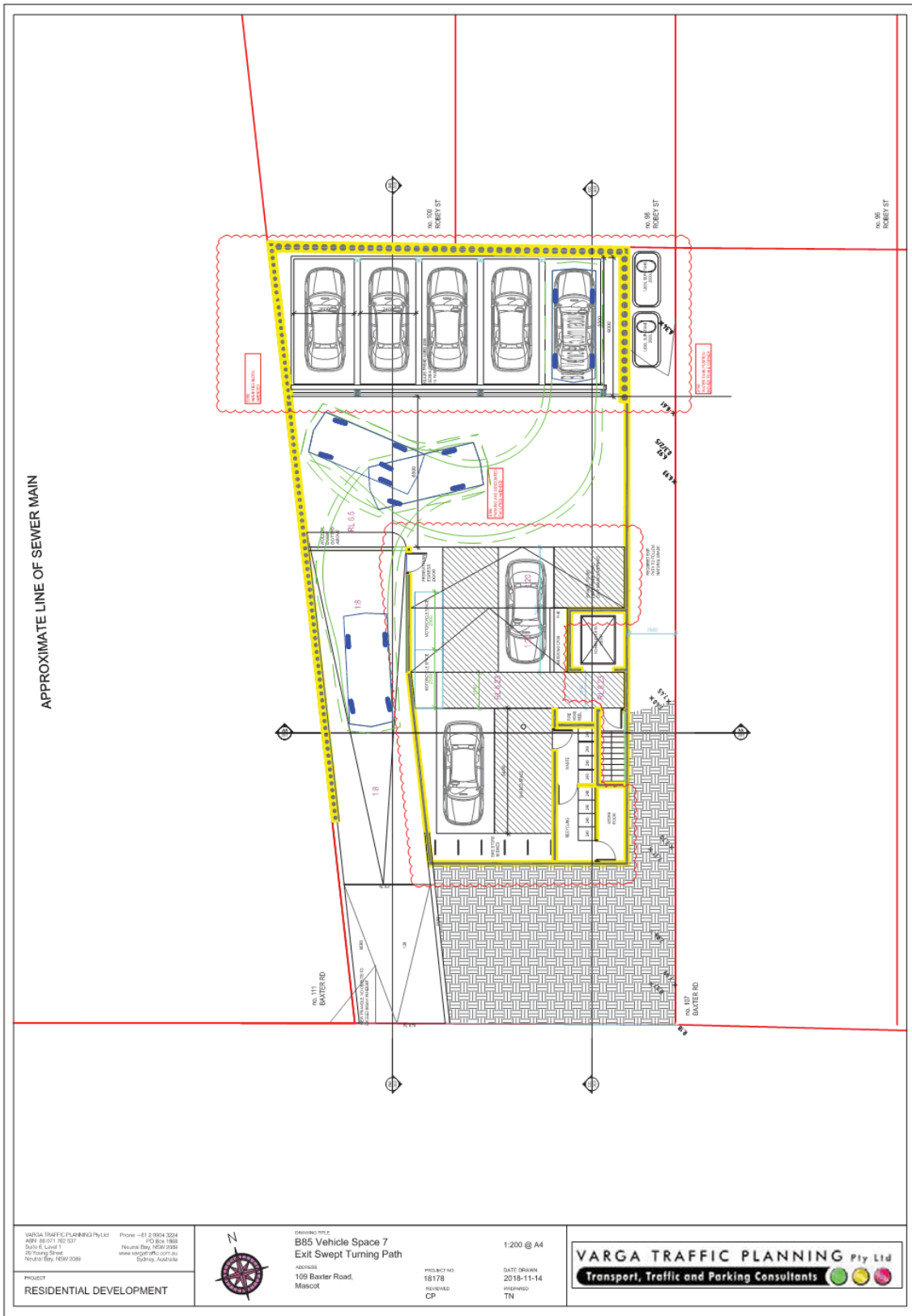
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DATE DRAWN:
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VARGA TRAFFIC PLANNING Pty Ltd
 4/41-45/217 THE SPT
 Suite 6, Level 1
 20 Young Street
 Neutral Bay, NSW 2030

Phone: +61 2 9304 3324
 Fax: 61 2 9304 3325
 Neutral Bay, NSW 2030
 www.vargatrafficplanning.com.au
 Sydney, Australia

PROJECT:
RESIDENTIAL DEVELOPMENT



DRAWING TITLE:
**B85 Vehicle Space 7
 Exit Swept Turning Path**

ADDRESS:
 109 Baxter Road,
 Mascot

PROJECT NO:
 18178

REVISION:
 CP

SCALE:
 1:200 @ A4

DATE DRAWN:
 2018-11-14

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